

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING AGENDA**

Judicial Council Room (N301), Matheson Courthouse
450 South State Street, Salt Lake City, Utah 84114
September 6, 2019 – 12:00 p.m. to 2:00 p.m.

12:00	Welcome and Approval of Minutes		Tab 1	Judge Pullan
12:05	State Audit re: Evidence, CJA 4-206 (Exhibits), and <u>Sandoval v. State</u>		Tab 2	Judge Noonan
12:50	HR550 - Harassment Policy		Tab 3	Judge Pullan Keisa Williams Michael Drechsel
1:40	Rules back from Public Comment <ul style="list-style-type: none">- <i>JPEC Pilot: CJA 4-401.02 Possession and use of personal electronic devices</i>- <i>CJA 4-103 Civil calendar management</i>		Tab 4	Keisa Williams Michael Drechsel
1:45	Update to Problem-Solving Court Certification Checklist: <ul style="list-style-type: none">- <i>Change "Presumed Certification Criteria" #2 to a "Non-Certification-Related Best Practice Standard"</i>		Tab 5	Keisa Williams Michael Drechsel
1:50	Repeal of CJA 10-1-202		Tab 6	Keisa Williams Michael Drechsel
1:55	CJA 1-205 Standing and Ad Hoc Committees <ul style="list-style-type: none">- <i>remove Online Court Assistance Committee member from the Committee on Resources for Self-represented Parties and the Committee on Court forms</i>		Tab 7	Keisa Williams Michael Drechsel
2:00	Adjourn			

COMMITTEE WEB PAGE: <https://www.utcourts.gov/utc/policyplan/>

UPCOMING MEETING SCHEDULE:

Meetings are held at the Matheson Courthouse in the Judicial Council Room (N301), on the first Friday of each month from 12:00 noon to 2:00 p.m. (unless otherwise specifically noted):

October 4, 2019

November 1, 2019 – **9:00 a.m. to 5:00 p.m.**

December 6, 2019

TAB 1

Meeting Minutes – August 2, 2019

NOTES:

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING MINUTES**

Judicial Council Room (N301), Matheson Courthouse
450 South State Street, Salt Lake City, Utah 84114
August 2, 2019 – 12:00 p.m. to 2:00 p.m.

DRAFT

MEMBERS:

PRESENT EXCUSED

Judge Derek Pullan, <i>Chair</i>	•	
Judge Brian Cannell		•
Judge Augustus Chin	•	
Judge Ryan Evershed	•	
Judge John Walton (<i>via phone</i>)	•	
Mr. Rob Rice	•	

GUESTS:

Judge Barry Lawrence
Nancy Sylvester

STAFF:

Michael Drechsel
Minhvan Brimhall (recording secretary)

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Pullan welcomed the committee to the meeting. The committee considered the minutes from the June 7, 2019 meeting. With no changes, Mr. Rice moved to approve the draft minutes. Judge Evershed seconded the motion. The committee voted and the motion was unanimously passed.

(2) OPEN ACCESS – DRESS CODE POLICY:

Judge Barry Lawrence is the chair for the Committee on Resources for Self-represented Parties. The committee has been discussing a concern that was brought to their attention by the Board of District Court Judges, of which Judge Lawrence is also a member. The Board was informed that patrons of the courts were being turned away from courthouses and courtrooms due to their lack of “appropriate” clothing. Many of the patrons are self-represented litigants and may not have the means to afford clothing that would be deemed “appropriate” for a courtroom setting. The Board learned that often times law enforcement is either making the decision without any judicial oversight or are being directed by judges to prevent people from entering. These practices vary from courthouse to courthouse, and even from courtroom to courtroom.

Judge Lawrence noted that in the view of his committee this is not acceptable practice and violates an individual’s constitutional rights of open access to the courts. Judge Lawrence has spoken with the court security director, Chris Palmer, who has indicated that the practice is inappropriate and courthouse law enforcement personnel have been instructed that they are not permitted to inhibit any person from entering the courthouse based on their manner of dress. It is the firm belief of the Board that no patron should be denied access to any courthouse or courtroom based on their appearance or clothing. Judge Lawrence asks this committee to review the current standard of practice and make necessary recommendations for all patrons to feel they can freely enter a courthouse.

The committee discussed the concerns of Judge Lawrence, the Self-represented Parties Committee, and the Board of District Court Judges. The committee noted that the new Provo courthouse has a clothing standard posted in several areas of the courthouse. The standard provides a general guideline of what is acceptable in a courthouse. The committee discussed that certain types of clothing may detract or disrupt from the purpose of

the hearing (gang related apparel, inappropriate graphics or language), and that orders for courtroom decorum and safety should be permissible.

The committee determined that a rule would need to be drafted to address clothing and appearance standards for courthouse and courtroom attendance. The committee directed Mr. Drechsel and Ms. Sylvester to prepare a draft of such a policy, including language that specifically addresses no denial of access to courthouses and courtrooms based on appearance, as well as an exception for clothing that would promote unsafe or inappropriate behavior in the courthouse and courtroom. Mr. Drechsel and Ms. Sylvester will draft a propose rule and present it to this committee for review at a future meeting.

(3) PROPOSED NEW RULE – CJA 4-410 COURTHOUSE CLOSURES:

Ms. Sylvester discussed with the committee a concern that was raised following a significant snowstorm this past winter. On the day of the storm, the executive branch sent out a message that State offices would be closed until 11:00 a.m. to allow State personnel to safely get to their place of employment. The message caused confusion for court personnel, judges, and the public as to when courthouses might be open for business. Many court personnel reached out to court security director, Chris Palmer, who directed them to report to their respective locations as soon and as safely as they could. Ms. Sylvester and Mr. Palmer met with the courts communication director, Geoff Fattah, to discuss the concerns. They drafted a proposed new rule that outlines who would make the decision to close a courthouse (or portion of a courthouse), the means in which communication would be disseminated between judges, commissioners and court employees, and instruction and information for court process for public notification. The proposed rule has been reviewed and input has been provided by the Board of District Court Judges and the TCEs.

The committee discussed and reviewed the proposed language as presented by Ms. Sylvester, Mr. Palmer and Mr. Fattah. The committee made several minor language changes to the proposed rule and then focused its attention on the final paragraph which addressed how decisions will be made in courthouses with more than one level of court and where there is potential disagreement between presiding judges about the need to close the courthouse. The committee agreed that if a decision to close is by consensus, then all presiding judges will sign the order. In the event there is not consensus, the Chief Justice would make the decision and sign the order if appropriate.

With no further discussion or review, Judge Evershed moved to approve the proposed new rule with the changes as recommended by this committee, and to recommend the rule to the Judicial Council for public comment. Judge Chin seconded the motion. The motion was unanimously approved.

(4) RULES BACK FROM PUBLIC COMMENT:

On May 22, 2019, four rules were published for public comment: CJA 1-204, CJA 3-402, CJA 4-202.03, and CJA 4-903. The public comment period closed on July 25, 2019. Two of the rules received public comment.

CJA 1-204/3-402 (Policy and Planning/HR Review Committee):

Mr. Drechsel noted that three public comments were provided regarding CJA 1-204 and CJA 3-402. All of the comments recommended that a Chief Probation Officer be included on this HR Review Committee established in CJA 3-402(5). The chief probation officer would take the place of the “probation supervisor” member currently listed in the rule. The committee discussed this and agreed that it was a worthy change. Mr. Drechsel proposed that he check with Juvenile Court Administrator, Neira Siaperas, to ensure she didn’t have any additional insight into the wisdom of making this change.

Judge Evershed made a motion to advance the rule to the Judicial Council for final approval, with the post-comment amendment of changing “probation supervisor” (selected by the probation supervisors) to a “chief probation officer” (selected by the chief probation officers). Judge Chin seconded the motion. The motion was

unanimously approved by the committee. Mr. Drechsel will check with Ms. Siaperas and, if no concerns are identified, have CJA 1-201 and CJA 3-402 on the Judicial Council's August agenda.

CJA 4-202.03 (Records classification):

No comments were received on CJA 4-202.03. With no further discussions or recommendations, Judge Chin moved to advance CJA 4-202.03 to the Judicial Council for final approval. Judge Evershed seconded the motion. The committee unanimously voted to approve the motion.

CJA 4-903 (Custody evaluators):

The comment period garnered 33 comments for CJA 4-903. The comments unanimously supported adding "Licensed Clinical Mental Health Counselor" to the list of professions approved to conduct custody evaluations. The comments also unanimously opposed removing the list of custody evaluation factors that must be addressed in the evaluation. The committee discussed the matter and determined listing the factors creates a situation where the rule and the Legislature's direction in statute will soon and often be out of sync with each other. The Legislature has worked carefully and diligently to define custody factors and even this last session worked to consolidate custody factors into a single primary statute (Utah Code § 30-3-10). The committee did not believe that it was an inappropriate burden for custody evaluators to be responsible for reviewing the statutes when conducting an evaluation. To assist evaluators, the committee agreed that the primary statutory references should be included in the rule. Mr. Drechsel was directed to prepare a final version of the rule with the relevant statutory reference(s) included. The committee also agreed to move forward with removing the actual list of factors from the rule.

With no further discussions, Judge Chin motioned to move CJA 4-903 forward to the Judicial Council for final approval, with the inclusion of the statute(s) in the rule. Mr. Rice seconded the motion. The motion was unanimously approved.

(5) UPDATE RE: SANDOVAL V. STATE:

Mr. Drechsel provided the committee an update on CJA 4-206 in light of Sandoval v. State, 2019 UT 13. This was originally addressed by the committee at the May 2019 meeting. In Sandoval, the Supreme Court highlighted a potential conflict between the Utah Post-Conviction Remedies Act, Utah Code § 78B-9-101 et seq. (PCRA) and CJA 4-206(4), which outlines the process for disposal of exhibits. The three-month period of time listed in the rule may conflict with the PCRA's one-year statute of limitations.

Since the May meeting, Mr. Drechsel has begun research regarding how other states have approached disposal of exhibits in light of their own post-conviction remedies. Preliminary research suggests that Utah's model is unique enough that attempts to gather meaningful information from other states may not be the best course of action. Mr. Drechsel noted that additional research is needed to better understand processes of other states, and determine if those practices could be implemented in Utah.

The committee discussed the matter and recommended that Mr. Drechsel should cease further research and instead focus his efforts on drafting proposed amendments to the rule to address the potential concern raised in Sandoval. In the opinion of some members of the committee, the proposed language should capture at least the time period for filing a PCRA claim. At a minimum, the language should include a mechanism for attempting to notify the defendant when disposal of evidence is to occur.

The committee did not make a motion to vote on this action. Mr. Drechsel will draft an amendment to the CJA 4-206 and will present to the committee for review at a future meeting.

(6) JUDICIAL COUNCIL RETREAT ASSIGNMENTS:

Judge Pullan discussed two rule-making assignments that the Judicial Council made to Policy and Planning at the June retreat. The first rule would help clarify the responsibilities and coordination between the Supreme

Court and the Judicial Council by potentially creating a concurrent responsibilities committee to help address overlapping responsibilities. The second rule is to adopt a policy to address performance reviews and termination of the State Court Administrator (and possibly also address other complaints against high-level managers). Judge Pullan has invited Judge Walton and Judge Cannell to be members of a working group with him for these assignments. The working group will report to the full committee once initial drafting is completed.

(7) FINAL NOTE RE: HARRASSMENT HR POLICY:

Mr. Rice reported that he and Mr. Brent Johnson have collaborated on a draft HR policy regarding harassment (HR550). The draft policy will be discussed by the HR Review committee at its upcoming meeting. Mr. Rice reported that he understood it was hoped that this policy could be completed by September for the Fall Conference. Mr. Rice inquired about the process for that policy moving forward. Once the HR Review committee review is complete, the draft will come to Policy and Planning for consideration. Mr. Drechsel will be meeting with the HR committee next week to discuss Mr. Rice's proposals. Mr. Drechsel suggested after that review he could email any feedback received from that meeting to this committee for review, solicit feedback and votes from the committee, and then quickly send the results of all of that to the Judicial Council for review. This would all be in an attempt to expedite the process so the rule could be ready for the Fall Conference, rather than wait on normal meeting cycles. The committee discussed this approach and decided rushing this type of policy is not wise. Judge Pullan suggested that at the Fall Conference the training could focus on general principles, with a final policy to follow afterward. If additional training is needed, that could happen at the various bench level meetings in the future. The committee agreed with this approach.

(8) ADJOURNMENT

With no further items for discussion, Judge Chin moved to adjourn the meeting. Judge Evershed seconded the motion. The meeting adjourned at 1:35 p.m. The next meeting will be held on September 6, 2019, at 12:00 p.m.

TAB 2

State Audit re: Evidence, CJA 4-206 (Exhibits), and State v. Sandoval

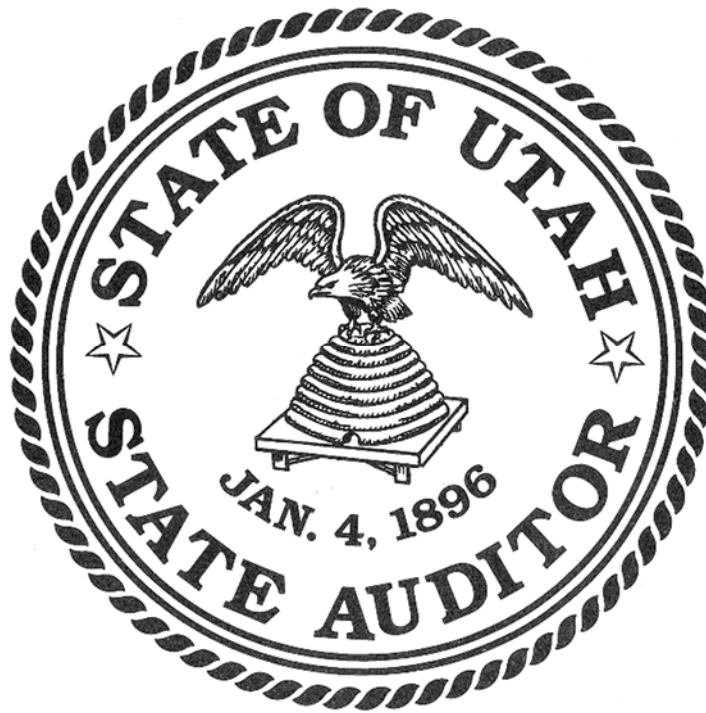
NOTES: On August 27, 2019, the State Auditor release Performance Audit 19-03 “An Audit of Evidence Storage and Management Among Selected Utah District and Juvenile Courts.” This audit identifies multiple issues that require immediate attention from the courts. Policy and Planning should review the audit to determine the best path forward for development of rule(s), policies, and procedures to address the deficits noted in the audit.

A copy of the full performance audit is attached (23 pages), including the State Court Administrator’s response letter to the State Auditor. In addition, the performance audit references the International Association for Property and Evidence, Inc.’s “Professional Standards” for property and evidence management . Those standards are also attached (96 pages) for your reference.

Performance Audit No. 19-03

**An Audit of
Evidence Storage and Management Among
Selected Utah District and Juvenile Courts**

August 27, 2019



**OFFICE OF THE
STATE AUDITOR**

Leadership: John Dougall, State Auditor
Leif Elder, CIA
Jim Phelps, Audit Senior

Staff: Amanda Laws, MPA
Stephanie Dossena, MPA

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Background

The Utah State Court System (Court System) is comprised of: 1) two appellate courts - the Supreme Court and Court of Appeals; 2) trial courts, including district and juvenile courts; and 3) City and County Justice Courts.¹

The Utah Judicial Council is the policy-making body for the Court System. It has the constitutional authority to adopt uniform rules for the administration of all the courts in the state.² The Administrative Office of the Courts serves as staff to the Judicial Council.³

Utah statute authorizes a peace officer (officer) to take possession of property through various means, including seizing property related to a crime.⁴ Examples of the property taken into custody include money, firearms, controlled substances, and drug paraphernalia. A prosecutor may eventually require the officer to produce the seized property as evidence in a criminal proceeding held in a court of law.

Utah statute also requires agencies, including district and juvenile courts,⁵ to hold seized property “in safe custody” and maintain, a “detailed inventory of all property seized.”⁶ Securing, tracking, and maintaining the property ensures its integrity and enables its safe return to the owner.

For this report, “evidence” refers to anything that a Utah court receives as evidence in conjunction with a court proceeding. Court clerks and court exhibit managers are responsible for storing and safekeeping evidence.⁷

To provide reasonable assurance that evidence in a court’s possession is secure, the Utah Judicial Council⁸ and the Administrative Office of the Courts⁹ are required to establish appropriate management controls and procedures. These controls and procedures should address documenting and auditing the evidence inventory, tracking the Chain of Custody¹⁰ for each piece of evidence, and controlling access to and disposing of the evidence. Failure to provide adequate

¹ <https://www.utcourts.gov/knowcts/>

² <https://www.utcourts.gov/knowcts/>

³ <https://www.utcourts.gov/knowcts/>

⁴ See Utah Code § 24-2-102.

⁵ See Utah Code § 24-2-102(3)

⁶ See Utah Code § 24-2-103.

⁷ Judicial Council Code of Judicial Administration Rule 4-206

⁸ See Utah Code § 78A-2-104

⁹ See Utah Code § 78A-2-107

¹⁰ CHAIN OF CUSTODY refers to the chronological documentation of the seizure, custody, control, transfer (temporary or permanent), and disposition of evidence, either physical or electronic.

management controls and procedures may lead to lost, stolen, or compromised evidence as well as a loss of public trust.

The objective of this review was to determine the extent to which the Court System has established appropriate controls over the handling and storing of evidence, with particular emphasis on money,¹¹ firearms, and controlled substances.¹² We sampled six district courts and three juvenile courts. We reviewed each court's controls, policies, and procedures for compliance with applicable state statutes and application of industry best practices.¹³

A key measure used to determine whether a court has established adequate controls over its evidence function is the number of missing items, which can be determined by conducting an inventory. However, due to the inadequacy of the courts' evidence management practices, we were unable to conduct an inventory.

¹¹ For purposes of this review, money includes all of the cash, coinage, and checks possessed by the courts.

¹² For purposes of this review, a controlled substance means a substance that is unlawful to produce or to possess under state or federal law.

¹³ To determine applicable best practices, auditors reviewed industry standards, recommendations, and procedures from, among other entities, the International Association for Property and Evidence (IAPE); the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA); and other states. We primarily rely on standards from the IAPE, which "is a non-profit organization created by and for law enforcement professionals to help establish recommended standards for all property and evidence departments" (see home.iape.org/about-us/about-us.html).

Finding 1 Inadequate Evidence Management Practices Severely Limit the Ability to Detect Missing Evidence

The Court System's evidence management practices are not adequate enough to enable us to conduct an inventory for our testwork, as originally planned in the scope of this audit.

Failure to Conduct Regular Inventories, Annual Audits, and Storage Room Inspections

None of the clerks or exhibit managers we interviewed had knowledge of an evidence inventory, a self-audit, or an independent audit ever being performed.

Inventories can provide early identifications of problems and deficiencies in the system. According to the International Association for Property and Evidence (IAPE), agencies that conduct regular inventories are far less likely to experience an internal loss of property or evidence.¹⁴ An inventory should be conducted annually or whenever there is a change in evidence room personnel.¹⁵ Auditors conduct inventories, among other reasons, to discover whether an agency is missing property (or in this case missing evidence). Persons who do not have responsibilities associated with the evidence room should conduct the inventories.

In addition, audits help determine whether courts meet the recognized standards, employ best practices, and comply with applicable statutes and codes.¹⁶ A comprehensive audit of the evidence function, including a review of policies and procedures, is an important internal control that courts should conduct at least annually.

Additionally, supervisors who oversee the evidence function should regularly inspect the storage rooms.¹⁷

The Courts' Case Management System is Not Designed for Evidence Management

The courts' current method of managing evidence makes it difficult to conduct comprehensive evidence inventories and to track evidence. Pursuant to the Code of Judicial Administration and under the direction of the head clerk,¹⁸ court clerks are required to perform a variety of

¹⁴ IAPE Standard 15.1: Inventories

¹⁵ IAPE Standard 15.1: Inventories

¹⁶ IAPE Standard 15:2 Audits and Inspections

¹⁷ IAPE Standard 15:2 Audits and Inspections

¹⁸ The Judicial Council Code of Judicial Administration refers to the head clerk as the Clerk of the Court.

administrative tasks, including keeping court records, issuing court notices, and ensuring the safekeeping of exhibits.¹⁹ The head clerk is required to appoint an exhibit manager who is responsible for the security, maintenance, and disposition of evidence submitted to a court.²⁰ At each of the courts we examined, the exhibit manager was responsible for a room dedicated to storing evidence.

We noted two problems with the courts' case management system:

- a. District and Juvenile Court clerks and exhibit managers use various features from their case management systems (CORIS and CARE) which allow them to record an evidentiary item admitted during a court hearing, indicate where an item is being stored, and specify an item's final disposition. However, these systems do not allow exhibit managers to produce an inventory list. Without an inventory list, exhibit managers have no way of knowing what items should be in the evidence room, which prohibits them from conducting an inventory to detect missing items.
- b. In addition, some exhibit managers create handwritten logs, notes, or index cards to help document, track, and locate evidence. The handwritten logs and index cards used by exhibit managers are tedious to search, introduce additional opportunities for human error, and can be easily lost or destroyed.

Between the features provided in the case management system and handwritten notes, each clerk seemed to have his or her own method of managing evidence.

Recommendations

We recommend that the Utah State Court System:

1. Implement modern evidence management practices that more effectively document and track evidence, including replacing the handwritten evidence logs, index card systems, and notes with a modern records system.
2. Implement evidence management practices that allow court clerks and exhibit managers to generate an accurate inventory list of evidence physically located in the evidence room.
3. Implement evidence management practices where court staff conduct regular evidence inventories.
4. Perform an evidence inventory and audit annually, and whenever there is a change in evidence room personnel.
5. Ensure that court supervisors conduct regular inspections of the evidence function.

¹⁹ Judicial Council Code of Judicial Administration Rule 3-302

²⁰ Judicial Council Code of Judicial Administration Rule 4-206

Finding 2 Utah Courts Have Inadequate Controls To Protect Evidence During Storage

In our review of nine courts, we found weak controls and, in some cases, a lack of controls over evidence storage (See Figure 1). Specifically, some of the courts sampled failed to:

- Perform regular evidence inventories (see Finding 1);
- Control and document access to evidence;
- Implement sufficient security measures such as cameras and alarms; and
- Protect evidence from damage.

These oversights increase the risk that evidence could be lost, stolen, damaged, or tampered with. The courts should implement management controls to provide reasonable assurance regarding the security and integrity of facilities used to store evidence.

Figure 1 Controls for Evidence Rooms by Sampled Court²¹

Sampled Court	Documented a Previous Inventory	Access Log	Unauthorized Access Allowed ²²	Method of Entry	Alarm and Security Measures
A	No	No	No	Hard key kept in a locked safe with dual entry	Camera, no alarm
B	No	No	No	Key card and hard key	Neither
C	No	No	No	Key card or hard key	Neither
D	No	No	No	Hard key kept in a locked safe with dual entry	Camera, no alarm
E	No	No	Yes	Key card and combination safe	Neither
F	No	No	Yes	Key card only	Neither
G	No	No	Yes	Hard key only	Neither
H	No	No	No	Key card only	Neither
I	No	No	No	Key card only	Neither

²¹ All sampled courts had a main evidence room. Sampled courts universally used evidence rooms to store evidence retained by the court at the conclusion of a court proceeding. However, during court proceedings, some sampled courts stored evidence in closets near the courtroom rather than in their evidence room. The information in Figure 1 is in regards to the main evidence rooms only, not the closets.

²² Unauthorized access includes an individual who can access the evidence room without the aid of an exhibit manager or supervisor.

Access to Evidence Rooms Not Adequately Controlled or Documented

We found the following regarding controls for entry to the evidence rooms (see Figure 1):

- None of the sampled courts maintain access logs;
- Five of the sampled courts did not have multiple requirements to enter the evidence room (e.g. personnel card, biometric identification, hard key, etc.);
- Three courts allow persons other than the exhibit manager and supervisor to access the evidence room; and
- Four evidence rooms are accessible with just a hard key, leaving no audit trail.

According to IAPE standards, agencies should closely control access to evidence storage areas to prevent alteration, unauthorized removal, or theft of evidence. Restricted access also helps agencies protect the chain of custody. The courts should limit access to storage areas to exhibit managers and their supervisors. When other people enter evidence facilities, the name of the person and reason for entry should be logged, and the exhibit manager should accompany them or provide an escort.²³ IAPE standards also recommend that supervisors review the access log on a regular basis, at least monthly, and should inspect logs as part of periodic inventory audits. Because missing evidence may not be readily discovered, IAPE recommends that agencies maintain access logs for at least 10 years.²⁴

Additionally, IAPE recommends multiple entrance controls to secure the evidence room. Multiple entrance requirements are especially important when a hard key is used because hard keys do not create an audit trail.²⁵

Evidence Rooms Lack Alarm or Surveillance Systems

None of the courts we reviewed had an alarm system for their evidence room. Only two of the sampled courts had cameras near their respective evidence room doors (See Figure 1). Evidence room cameras should record all individuals who enter the room, as well as surveil the entire premises of the room.

According to IAPE, an alarm system and surveillance cameras are critical to maintaining public confidence in court-operated evidence rooms because these systems demonstrate that only authorized personnel had access to high-risk areas.²⁶ Alarm and surveillance systems serve to further protect and preserve the chain of custody. IAPE recommends that surveillance systems

²³ IAPE Standard 8.1 and 8.2: Security – Policy, Access

²⁴ IAPE Standard 8.3: Security – Access Logs

²⁵ IAPE Standard 8.5: Security – Key Control/Electronic Access Control

²⁶ CA POST 3-4, 3-6, and IAPE 8.7, 8.9

have three to four years storage capacity.²⁷ The lack of adequate surveillance may result in unauthorized individuals being able to access the evidence room undetected.

Storage Facilities Used During Court Proceedings Lack Controls

During trials and other court proceedings, some courts permit evidence related to the proceeding to be stored in closets in or near the courtroom. At a minimum, court clerks and deputy sheriffs have access to these closets. Court staff could not provide us with a complete list of closet keys and their whereabouts. Because the doors are opened with a hard key, closet access is not logged and cannot be monitored. Closets also lacked adequate surveillance, including cameras and alarms. If these closets are going to be used to store evidence, the closets should have controls similar to a properly controlled and secured evidence room.

Facility-Related Issues Could Damage Evidence

At one of the courthouses we observed water leaking into the evidence room. A large portion of the carpet was damp. A fan was in use in an attempt to dry the carpet. Sixteen weeks later, we observed the same conditions. Water damage and other facility-related issues could cause damage to evidence.

Recommendations

We recommend that the Utah State Court System:

1. Require anyone that is not an exhibit manager or supervisor to sign and date an access log before entering an evidence room.
2. Require supervisors to review the signed access logs and keycard access reports at least monthly.
3. Implement multiple entrance controls for gaining access to the evidence room. At least one entrance control should provide an audit trail.
4. Ensure each evidence room has adequate video surveillance and perimeter alarms.
5. Ensure evidence is protected from water leaks and other threats to physical security.

²⁷ IAPE Standard 8.9: Security – Video Surveillance

Finding 3 Insufficient Controls over Disposal of Evidence

According to IAPE, documentation regarding destruction of evidence should provide a transparent and verifiable audit trail through final disposal.²⁸ Before disposing of a particular piece of evidence, exhibit managers should first receive authorization to destroy it from the prosecuting attorney.²⁹ Exhibit managers should document the disposal process and require an independent witness for high-risk components of the process.

Sampled Courts are Not Sufficiently Documenting the Disposal of Controlled Substances and Firearms

Some of the sampled courts had inadequate documentation for the disposal of vulnerable evidence. For example, we learned of a previous exhibit manager who disposed of “a lot of firearms and narcotics” by returning them to different police agencies by “loading a trunk full of weapons and then returning them to the agencies.” The current exhibit manager could not provide documentation regarding the disposal of those controlled substances or firearms.

The district court's case management system does not describe the destruction of an item. The system only utilizes a checkbox for released items.

Because of the danger controlled substances and firearms pose to court personnel and the public, the Court System should provide reasonable assurance that controlled substances and firearms held by the courts are released or actually disposed of.³⁰ Key controls include documenting who is involved in the disposal process and requiring independent witnesses for high-risk components of the process.³¹ IAPE standards state that documentation should include the name of the person who:

- Authorized the item for release or disposal;
- Staged and verified the item on the disposal list (witness needed);
- Transported the item to the disposal location or turned the item over to the party who presented the evidence (witness needed); and
- Witnessed the disposal or release.³²

²⁸ IAPE Standard 4.1: Documentation – Property Report

²⁹ Utah Code § 24-3-103(1)

³⁰ IAPE Standard 9.7: Drugs – Destruction Documentation

³¹ IAPE Standard 9.7: Drugs – Destruction Documentation

³² IAPE Standard 9.7: Drugs – Destruction Documentation

Furthermore, court rule states that the “exhibit manager shall record disposition of the exhibits.”³³

According to IAPE, controlled substances and firearms pending destruction have the greatest likelihood of being pilfered since the items are no longer needed for prosecution.³⁴ Controlled substances and firearms may be stolen directly from an evidence storage facility or during the destruction process. As a result, there is a need for defined disposal procedures that provide thorough documentation, verification, and reasonable assurance regarding the final disposition. A witness should be required for critical steps of the disposal process. Additionally, disposal documentation should remain on file according to the court’s normal report retention schedule.³⁵

Records Show Incorrect Disposition for Some Evidence

We identified several records for controlled substances,³⁶ firearms, and money that incorrectly described the item’s disposition as destroyed or released. In one instance we observed an open box marked Bio Hazard which appeared to have been in the court’s evidence room since 2001. The box contained items from a methamphetamine lab, along with a crystal substance. The court’s only record regarding the box was an index card stating the contents of the box had already been destroyed.

The Court System should tighten their policies and procedures for evidence handling from the time evidence is received to its final disposition. Items marked destroyed but remaining in the evidence room are of particular concern because these items could be easy targets for misuse or pilferage. Furthermore, clerks should not record evidence as being destroyed or released until the actual destruction or release has occurred.³⁷

Recommendations

We recommend that the Utah State Court System:

1. Implement policies and procedures that are specific and detailed for handling evidence, from the time the courts take possession of an item through its final disposition.
2. Obtain proper documentation for the authorization of destruction or release of evidence, and retain the documentation in accordance with the normal report retention schedule.

³³ Judicial Council Code of Judicial Administration Rule 4-206(4)(C)

³⁴ IAPE Standard 9.7: Drugs – Destruction Documentation and 11.9: Firearms – Destruction Documentation

³⁵ IAPE Standard 9.7: Drugs – Destruction Documentation

³⁶ Controlled substances included marijuana and cocaine.

³⁷ IAPE Standard 9.7: Drugs – Destruction Documentation

3. Establish sufficient controls and documentation policies to provide reasonable assurance that evidence, especially a controlled substance or a firearm, is either released to the party offering the evidence or properly destroyed.
4. Require a witness to verify, document, and account for critical steps of the disposal process, especially the release or destruction of high value items such as firearms, controlled substances, and cash.
5. Inspect controlled substances for any signs of tampering prior to release or destruction.
6. Develop policies and procedures that ensure items are not designated as released or destroyed until the actual release or destruction has occurred.
7. Ensure the safety of court personnel in handling and storing of controlled substances and other biohazards.

Finding 4 Lack of Training and Weak Policies and Procedures

A lack of training for court clerks and evidence managers, as well as ambiguous or weak policies, procedures, and court rules, have contributed to inadequate evidence storage and management in the Court System. None of the clerks or exhibit managers that we interviewed have had formal training in handling, tracking, or disposing of evidence of any kind. Furthermore, several clerks indicated they lack the knowledge and guidance to properly dispose of evidentiary items. There were also clerks who were unfamiliar with court rules pertaining to handling and disposing of evidence. Management is responsible for ensuring that employees have sufficient training and guidance to do their jobs efficiently and effectively. The Court System should provide court clerks and exhibit managers training on handling evidence from the receipt of the evidence to the disposal of the evidence.

Court Clerks and Exhibit Managers Have Not Been Adequately Trained in Handling Certain Items

Court clerks and exhibit managers do not appear to have received any formal training in handling, storing, returning, or destroying evidence. Professional instructors in the field of evidence management should provide this training. Additionally, the training should include detailed information regarding case law, policies, procedures, and best practices.³⁸ Lack of training can result in spoiled, lost, pilfered, or damaged evidence, as well as a break in the chain of custody.

The major responsibilities pertaining to handling of evidence for which court clerks and exhibit managers should receive training include:

- Receiving all incoming evidence;
- Systematically storing the evidence;
- Preserving the condition of the evidence;
- Maintaining the evidence securely;
- Lawfully releasing or disposing of the evidence;
- Maintaining a chain of custody for the entire process that is sufficiently accurate and complete to satisfy any court requirements; and
- Fully documenting the process.³⁹

³⁸ IAPE Standard 1:8

³⁹ IAPE Standard 1:6

We observed the following areas where the training of clerks and exhibit managers could be beneficial.

Handling and securing items during court proceedings. Some clerks may lack the knowledge and guidance to properly handle and secure items during court proceedings. For example, we spoke with a clerk who described receiving items of evidence in a criminal trial and, at the end of the day, leaving the items on a desk. The cubicle containing the desk was in a large open room. Numerous individuals have access to the room, including individuals who are not members of the court staff. The following day, a different clerk retrieved the evidence from the desk and took them to the trial. The second clerk also kept the evidence on a desk overnight. Neither of the clerks documented the chain of custody during the trial as required by court rule.⁴⁰

At a district court, deputy sheriffs are being asked to handle and store evidentiary items during court proceedings. However, the supervisor of the deputy sheriffs informed us that there was not a policy addressing how a deputy sheriff should handle evidence. The deputy sheriffs have not received training from the court on how to handle and store evidence received by that court.

Clerks at multiple sampled courts said the reason clerks do not know how to deal with evidence during a court proceeding is because they rarely have cases that go to trial. In fact, some clerks could not remember the last time their court had a criminal trial. Even so, it is possible that these courts will have trials at some point and, therefore, should be prepared to handle and store evidence accordingly.

Handling and storing controlled substances. Exhibit managers demonstrated a lack of knowledge about properly handling and storing controlled substances. For example, we observed an open box marked biohazard sitting on a shelf in the evidence room. The box contained items from a methamphetamine lab along with a crystal substance. On another occasion, an exhibit manager spilled a white powder on a desk while showing us the contents of a box, which contained several controlled substances. We also observed leaky packages in a cabinet that contained controlled substances.

It is important to note that the Court System adopted a policy several years ago that prohibits exhibit managers from storing controlled substances and certain other items at the conclusion of court proceedings.⁴¹ Sampled courts seem to be complying with this prohibition. However, a few

⁴⁰ Rule 4-206(2)(E) states that “[e]ach person with custody of an exhibit shall identify herself or himself in the exhibit custody tracking record.” The rule defines “exhibit custody tracking record” as CORIS or an approved form.

⁴¹ Rule 4-206(2)(B) prohibits the court from retaining “narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit money, and exhibits of unusual bulk or weight.”

of the courts are currently storing prohibited items that were received before the courts implemented the prohibition.⁴²

Disposing of controlled substances and firearms. We are concerned that exhibit managers do not know how to dispose of the controlled substances and firearms that are in their inventories. A clerk estimated that the prohibition on retaining controlled substances and firearms went into effect around 2013. The majority of the controlled substances and firearms stored by the courts are from old cases dating as far back as the 1980s. Court rule states that exhibit managers should dispose of evidence if “three months have expired from final disposition of the case and no appeals have been filed or requests for new trials or rehearing have been made.”⁴³ When asked about disposing of controlled substances and firearms that we observed, exhibit managers and clerks expressed a desire to dispose of these items but indicated they did not know how to do so.

Receiving items from entities other than the courts. Exhibit managers and clerks may also need training on what to do with items that are not received in conjunction with a court proceeding. For example, some court clerks have received items from probation officers and are unsure what to do with the items. These items include drug paraphernalia, clothing, a fake urine sample, pornographic materials, and a green leafy substance.

Court Rules Lack Guidance for Handling Evidence During Trials and Other Court Proceedings

We are concerned that Court System rules do not provide adequate guidance for handling evidence during trials and other court proceedings. The rules are not clear as to who should be handling and safeguarding the evidence and how it should be stored. Management is responsible for promulgating adequate rules, policies, and procedures.

During a trial or other court proceedings, clerks take possession of all types of evidence.⁴⁴ The Judicial Council Code of Judicial Administration Rule 4-206 restricts the clerks and exhibit managers from retaining certain evidentiary items, such as firearms and controlled substances, at the *conclusion* of a trial or other proceedings. However, some exhibit managers interpret the restrictions in Rule 4-206 to apply *during* the trials and other proceedings. We found that some exhibit managers will not accept these restricted items from the clerks even for a short time, such as during a recess or overnight in the case of a multiple-day proceeding.

Exhibit managers’ refusal to accept certain items of evidence during a proceeding has created confusion as to who should store and protect evidence during court recesses. This policy

⁴² Examples of prohibited items stored by exhibit managers include pills, marijuana, mushrooms, heroin, methamphetamine, cocaine, cash, and firearms.

⁴³ Judicial Council Code of Judicial Administration Rule 4-206(4)

⁴⁴ Judicial Council Code of Judicial Administration Rule 4-206(2)

confusion could potentially result in issues with preserving the chain of custody along with the danger of evidence being lost, pilfered, or tampered with in some way. Some clerks and officers we interviewed will ask courtroom bailiffs to handle and store evidentiary items. The clerks and bailiffs will often use closets in or near the courtroom to store the evidence. Storage in these rooms gives an appearance of being secure, but lacks the required documentation for maintaining the chain of custody. Additionally, numerous individuals have unfettered access to these rooms. Also, some exhibit managers who would normally accept the evidence *during* a proceeding, may be unavailable at the end of the day to secure the items in the evidence room.

Recommendations

We recommend that the Utah State Court System:

1. Ensure judicial policy is consistent with state statute and rules of criminal procedures, and ensure compliance with the policy.
2. Provide formal training to court clerks and exhibit managers in each aspect of handling and storing evidence, from receipt to disposal, including:
 - a. Handling and securing items during court proceedings;
 - b. Handling and storing controlled substances;
 - c. Disposing of controlled substances and firearms; and
 - d. Receiving items from entities other than the courts.
3. Ensure proper chain of custody is maintained and documented.
4. Implement policies and procedures for the handling of evidence during trials and other proceedings, including court recesses.
5. Determine the proper role of courtroom bailiffs and deputy sheriffs regarding allowance or restrictions on evidence handling.
6. Properly dispose of or return all money, controlled substances, and firearms to “the party offering them”⁴⁵ for all closed cases.

⁴⁵ Judicial Council Code of Judicial Administration Rule 4-206(2)(E)

Appendix A **Audit Objectives, Scope, Methodology, and Limitations**

The objective of this audit was to determine to what extent the Court System, specifically the district and juvenile courts, has established appropriate controls over the handling of evidence, with particular emphasis on money, firearms, and controlled substances. We reviewed six district courts and three juvenile courts, checking each court's controls, policies, and procedures for compliance with applicable state statutes⁴⁶ and application of industry best practices.⁴⁷

We selected courts through a judgmental sample based on several factors, including the size and population served. Other activities conducted during the audit included the following:

- Reviewing state statutes, industry best practices, and similar audits performed in other states;
- Touring facilities where the courts store and maintain evidence;
- Interviewing court personnel, including exhibit managers and supervisors;
- Reviewing court policy and procedure manuals;
- Examining evidence being stored by the individual courts;
- Reviewing documentation associated with chain of evidence, including documents related to the courts assuming custody of the evidence, the intake and storage of the evidence, and the evidence being transferred, checked out, released, or destroyed.

We did not conduct detailed inventories because the courts' record management system does not have the ability to produce an inventory report.

⁴⁶ Applicable state statutes include Title 24, Forfeiture and Disposition of Property Act; Title 53, Chapter 5c, Firearms Safe Harbor; and the Utah Courts, Judicial Council of Judicial Administration, Rule 4-206.

⁴⁷ To determine applicable best practices, auditors reviewed industry standards, recommendations, and procedures from the International Association for Property and Evidence (IAPE); the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA); other states; and other law enforcement entities. We primarily relied on standards from the IAPE, which "is a non-profit organization created by and for law enforcement professionals to help establish recommended standards for all property and evidence departments" (see <http://home.iape.org/about-us/about-us.html>).

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Appendix B

Response from the Administrative Office of the Courts

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Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

August 26, 2019

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

Mr. John Dougall
State Auditor
E310, Utah State Capitol
Salt Lake City, Utah 84114

Dear Mr. Dougall,

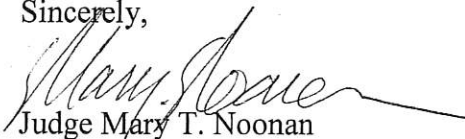
Thank you for the opportunity to respond to the recently completed *Audit of Evidence Storage and Management Among Selected Utah District and Juvenile Courts*. We agree with the findings and appreciate the candid approach and professionalism of the audit managers who performed the audit. Jim Phelps brings a perspective to the audit recommendations that is based on sound criteria and years of experience in evidence storage and management.

As a result of the audit, we have already prioritized the first steps necessary to address the audit findings:

- The Judicial Council's Policy and Planning Executive Committee will be reviewing the audit and Rule 4-206 of the Code of Judicial Administration at their September meeting;
- Effective immediately, all evidence storage locations throughout the state courts have been secured by our trial court executives, working in conjunction with our court security director;
- We are compiling a baseline inventory of evidence stored in all District and Juvenile courts, which should be completed in the next few months;
- We are drafting detailed evidence and inventory policies and procedures; and
- We are generating a plan to train court clerks and evidence managers on how to effectively apply the evidence and inventory policies and procedures.

Again, our thanks to your team for their assistance in helping us fulfill our mission.

Sincerely,


Judge Mary T. Noonan
State Court Administrator

Cc: Cathy Dupont, Deputy State Court Administrator

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

International Association for Property and Evidence, Inc.

Professional Standards

Authored by:

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Robert E. Giles, IAPE Board of Directors, Past President**

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The IAPE Board of Directors is charged with the duties of advancing the scope of knowledge and enhancing professionalism within the field of property and evidence management. To help achieve this goal, the IAPE has adopted professional standards in a number of important property and evidence handling procedures.

Adhering to these standards should assure any agency that reasonable steps have been taken to obtain a secure and efficient property and evidence management system. Not adhering to these recommended standards will increase the likelihood of problems associated with the operation of the unit.

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IAPE STANDARDS

SECTION A: PROPERTY ROOM GLOSSARY

- **ADJACENCIES** are two or more work areas that are related to one another and can benefit from being physically close to each other, hence adjacent.
- **CHAIN OF CUSTODY** refers to the chronological documentation of the seizure, custody, control, transfer (temporary or permanent), and disposition of evidence, either physical or electronic.
- **CHIEF EXECUTIVE OFFICER (CEO)** is the head of a law enforcement agency and includes, but is not limited to the Chief of Police, Sheriff, Director of Public Safety, Agent in Charge, and Commissioner.
- **CONTROL NUMBER** is the sequential, ordinal, consecutive, or chronological number that items of property or evidence are filed by in the property room. This may include case numbers, property record numbers, or barcode numbers.
- **CONTROLLED ROOM TEMPERATURE ENVIRONMENT** is a storage environment that limits temperature variation from 60° to 75° F and a relative humidity not to exceed 60%.
- **CONVENIENCE CONTAINER** is a uniform size box, bag, or envelope that contains several smaller size items from one case and groups them together for ease of storage and retrieval.
- **DIGITAL INFORMATION** Digital information is any type of electronic file containing text, data, signal, image, video, or voice recording stored on magnetic, optical, or flash media.
- **DIGITAL EVIDENCE** refers to digital information that has probative value in either tending to prove or disprove a material fact in a criminal or civil case.
- **DIVERTED PROPERTY or DIVERSION** is the process by which the ownership of abandoned, forfeited, or unclaimed property is legally transferred to a public agency for public use.
- **DROP DEAD DATE** is a time restriction that requires action to be taken prior to a specified date.
- **EVIDENCE** refers to material that has probative value in either tending to prove or disprove a material fact in a criminal or civil case.
- **FOUND PROPERTY** is non-evidentiary property, which, after coming into the custody of a law enforcement agency, has been determined to be lost or abandoned and is not known or suspected to be connected with any criminal offense
- **GENERAL ORDER** is a directive published by a commander that is binding upon all personnel under his command, the purpose of which is to enforce a policy or procedure unique to his unit's situation that is not otherwise addressed. A general order is issued to every employee, and not explicitly issued to any one person, as a direct order would be.
- **KEY-HOLDING PERSONNEL** refers to a person(s) who has a key or who has unescorted access into the property room storage area.

- **PROPERTY** refers to the generic term for personal property that does not have evidentiary value and comes into the possession of a law enforcement agency as found, safekeeping, or property for destruction.
- **PROPERTY ROOM** – the generic term for the location where property and evidence is stored, which also may include secondary storage and office areas.
- **PROPERTY OFFICER** is the generic term for the person who is assigned to the property room and is charged with the responsibility for documenting, storing, retrieving, and disposing of property and evidence. **Also commonly known as an Evidence Technician.**
- **PROPERTY FOR SAFEKEEPING** is non-evidentiary property that is placed in the custody of a law enforcement agency for temporary protection on behalf of the owner
- **PROPERTY REPORT** is the generic term for the form or computer printout that documents the case number, control number, item number, and item description.
- **PROPERTY UNIT** is a generic term for the intangible organizational unit within the law enforcement agency that is charged with maintaining property and evidence. This includes the chain of command consisting of the supervisor, manager, and the commander.
- **PURGE REVIEW** is a systematic process assuring that each item of property and evidence is evaluated for possible purging at least on a yearly basis.
- **RIGHT OF REFUSAL** is the authority given to the property officer to reject and notify the booking officer that property or evidence is improperly packaged or documented, and needs correction.
- **RULE OF TWO** is a principle where two persons are present anytime that a witness is necessary to provide testimony, if necessary.
- **SHARPS** is a term applied to hypodermic needles, disposable scalpels, and other sharp edged implements used in medical care subject to universal precautions
- **STANDARD OPERATING PROCEDURE (SOP)** is a set of instructions having the force of a directive, covering those features of operations that lend themselves to a definite or standardized procedure without loss of effectiveness.
- **STANDING OPERATING PROCEDURE (SOP)** is an order or procedure that it is in effect until further notice, at which time it may be amended or dissolved.
- **STATUTE OF LIMITATION** is the legally defined period of time in which a criminal or civil action may be initiated. Once the statute of limitation has expired, a case may no longer be filed.
- **THRESHOLD** is a predetermined quantity of items or elapsed time that triggers an action, such as a transfer of money, or destruction of firearms or drugs.
- **TICKLER FILES** are a method of reminding the user of where and when an item is placed in a temporary location, and can be structured to remind, or tickle, the user when a certain period of time has elapsed.

IAPE STANDARDS SECTION 1 - STAFFING

Standard 1.1: Staffing - Job Classification

Standard: Property unit personnel should have a job classification title that matches the duties and responsibilities performed by that person. This may be a sworn or civilian position.

Definition: Job classification refers to the name or title of the position that performs the property officer's duties.

Reasoning: Peace officer powers are generally not required to perform the property officer duties of receiving, storing, and disposing of property and evidence. The same applies to supervisors or managers of the property and evidence room. Using civilians generally lowers the cost to perform the duties; however, using a sworn position may permit retaining sworn personnel with permanent disabilities that don't impact their ability to perform the property officer's duties.

Standard 1.2: Staffing – Background Checks

Standard: Personnel should undergo a thorough background check prior to assignment to a position inside the property unit.

Definition: A background check is verification of information submitted by the applicant to determine an applicant's qualifications and suitability for a particular position. A thorough background check should include criminal history check, sex offender registries, prohibited weapons possession status, drug testing, financial disclosure and a polygraph exam (or a Computerized Voice Stress Analysis – C.V.S.A.) if permitted by local laws and collective bargaining agreement, if one exists.

Reasoning: It is important that the agency's selection criteria produce qualified employees. Assigning a person with a past or present drug problem to handle drugs, or with financial difficulties to handle money will greatly increase the possibility of theft or mishandling, and may also jeopardize the integrity of the evidence system.

The same reasoning applies to background checks for any employee transferring from another assignment within the agency, or another department within the umbrella organization, even if they have undergone a pre-employment background check.

Standard 1.3: Staffing – Adequate Number of Personnel

Standard: The number of personnel assigned to the property unit should be adequate to perform the assigned duties in the property room within the hours they are scheduled to work.

Definition: The adequate number of personnel needed to staff the evidence function is determined by the total number of labor-hours needed to perform all daily duties and responsibilities required by the unit. These daily duties should also include “other ancillary duties” that require time to be spent outside the property room.

Reasoning: There is no one formula that can be used to determine the ideal number of employees needed in the property room. Such considerations as the size of the agency; the hours/days of operation, the operating procedures of the department, etc. must be considered when determining the required staffing levels. The duties and responsibilities of the property officer should be completed **within** the daily work hours by the number of personnel assigned to the property room.

Additionally, in order to assess staffing needs, the property officer should maintain statistical data that can be used to evaluate workload, property room inventory levels, **efficiency**, etc.

Standard 1.4: Staffing – Rotation of Personnel

Standard: Rotation of personnel into and out of the property room should be avoided.

Definition: Rotation of personnel refers to the routine or scheduled transferring of personnel in and out of the property unit assignment.

Reasoning: Rotating personnel through the property unit should be discouraged, as it makes quality control more difficult and additional security measures need to be taken each time that a “key-holding” employee leaves the assignment.

When an agency routinely rotates personnel through the property unit assignment, it generates a “lack of ownership” in the operation. When “ownership” is present, it generally tends to form personal motivation and collective interest, professionalism, and pride.

Standard 1.5: Staffing – Hours of Operation / Scheduling

Standard: The property room employee's work schedules and public counter schedules should be established based upon public access, peak workload hours or demands, and the need for uninterrupted time to accomplish internal tasks, e.g. purging and disposition.

Definitions: "Hours of Operation" is the scheduled time allotted for the routine transaction of business to occur in the property room.

"Scheduling" is the specific hours assigned to individual employees during the time the property room is open for business.

Reasoning: Accessibility by the public should be considered when determining scheduling. Whenever practical, the property room should be open during regular business hours, as defined by the agency. Some agencies may choose to release property/evidence by appointment only. Consideration may also be given to the possibility of allocating specific time when the property room is not open to the public to be set aside for the performance of specific tasks such as the processing and disposing of evidence. Additionally, an agency may want to consider opening one evening a week, a month, etc. so that citizens can come in to conduct business after regular work hours.

Standard 1.6: Staffing – Responsibilities of the Property Officer

Standard: The major responsibilities of a property officer are to receive all incoming property/evidence, to fully document it, to store it systematically, to preserve its condition, to maintain it securely, to lawfully release or dispose of it, and to maintain a complete chain of custody of the entire process that is sufficiently accurate and complete to satisfy any court requirements.

Definition: The designated tasks and duties of individual property officers assigned to the property unit.

Reasoning: Responsibilities for tasks and duties performed by a property officer are to:

- ensure that incoming property/evidence is packaged in accordance with agency guidelines
- preserve all incoming property/evidence from contamination, theft, or loss
- maintain and update documentation with tracking information, commonly known as the "chain of custody"
- enter necessary data into the property unit tracking system (automated or manual systems)

- ensure that all releases and dispositions of property/evidence are legal and accurately documented
- arrange and document interim releases and returns of evidence for court, crime lab analysis, or investigative use
- operate property management software and information systems, as needed
- prepare and forward property-related forms to requesting units and agencies
- serve as the liaison for property and evidence matters between the agency and other local, state, and federal law enforcement agencies
- maintain current knowledge of federal, state, and local laws related to property/evidence management
- provide for maintenance of the storage facility
- inventory property/evidence based on the policy demands of the agency
- ensure that all efforts are taken to make the property unit as safe as possible for employees as well as property/evidence
- store property/evidence in the designated storage area
- limit access to the Property Room to only authorized individual(s) and maintain access logs
- ensure that there is adequate security for the **property room**

Standard 1.7: Staffing – Promotional Opportunities

Standard: Advancement opportunities for civilian employees within the property unit/agency to the position of lead person, supervisor, or manager should be given to those that pass an established testing and selection process pertaining to the property and evidence function as well as supervision/leadership.

Definition: Promotional opportunity refers to the ability of property unit personnel to advance in career **ladder** positions within the law enforcement unit/agency.

Reasoning: Advancement for civilian employees within the agency is important as a means to retain the best qualified personnel, and attract those that are interested in property and evidence management as a career. Sworn supervisors and managers are generally not interested in an assignment working in a warehouse environment.

Career ladders should be established by designating the property unit supervisor or manager to be civilian positions in the law enforcement agency. The selection of the best-qualified person to become a property officer in an agency may be hampered if it is viewed upon as a “career dead end” with no obvious promotional opportunities.

Standard 1.8: Staffing – Training

Standard: Training should be provided to all property officers, supervisors and managers of the property unit. The training should be applicable to the duties and responsibilities of the property officer and should be provided by professional instructors in the field of property and evidence management.

Definition: Appropriate training involves receiving knowledge and enhancing skills in the field of property and evidence management.

Reasoning: Experts in the field of property and evidence recommend that all property officers, supervisors, and managers should be required to attend a Property and Evidence Management class. The two-day Property and Evidence Management classes provided by the International Association for Property and Evidence, Inc. (IAPE) for example, gives experienced personnel an insight into different ways of accomplishing the required duties. Additionally the training should provide new staff and supervisors a very detailed look at best practices, as well as issues and problems that will be encountered in the assignment.

Training should be timely, continual, and well documented. While attending training prior to beginning an assignment as a property officer is preferred, personnel should, if possible, attend the basic training previously described above within the first year in the assignment. Safety training should include hazardous materials, biohazards, blood-borne pathogens, and a basic firearm orientation on how to safely handle firearms. Training records should be accurately maintained.

Training should always include familiarization and on-going product support and upgrades for whatever software package is in use for the management of the inventory.

Familiarization with the evidence function should also be provided for new hires and especially for newly promoted detectives and investigators illustrating the need for timely authorization to dispose of unneeded items whenever possible.

Standard 1.9: Staffing – Professional Associations

Standard: Property unit personnel should make every attempt to familiarize themselves, and become involved in professional associations that can provide training and develop additional skills in the field of property and evidence management.

Definition: Professional Associations are organizations that are made up of persons dedicated to providing training, expanding skills and increasing knowledge of property unit personnel.

Reasoning: Involvement in professional associations, such as IAPE, the American Society of Crime Laboratory Directors (ASCLD) and state, regional, or local property associations for networking and training updates is strongly encouraged. These associations can assist law enforcement agencies with the organization and the training of property unit personnel, as well as provide valuable resources to assist with solutions as potential problems arise.

Standard 1.10: Staffing – Organizational Placement

Standard: To prevent a perceived conflict of interest, as it pertains to the disposition of property or evidence, the property unit should be placed organizationally in a neutral arena, such as a Services or Administration Division. The property officer should be the guardian of the property, not the collector of evidence or the decision maker regarding the disposition of property or evidence.

An exception **to this rule** is necessary for smaller agencies that may not have an Administration or Services Division.

Definition: Organizational Placement refers to the authority lines and reporting relationships affecting the property unit.

Reasoning: Law enforcement agencies recognize the fact that managers hold some elements of formal and informal control over the supervisors reporting to them. The supervisors, in turn, have the same influences over their subordinates. The property unit's organizational placement can greatly impact its independence and credibility.

The property unit should be organizationally separate from patrol and investigation functions. Patrol personnel generally seize and book most property/evidence, while investigating officers are generally responsible for the authorization to release property or evidence.

Placing the property unit in a neutral arena between those two functions enhances accountability. The responsibility of the property unit personnel is to maintain custody and documentation, not to be involved in the collection or decision-making. If possible, the property unit should be organizationally placed in an Administrative or Support Services Division.

It is common practice for the property officer to make the final disposition of Found Property and Safekeeping items (excluding firearms), that by definition

has no evidentiary value, but such authority should not extend to the disposition of items held as evidence.

A property officer may not be aware of the potential relationship of a piece of evidence to other criminal investigations. Therefore, the assigned investigator or officer should approve the final disposition. However, if an agency authorizes the property officer to make the decision regarding final disposition, that authorization should be memorialized in written policy.

IAPE STANDARDS SECTION 2 - POLICIES AND PROCEDURES

Standard 2.1: Policies and Procedures – Written Directives

Standard: The submission, handling, storage, and disposition of property and evidence needs to be documented in written **directives**.

Definition: Written directives are policies and **procedures**, placed in written guidelines to provide direction and understanding of responsibilities, duties and tasks.

Reasoning: In order to clarify and standardize the procedures for the submission, documentation, packaging, storage, movement, security, purging and disposition of property/evidence, it is imperative that directives be used to guide the operation of an agency's property and evidence handling. These directives should clearly define the duties and responsibilities of any agency employee who takes part in the seizing, handling, storage, or disposition of property/evidence, and these directives should be reviewed yearly and regularly updated, as necessary to reflect legal and policy changes. It is also important that such orders and directives be disseminated in a systematic manner to those persons who will be held accountable by these policies and/or procedures.

General Orders/SOPs: It is critical that a law enforcement agency's property and evidence General Orders (G.O.s) and Standard Operating Procedures (S.O.P.s) contain policy statements for the submission, receipt, handling, transfer, and disposition of all property and evidence.

These written directives should establish rules that apply to all employees of the agency as they pertain to property and evidence and include such areas as:

1. requiring all property/evidence to be logged into agency records as soon as practical
2. requiring all property/evidence to be placed under the control of the property room before the officer ends his or her tour of duty

3. requiring a numbered report detailing the circumstances by which the property and evidence that comes into the agency's possession and describing each item of property/evidence submitted
4. requiring that a written receipt be issued to the finders/owners of property that is taken into custody with information on how to retrieve the items retained, when applicable; i.e., found property and safekeeping
5. assigning the responsibility to identify and notify the owner or designee regarding the disposition of property/evidence in the agency's custody
6. establishing procedures for the temporary release of property/evidence items from the control of the property unit; i.e. court, prosecutor, crime lab, and other agencies
7. requiring employees who submit evidence to comply with established packaging directives
8. requiring employees to comply with purging and review notices that have been disseminated from the property officer

Packaging Manual: Law enforcement agencies should develop specific guidelines for the packaging and labeling of property/evidence that meets the needs of their agency and the crime lab servicing the agency. These guidelines should be disseminated in a manner that all persons who book property/evidence have access to the guidelines and are held accountable to follow them. One recognized method would be to develop a guide that provides both written instructions as well as photographs that illustrate the required packaging protocol. This manual should be available in printed form in the packaging station and in digital form for personnel to access online. This manual should be reviewed yearly and updated, as necessary.

G.O.s and S.O.P.s should be reviewed yearly and updated, as necessary.

Property Unit Procedures Manual: A law enforcement agency should develop or compile and publish a detailed Property Unit Procedures Manual on the receipt, handling, storage, and disposition of property/evidence for property unit personnel. Additionally, the Property Unit Procedures Manual should provide both supervisors and managers with detailed descriptions of subordinate responsibilities.

- 1.
2. The elements contained in a Property Room Procedural Manual should include, but are not limited to:
3.

1. receipt of evidence	8. destruction of evidence
2. documentation	9. auction
3. assignment of storage locations	10. diversion
4. temporary releases/movement	11. release
5. tickler files	12. housekeeping
6. purge review protocols	13. audits
7. disposition of evidence	14. inventories

All directives and manuals should be reviewed and updated yearly by the supervisor or manager to ensure that policies and procedures are up to date, necessary, and feasible.

IAPE STANDARDS SECTION 3 – PACKAGING

Standard 3.1: Packaging Requirements

Standard: Packaging should be used to protect items from the loss of evidentiary value from cross-contamination or unintentional obliteration while permitting uniform storage of like-sized envelopes, boxes, or bags.

Definition: Packaging refers to the manner in which items with potential evidentiary value are wrapped, bagged, or boxed to be preserved, documented, and labeled.

Reasoning: Guidelines should be developed in a manner that provides the submitting employee direction in the approved method of both documenting and packaging property and evidence. The purpose of appropriate packaging is to both protect the evidentiary value of the item inside while providing a uniform size container that permits more efficient storage and retrieval.

In order to provide necessary information to the submitting employee, the agency should develop what it considers to be appropriate packaging methods **based upon the needs of the crime lab used by the agency** and its own storage requirements.

A packaging manual that uses digital photos or short video with a brief narrative description should be considered to best illustrate the approved method. The below list is a generic example of items that are commonly submitted to property rooms and should have packaging standards developed that are consistent with the lab and department storage needs:

- ammunition
- bicycles
- bio-hazardous materials
- bladed or pointed weapons
- bulk items
- cell phones
- computers
- money
- digital media
- documents
- electronics
- explosives/fireworks
- firearms
- flammables
- hazardous materials
- jewelry
- latent fingerprints
- magnetic storage media

- drugs
- photographs/film
- sexual assault evidence
- syringes/sharps

Departmental policy should clearly state that any deviation in packaging methods that does not meet the property unit's **instructions shall** be refused and the booking officer shall be notified through normal channels to correct the problem. This principle is known as the "Right of Refusal", **and it should be made a requirement for the property officer to do so to avoid intimidation.**

Regardless of the packaging method used, the package should have an identifier (e.g., case number, control number, item number, etc.), which corresponds to the item description noted on the property/evidence report (e.g., evidence tag, property sheet, property receipt, property invoice, etc.). A package containing numerous "miscellaneous items" that may be of value **and not consistent with the agency's Packaging Manual should be refused and returned to the submitting person for correction.**

Biohazard labels should be available and used on all items suspected of being contaminated with body fluids. Evidence sealing tape should be placed on all packages where contamination or integrity may become an issue. Color-coded stick-on labels may be used to designate specific types of evidence, **such as Sexual Assault, Homicide, Officer-Involved-Shooting, Found Property, and Property for Safekeeping.** Color-coded labels can also designate what year the item was taken into custody.

Standard 3.2: PACKAGING STATION

Standard: A clean area with adequate lighting, counter space, and access to supplies should be designated for packaging evidence.

Definition: A packaging station refers an area designated by the agency with good lighting, clean, uncluttered countertops, access to packaging supplies and instructions on how to package an item.

Reasoning:

Since all evidence is now subject to containing "touch DNA", all items of evidentiary value in serious crimes (felonies) should be handled as if a DNA analysis was pending unless instructed otherwise. **Because of possible DNA cross-contamination, the packaging station countertops should be constructed of a non-absorbent material that can easily be cleaned with an anti-biological agent such as a bleach, a carbolic acid or phosphoric acid solution. Stainless steel, glass, or other non-porous laminate surfaces are good for this purpose. The forensic lab being used should specify the type of anti-biological solution used. The countertops should be thoroughly cleaned with the anti-biological solution and documented before and after packaging biological evidence, and the cleaning**

should be documented as to date time and person performing the cleaning. The area should be cleaned before and after use, and documented in order to provide evidence, if necessary, that DNA could not have been transferred at this location.

Standard 3.3: Packaging Sexual Assault Evidence

Standard: In addition to rules and procedures pertaining to all evidence items, all sexual assault evidence should be handled and packaged in a manner that protects any potential DNA material that may be present from cross-contamination, obliteration, or environmental damage from improper handling.

Definition:

Sexual assault evidence includes, but is not limited to a pre-packaged sexual assault kits, bedding, mattress or seat covers, towels, rugs, sanitary pads, tampons, condoms, underwear, outer clothing, hair, saliva, blood, semen, and any other item the suspect may have touched. Digital evidence may include, but is not limited to audio and video recordings, telephone data, photo data, and social media data.

Packaging refers to a protective membrane of paper, plastic, or cardboard that prevents the transfer of minute particles of biological material from one object or person to the item in question. Packaging also includes documentation and labeling of the item.

Reasoning:

Sexual assault evidence may come from two or more crime scenes; the victim's person and physical location the crime was committed. Evidence from the victim's person is generally collected in a medically approved manner by a trained technician or nurse, and then packaged in a pre-approved container or "kit".

Some states or counties may not have such pre-approved sexual assault collection kits, and it behooves the individual agency to compile a uniform size box or envelope that contains a number of labels, sterile swabs, urine collection jar, blood collection tubes, and paper bags for clothing. Have a sample kit approved in writing by a lab manager from the forensic laboratory that will be conducting the test.

Best Practices from *Biological Evidence Preservation Handbook: Best Practices for Evidence Handlers*, NIST/NIJ,

1. Package each item separately; do not comingle items to prevent cross-contamination.
2. Use a biohazard label to indicate that a potential biohazard is present.

3. Plastic bags are not preferred for storage because of the possibility of bacterial growth or mold. Plastic may be used for short time periods, such as transporting wet evidence to the station.
4. If drying wet evidence is not possible, place the evidence in an impermeable, non-porous container and place the container in a refrigerator that maintains a temperature of 2 °C – 8 °C (approximately 35 °F to 46 °F) and is located away from direct sunlight until the evidence can be air dried, or until it can be submitted to the laboratory.
5. Seal each package with evidence tape or other seals. Mark across the seal with the sealer's identification or initials and the date.
6. Items containing biological evidence should have seams sealed with packaging tape to prevent cross contamination from entering or exiting via seams.
7. Unload, make safe, and place all firearms submitted into evidence for biological testing into a new cardboard gun box. As the submitting individual, seal the box and indicate on the exterior of the box that the weapon was unloaded, made safe, and may contain biological material.
8. Label items according to agency policy and procedures. At a minimum, mark each package with a unique identifier, the identification of the person who collected it, and the date of collection. The unique identifier should correspond to the item description noted on the property/evidence report (e.g., evidence tag, property sheet, property receipt, or property invoice).
9. Maintain the integrity of the item through the package documentation, including all markings, seals, tags, and labels used by all of the involved agencies. Preserve and document all packaging and labels received by or returned to the agency, because this information is critical.

In addition to these “best practices”, IAPE recommends that all sexual assault kits and crime scene sexual assault evidence collected have a conspicuous label attached that indicates the item has been sent to the crime lab and the date of return. Although sexual assault kits are often mandated to be sent to the crime lab for DNA tests, the best DNA evidence may be found on other items collected at the crime scene. The detective should always be notified when sexual assault kits are sent for analysis but additional evidence items are available.

Standard 3.4: Packaging Homicide Evidence

A large percentage of homicide evidence may contain DNA and/or trace evidence. Special attention should be given to ensure that all biological and trace evidence is preserved in a manner that protects it from cross-contamination and degradation. Each agency should obtain a written protocol from the forensic lab that it utilizes on how to store and preserve biological and trace evidence.

Individually packaging each item is a requirement to protect the item from cross-contamination and subsequent legal arguments.

Labels or stickers identifying biohazards should be available and used on all items suspected of being contaminated with body fluids. Evidence sealing tape should be placed on all packages.

Firearm Packaging In Homicide Cases

The exterior of the container should have color-coded labels to indicate if the firearm has been contaminated with biohazards, or if it had been used in a homicide.

Long-Term Storage of Homicide Evidence

If the evidence is submitted to the forensic lab for analysis and returned, property room policy should define how the returned item(s) should be stored for long-term preservation.

Given the lengthy storage requirement, homicide evidence should be grouped together and relegated to those areas that are least accessible in the property room.

Homicide related firearms, drugs, and money should be stored in the respective designated storage areas, not with the homicide evidence. The reason for segregating these items from other homicide evidence is to place them in enhanced security (see Sections 9, 10, and 11 regarding enhanced security) and to permit the items to be routinely accounted for in an inventory.

Other Specialized Handling of Potential Homicide Evidence

Suicide evidence is unique in its potential for being reclassified as a homicide if new evidence is discovered.

Accidental death can be uprated to a crime depending upon the state of a driver's sobriety or by blood-alcohol and toxicology tests that can take time to be finalized. A manufacturer's or maintenance defect could also become a criminal matter under some rare circumstances.

Wrongful death is a civil action that may not require evidence to be stored if it does not involve the agency. Always send written intent to dispose of civil evidence to all parties to avoid spoliation of evidence.

A natural death generally does not require evidence to be stored once all examinations are finalized.

IAPE STANDARDS SECTION 4 – DOCUMENTATION

Standard 4.1: Documentation – Property Report

Standard: The law enforcement agency should develop and use a property report that meets its needs for identifying the owner/finder/suspect/victim, describing the property, and tracking items to document the chain of custody.

Definition: A property report is a computerized record or paper document used to record data as it pertains to the handling, tracking, and storage of property/evidence.

Reasoning: A property report or computerized property record is the basis for documenting the chain of custody of all items that enter the property room.

Suggested information needed on a property report form or property record:

1. Booking officer name and badge/serial number
2. Case number or incident number
3. Unique control or tracking number
4. Bar code/item number
5. Description line for each item
6. Category of items; i.e. firearm, drugs, etc.
7. Type of item, i.e. Found, Safekeeping, Evidence, For Destruction
8. Owner, Victim, Suspect box
9. Address/Phone # of parties involved
10. Type of Crime (i.e. Robbery)
11. Felony/Misdemeanor/Infraction/Other
12. Date / time item was submitted
13. Receiving property officer name and employee/serial number
14. Date / time received
15. Location stored
16. Chain of custody (tracking)
17. Investigating officer assigned to case
18. Investigating officer approvals to release/dispose
19. Approval date
20. Final Disposition
21. Driver license/other identification (person released to)
22. Released by property officer/Date/Time
23. Destroyed by property officer/Date/Time

Each item of property or evidence should have its own unique tracking number as no two items in the inventory should have the same number.

Once received by the property officer, the location the items are assigned for storage should be placed on the Property Report, or in the computer Property Record.

If a manual system is used, consider filing the corresponding paperwork of the items that are physically present in the property room together by control number in one “Active” file, and items that are no longer present in another “Closed” file. This may later facilitate the inventory process. The property reports for Found Property and Safekeeping should also be segregated because of their shorter turnover time.

Standard 4.2: Documentation - Computerization

Standard: Computer systems should enhance the ability of the property officer to track and manage the inventory with greater efficiency and accuracy.

Definition: Computerization permits organizing data to provide useful records and reports.

Reasoning: Computer software must provide the ability to track and manage the inventory of the Property Room.

The following features are recommended fields for a well-designed system:

1. Case number
2. Control number or tracking number
3. Date and time received
4. Booking officer name and badge/serial number
5. Name: Suspect, Victim, Owner, or Finder
6. Addresses: Suspect, Victim, Owner, or Finder
7. Telephone number
8. Investigating officer
9. Type: Evidence, Found Property, Safekeeping, and For Destruction
10. Crime code-statute number
11. Crime type - robbery, homicide, assault, etc.
12. Crime class - felony, misdemeanor, infraction, etc.
13. Category - drugs
14. Description of item, make, model, serial, etc.
15. Storage location
16. Purge review date

The software should provide standard and custom reports that allow the routine review of all items on a scheduled basis. Computerized evidence software must maintain the chain of custody to ensure system integrity. At a minimum, it is suggested that a selected system provide the following:

17. The capability for complete and accurate chain of custody records.
18. Cash management and accountability relative to property and evidence.
19. The ability to print barcodes for all items and storage locations.
20. Providing purge review data
21. Ability to generate basic reports, such as:
22. Firearms – Pending Destruction with complete descriptors, such as make, model, serial numbers, caliber, etc.
23. Drugs – Pending Destruction with complete descriptions of substance, weight, packaging type, etc.
24. Money - Pending Transfer with total calculated dollar amounts and by case.
25. Auction Items - Pending Transfer with complete description, make, model, serial number, etc.
26. Items Received (between specified times).
27. Items Released/Disposed (between specified times)
28. Tickler Files:
 - Items out to court.
 - Items out to crime lab.
 - Items to other agency
 - Items out for investigation

Barcoding, a common method used to track evidence, has become particularly popular. There are two important reasons for agencies to add bar code systems - accuracy and speed when conducting inventories.

A well-designed system will make the inventory process much easier, allowing the user to scan items on the shelves for comparison with existing computer records. During the inventory process, the system should provide two exception reports: a list of items missing that should be present, and a list of items on the shelf that appear in the computer at another location, e.g. (released, disposed, etc.).

The selection of any system for use in the property room should be made in consultation with the property unit personnel to ensure that the needs of the property officer(s) are being addressed. It is extremely important that old data, either from a previous computer system, or from an existing paper-based system, be integrated into any new property system. Placing old data into the new system will permit management of the oldest items on the shelf. These are the items that generally hamper the operation.

Standard 4.3: Documentation – Forms

Standard: Forms should be used to properly track movement, provide disposition notices and approvals, provide pickup notifications to property owners, document access to restricted areas, and document property releases.

Definition: Forms are an official document used to record data.

Reasoning: Forms are needed for documentation of the handling, submission, tracking and disposition of the items. **Forms provide a needed prompt of information to be asked, acquired, and recorded.** Forms should be developed to meet the needs and record the data for the Property Unit.

The following forms are suggested to document the various actions, movement, and authorizations needed to manage and track the inventory. Many of the forms may include multiple components of the listed items.

1. A Property Report is used to identify the booking officer, why the property was seized (evidence, found property, safekeeping, etc.), identify the item, and assign a control number. This form may also be used to document other tasks, such as tracking movement, approvals, releases, etc.
4. A Chain of Custody Report is used to document the movement of evidence from the time it is seized, signed out to the crime lab, signed out to court, and eventually authorized for disposition. This could be included in the Property Report above.
5. A Property Receipt is used to document the receipt of property by the department and a copy should be given to the owner/finder with information on how to claim the item.
6. A Currency Report is information that is generally captured on the face of the currency envelope, but may be included with a package of money that documents the count by denomination, who counted the money, and who verified the count.
7. A Property Release Notification may be a letter or postcard that notifies the owner of property that an item is ready for release, and contact information to obtain the item. This may also contain time constraints (drop dead date) that requires action to be taken prior to a specified date.
8. A Court Receipt is used to document that an item of evidence has been retained by the court and entered as court evidence. This form is used to capture the name of a person who is receiving the evidence for the court.
9. A Court Receipt, Not Returned is used to notify an officer that evidence that was checked out by him/her has not been returned in a timely manner and that the evidence must be accounted for as soon as possible.

10. A Firearms Receipt is used to document the seizure of a particular firearm for safekeeping. The form provides the owner with the reason for the seizure and the process needed to reclaim the firearm.
11. An Evidence Correction Notice notifies the booking officer that the item submitted does not comply with department packaging standards and must be corrected before it can be received by the property room.
12. The DNA Destruction Notification Letter notifies a defendant and attorney that biological evidence pertaining to the case will be destroyed by a specified date unless a motion is filed requesting the retention for future testing.
13. The Property Release Authorization form documents the authorization of the investigating officer to release evidence for its ultimate disposition: release to owner, divert, auction, or destroy.
14. The Access Log documents the entry of persons, who are not assigned to the property room, into the restricted areas of the property room, when, for what reason, and who accompanied the visitor.
15. The Property Transfer form documents that the described property or evidence items were released to a specified person and agency. This information may be included with the Chain of Custody form.

Unofficial forms that are created by individuals in small work groups to solve specific problems should be referred to a management committee for departmental approval. Supervisors should be aware of unofficial forms that are created by well-intentioned employees, as these forms may be subject to Discovery in a court case.

Standard 4.4: Documentation – External Movement

Standard: Whenever evidence is transferred from the property room to an external location, such as court, the crime lab, or other agency, its destination and the person responsible should be tracked and monitored by either a paper or electronic tickler file until it is returned, or its final disposition is documented.

Definition: Tracking and monitoring refers to documenting who is responsible for taking possession and delivering evidence from the property room to an external location, such as the crime lab or court.

Reasoning: The external movement of evidence needs to be closely monitored to ensure that it is returned in a timely manner. Items that are signed out for court should be returned by the end of business on the same day unless it is received by the court as an exhibit. Evidence that is not returned should be inquired about on

the next business day. When evidence has been entered as a court exhibit, policy should require that the evidence be signed for by an official court representative and the receipt returned to the property officer.

Evidence signed out to the crime lab should be periodically inquired upon to ensure that the item has not been lost and is still in the custody of the lab. The status and date checked should be documented.

Departmental policy should also provide directives for any officer signing out evidence for investigative purposes as to whether the item can be stored outside the evidence room for what length of time, and how it should be secured to protect its integrity.

Department policy should prohibit permitting evidence to be signed out for investigation or to another agency without the knowledge of the investigating officer or supervisor.

The tracking of Sexual Assault Kits (see Standard 4.5) is required in many states, including whether or not the evidence has been sent to the crime lab for forensic testing. Department policy and the Property Room Manual should designate who is responsible for updating state databases and who is responsible for communicating with the victim.

Standard 4.5: Documentation – Sexual Assault Evidence

Standard: In addition to the documentation required for all other evidence items, sexual assault evidence should be conspicuously labeled and color-coded to identify if it has been sent to the forensic lab for DNA testing.

Definition: Documentation of sexual assault items refers to identifying information that links the evidence items to the case. Some cases may protect the identity of the victim, being listed as “Jane Doe”. Documentation also includes the tracking movement of the item and a date to conduct due diligence follow up.

Reasoning:

Every agency responsible for sexual assault investigation and case management needs to document the steps completely and clearly that need to be taken to investigate, manage related evidence and prepare a case for prosecution if required, or provide evidence that assists court and defense resources to initiate case defendant exoneration.

The following documentation in sexual assault cases should be recorded, either in paper format, digital format or both:

1. Agency case number and item number, or control number

2. Type of crime
3. Date of crime
4. Name of reporting officer
5. Victim's name or Jane Doe Number
6. Suspect name, if known
7. Date and time the evidence was collected by medical staff
8. Identification of the medical staff who did the evidence collection
9. Identification of the law enforcement personnel who received the evidence contained in the sexual assault kit.
10. Name of assigned investigator/detective
11. Date and time the evidence was submitted to the agency's evidence unit or temporary locker.
12. Who received and stored the evidence in the evidence unit
13. The location where the evidence is stored in the evidence unit
14. The dates and times when sexual assault evidence was temporarily transferred from the evidence unit for investigative or forensic purposes
15. Who temporarily transferred the sexual assault evidence, where was the item temporarily to, who provided the authorization for the transfer, and how it was transferred to the authorized person, who received the evidence location for investigative or forensic purposes
16. Date and time returned from the forensic laboratory, and who received it.
17. The evidence room should advise the investigating officer when evidence is returned from the lab for documentation in a victim's Sexual Assault case tracking database (if applicable) and for reporting purposes.

Standard 4.6: Movement – Sexual Assault Evidence

Standard: Whenever sexual assault evidence is temporarily transferred from the property room to an external location, such as the court, the crime lab, or other agency, its destination, the person who has temporary custody of the evidence is required to maintain the chain of custody of the evidence while in his/her custody, and this possession information documented in a paper format, digital format or both, until it is returned. All sexual assault kits (SAKs), regardless of statute of limitations, should be analyzed for DNA and other forensic evidence by a designated laboratory.

Definition: Evidence tracking and monitoring refers to documenting who is responsible for taking possession and delivering evidence from the property room to an external location, such as the crime lab or the court.

Reasoning: The external movement of sexual assault evidence needs to be closely monitored to ensure that it maintains the chain of custody and is

returned in a timely manner. By the end of the business day, sexual assault evidence should be returned to the evidence unit, unless the items are received by the court as exhibits. Evidence that is not returned should be inquired about on the following business day. When evidence has been entered as a court exhibit, policy should require that the evidence be signed for by an official court representative and the receipt returned to the evidence unit.

Sexual assault evidence that is signed out, sent to, or transported to the crime lab should be periodically inquired upon to ensure that the item has not been misplaced and is still in the custody of the lab. The status and date checked should be documented to retain the continuity of evidence discussed earlier in this standard.

Departmental policy should also provide directives for any officer signing out sexual assault evidence for investigative purposes as to whether the item can be stored outside the evidence room, for what length of time without compromising its integrity, and how it should be secured to protect its integrity.

Department policy must prohibit evidence being signed out for investigation or to another agency without the knowledge of the investigating officer or supervisor.

Due to the rapidly changing requirements of the handling and storage of sexual assault crimes, the department should designate a knowledgeable person to review this order and update the legal requirements to ensure that no the agency is compliant with the latest mandates.

IAPE STANDARDS SECTION 5 – FACILITIES

Standard 5.1: Facilities – Construction

Standard: Property facilities should be constructed to provide levels of security that will deny unauthorized entry, and provide a safe work environment.

Definition: Facilities construction refers to how evidence storage areas are constructed, what materials are used, and what special considerations are necessary.

Reasoning: The following criteria should be considered when constructing an evidence storage facility:

1. Exterior Walls

The building materials should ideally consist of concrete blocks with concrete filled cells, poured concrete walls, tilt-up concrete walls, or other similar material. Other types of prefab or modular construction *may* be suitable under some conditions, such as metal or brick buildings.

2. Interior Walls

It is best to avoid sheetrock or drywall, as it can easily be penetrated. In the event drywall is used, it should be backed with plywood, wire mesh, a double layer of drywall, or laminated gypsum board. All interior walls should extend from the floor to the roof, or the floor pan of the next level. This prevents access into a controlled area by climbing over a wall through a suspended ceiling.

3. Windows

The room(s), if possible, should be designed without windows. In the event windows are present in an existing structure, they should be fitted with bars or mesh to enhance security and discourage entry.

4. Roof

The exterior roof should be constructed of materials that are resistant to entry and meets current disaster resistant building codes for the risks associated with the location, i.e.: tornado, hurricane, earthquake, or wild fire.

5. Doors

Exterior doors should be metal clad with metal frames. The hinges to these doors should always be located on the inside unless they are special security hinges.

Interior doors should be solid-core or metal clad. Half-doors or Dutch doors, where permitted by code, should be dead-bolted on both halves.

6. Ventilation

The property room should be ventilated in a manner that controls heat, cold, humidity, and odors. Special consideration should be given to DNA related storage areas to control heat and humidity that tends to degrade biological evidence. Maintaining the room temperature in a controlled environment (60 to 75 degrees, with relative humidity that does not exceed 60% is recommended).

Any area that is used for storing drugs should be independently ventilated in a manner that noxious fumes are removed from the building, and not re-circulated into the building's heating, ventilation, and air conditioning (HVAC) system. The proper design of a drug storage area should include a "negative pressure" ventilation system that changes the air in the storage room approximately 10-12 CPH (changes per hour).

Heating, air conditioning, and ventilation system duct or registers should be constructed to prevent unauthorized entry into the secure storage area.

Standard 5.2: Storage Facilities – Layout

Standard: The property room layout should take into consideration adjacencies between work areas, workflow, temporary storage, long-term storage, high profile items, bulk or oversize items, biohazards, hazardous materials, cold storage, destruction area, administrative area, and release areas.

Definition: The floor plan used to make the workflow systems merge efficiently together within the property unit.

Reasoning: The property room should be located in a convenient place within the department for submittal and release. A basement area is an acceptable location for a property room if loading dock or access to the parking lot for loading/unloading is available.

Vertical movement between floors may create logistical, efficiency, and safety issues and should be avoided.

Many agencies have found that placing the property room adjacent to an area set aside for report writing and packaging is most efficient. In this configuration, pass-through lockers may be used by employees to submit property and evidence into the property room after packaging the item.

The design of a public release counter should be as close to the department's front lobby as practical to limit public access to secure areas within the building. In larger departments where numerous transactions routinely occur between officers and the property officer, consider having a separate service counter that is out of view of the public. This is important to protect the identity of undercover officers.

A well-designed property room will provide office space for the property officer located outside the actual evidence storage area. Having the office adjacent to the storage area provides a workstation that is not within the confines of the secure storage area.

The layout of the long-term storage areas should include enhanced security areas for firearms, drugs, and money. Storage areas for general evidence should include specifically designated storage areas for envelopes, paper bags, boxes, long items, bulky items, biohazards, flammables, hazardous materials, items pending destruction, items pending auction, Found Property, and Property for Safekeeping.

Standard 5.3: Storage Facilities – Storage Schemes

Standard: A systematic plan for numbering and storing property/evidence being retained by the property room should be **designated**.

Definition: A systematic plan of numbering or labeling the building(s), room(s) and shelves/bins that store property/evidence should permit finding an item based solely upon logic.

Reasoning: By developing a packaging standard around the shelving and bin configuration, or vice-versa, an agency can maximize the efficiency and space of its property/evidence storage, and minimize the effort it takes to store and retrieve it. A suggested scenario for developing an overall organization pattern would be:

1. Review the historical record of the types and quantities of property/evidence that are regularly booked into the property rooms.
2. Designate particular areas of the storage facility for particular categories of property/evidence. For instance, Property for Safekeeping should be nearest the public counter, and homicide evidence in the farthest away location due to the frequency that these locations are accessed.
3. Design **standardized** packaging containers based on the size of the most commonly found items.
4. If shelving is fixed, design your containers around the shelving sizes. If shelving is adjustable, use containers that are standard sizes to minimize costs. If several standard size envelopes were designated, then the appropriate containers, drawers, and bins could be designed to store selected envelopes in specific shelving locations.
5. The use of high-density (mobile) storage shelves is the most effective method to significantly increase storage space.
6. All rooms, bays, bins, shelves, racks, and containers need to have a clearly readable address. Being able to specifically identify and document each storage location used by the agency is a critical step in efficient storage and retrieval.

Standard 5.4: Storage Facilities – Safety / Environment

Standard: The property unit should provide a safe and environmentally friendly work environment that addresses such concerns as:

- fire, flood, earthquake, tornado, and hurricane hazard mitigation
- fire-life safety equipment
- ventilation
- lighting

Definition: Safety/Environment refers to the necessity to provide a work place free of uncontrolled physical hazards and a plan for storing potentially dangerous items.

Reasoning: The property unit should provide the necessary equipment and tools to ensure a safe working environment in all property and evidence storage and work areas. The property office and storage areas should be equipped with all currently required safety equipment, including a fire alarms, fire sprinklers, smoke detectors, fire extinguishers, emergency lighting, and close access to an eyewash location.

Older existing structures should be upgraded to current regulations any time improvements that require a building permit are made. All existing structures should all be equipped with smoke detectors and fire extinguishers regardless of whether or not they are legally mandated.

Consider providing larger evidence rooms with a communication device to permit summoning assistance, if needed, from deep within the storage areas. The property officer's efficiency is also enhanced because he/she would not need to walk to the office area to communicate.

Other protective supplies and equipment such as gloves, goggles, paper masks, and disposable aprons/jumpsuits/hats should be provided and be available for use **when needed** by individual employees.

The storage of departmental supplies and equipment, such as uniforms, vests, holsters, tactical gear, flashlights, batteries, etc. are often included with evidence storage duties. While the Quartermaster or Supply Sergeant duties have many similarities with evidence retention, and are compatible as a related duty, the two functions are separate and should not be grouped together in one area. Supplies are not evidence and should not be commingled.

Ventilation of noxious fumes is extremely important and is addressed in Section 5.1 Facilities - Construction.

Adequate lighting is very important in helping to prevent avoidable injuries. The lighting should be sufficient for an average person to easily read the labels and numbers on packages located on the lower shelves. This is often a problem when shelves are retrofitted to a room where they were not originally intended. This is a special problem with high-density mobile shelving. Heavy shadows are created any time lights are covered by a moving shelf. This may be easily mitigated by running a florescent tube light perpendicular to the moving shelves, instead of parallel.

IAPE STANDARDS SECTION 6 – TEMPORARY STORAGE

Standard 6.1: Storage – Temporary

Standard: Secure temporary storage for all size items should be provided to protect property and evidence from tampering, theft, contamination, and the environment.

Definition: Temporary storage refers to the period of time between when an item is submitted, until the time it is actually received by the property officer.

Reasoning: Since there is no one person in physical control of the property/evidence during the time of temporary storage, a storage facility and methodology should be provided that will allow a person to testify as to the security of the property/evidence while in temporary storage. The precedent is that evidence stored in the property room's temporary storage is deemed to remain secure within the chain of custody, even though the property room has no employees present during certain hours. The physical security of the temporary storage facility, and the procedures restricting access during that time, allow the court to logically determine that the property officer was "in possession" of the items, even though he or she was not physically present.

Failure to place items in a designated secure temporary storage location before the end of the shift makes the chain of custody suspect and open to a defense challenge. Departmental policy should prohibit storing evidence in personal lockers, vehicles, desks, or other unauthorized locations for this reason. An exception to storing evidence in vehicle trunks may be necessary for rural agencies where personnel don't respond to their headquarters on a daily basis.

Small-to-Medium Size Items: The most convenient method of providing temporary storage consists of an assortment of lockers in a common wall between the property room and the room where property/evidence is packaged by the booking officer. Such lockers should be of various shapes and sizes. Once evidence is placed in temporary storage, it should immediately be secured and accessible only by the property room personnel.

Oversize or Bulky Items: An area designated for the temporary storage of oversized or bulky items is recommended so that such items are not commingled with other evidence items and are safeguarded from potential tampering, theft, or the environment. Security wire mesh or chain link cages are effective for securing large items.

The most effective method of locking temporary storage areas or lockers is to use a self-locking system that once secured, may not be opened by anyone other than the property officer. Padlocks should be secured to the locker frame to prevent it being removed and a having a key made. The key code on the bottom of a padlock should be removed before being placing it into service. Keys should not be left in empty lockers to prevent a key being removed and duplicated.

Biohazard Items: Secure temporary storage of biohazard items is recommended. Some items may require drying if still in a wet or moist state. A lockable drying locker or cabinet is recommended in order to dry body fluids. This location should be easily decontaminated and made of a non-porous material. A decontamination log should be maintained to document when the location was last cleaned.

In most instances, wet body fluids should be dried and subsequently frozen as soon as practical in order to conform with forensic laboratory standards. Check with the local crime lab for their requirements.

Blood/Urine: Check with the crime lab to verify if wet blood and urine should be refrigerated or may temporarily stored at room temperature. The use of “grey top” blood vials with preservative may still require refrigeration for accurate toxicology tests.

Hazardous Materials/Flammables: A temporary storage location for small quantities or samples of hazardous materials should be provided. This location should be open to the outside where any escaping fumes will not enter the building where it could become a hazard to employees. All hazardous materials should generally be stored in an airtight container. The use of an “explosion resistant” cabinet is highly recommended. Large quantities of such hazardous materials should not be stored in the property room. Consider saving a sample of the larger quantity for scientific analysis and obtaining a court order through proper channels to dispose of the remainder in most cases. The Fire Department should be consulted for acceptable storage methods.

Perishables: As a general rule, perishables should not be stored in the property room. However, there are circumstances that may require such storage. For this instance, a dedicated refrigerator and a freezer should be made available for temporary storage. Such a refrigerator or freezer should be designed with lockable compartments or doors to protect against commingling evidence from different cases, or potential tampering or theft.

Temporary Storage of Homicide Evidence

Some evidence may have blood that needs to dry before the item is packaged. Some homicide evidence may need cold storage for possible DNA recovery according to the forensic laboratory's direction.

Drop-Slots: A drop-slot in a designated locker is one of the most effective methods of securing small items in a method that does not use all available unlocked lockers. Small items may include, but are not limited to; film, latent prints, tapes, magnetic media, CDs, DVDs, etc.

Trouble Locker: Consider designating one locker as a “trouble locker” to hold improperly documented or packaged items until the submitting officer can make corrections.

IAPE STANDARDS SECTION 7: LONG-TERM STORAGE

Standard 7.1: Storage Locations - Long Term

Standard: Buildings, rooms and shelves/bins should be provided for the long-term storage of property/evidence for the duration of time it is held in the custody of the property room.

Definition: A long-term location is designated to keep items retained in the custody of the agency until they are diverted, sold, released or destroyed.

Reasoning: Appropriate storage facilities are needed to accommodate the long-term storage of property and evidence. Building(s) or rooms should be large enough to secure all evidence. Additionally, enhanced security storage should be acquired for the storage of high profile items such as firearms, money and drugs.

Standard 7.2: Storage Locations - Evidence

Standard: Evidence held in the custody of a law enforcement agency should be stored in a manner that facilitates efficient use of space, permits quick retrieval, minimizes safety hazards, prevents cross-contamination and facilitates conducting an inventory.

Definition: A long-term storage of evidence is a place designated to keep evidence items segregated from other types of property retained in the custody of the agency until they are disposed, sold, released or destroyed.

Reasoning: Evidence may be held in the property room anywhere from just a few days to years. Most items need to have a long-term location designated for

various categories of evidence, until the item reaches its final disposition for release, destruction, auction or diversion.

Envelope Storage: Storage space should be allocated for various sizes of envelopes designated for small items. These envelopes should be filed by the **control** number. Providing shelves for different size envelopes make for easy storage, retrieval and inventories.

Paper Bag Storage: Storage space should be allocated for various sizes of bags designated for medium size items. These bags should also be filed by the **control** number that is visible without having to move the bag. Providing shelves for different size bags that are only one bag deep makes for easy storage, retrieval and inventories.

Box Storage: Storage space should be allocated for various sizes of boxes designated for larger items. These boxes should be filed by the **control** number. Providing shelves for different size boxes makes for easy storage, retrieval and inventories.

Drugs, Money, and Firearms should have specialized storage locations with enhanced security. (See Section 9, Section 10, and Section 11 respectively regarding those items.)

Homicide Evidence has no statute of limitations and is frequently retained for decades, and in some cases forever by statute. Given the lengthy storage requirement, homicide evidence should be grouped together and relegated to those areas that are least accessible in the property room. Otherwise, the property officer will walk past the homicide evidence to get to other items that need to be accessed more often.

Other Specialized Handling of Potential Homicide Evidence

Suicide evidence is unique in its potential for being reclassified as a homicide if new evidence is discovered. For this reason, suicide evidence should be treated as homicide evidence until such time that it may be disposed.

Accidental death can be uprated to a crime depending upon the state of a driver's sobriety or by blood-alcohol and toxicology tests that can take time to be finalized. A manufacturer's or maintenance defect could also become a criminal matter under some rare circumstances.

Wrongful death is a civil action that may not require evidence to be stored if it does not involve the agency. Always send written intent to dispose of civil evidence to all parties to avoid being accused of spoliation of evidence.

A natural death generally does not require evidence to be stored once all examinations are finalized.

Long-Term Storage of Homicide Evidence

If the evidence is submitted to the forensic lab for analysis and returned, property room policy should define how the returned item(s) should be stored for long-term preservation.

Given the lengthy storage requirement, homicide evidence should be grouped together and relegated to those areas that are least accessible in the property room.

Homicide related firearms, drugs, and money should be stored in the respective designated storage areas, not with the homicide evidence. The reason for segregating these items from other homicide evidence is to place them in enhanced security (see Sections 9, 10, and 11 regarding enhanced security) and to permit the items to be routinely accounted for in an inventory.

Magnetic Tapes: Audio and video tapes should be placed in a location that is temperature and humidity-controlled, and free from magnetic fields. High voltage wires, transformers, speakers, and electric motors may generate strong magnetic fields that could harm the magnetic data. See [Standard 16 Digital Data for additional information](#).

Hazardous materials and flammables: These items generally do not belong in the confines of the property room; however, small quantities and samples may be stored in adequate containers in an area designated for such storage. Hazardous and flammable storage may be in a specially designed cabinet that is placed in a location where fumes would not pollute the air in the room or the building.

Syringes and Sharps: Syringes and sharps should only be stored in an approved sharps container and should be stored in a designated area for employee safety. Sharps containers should not be commingled with other items of evidence to prevent accidental cuts or needle sticks.

Syringes and needles are generally being booked into evidence less frequently due to the potential hazard of a needle stick injury. Agency policy may permit syringes and needles to be photographed and destroyed in lieu of being booked as evidence. Any liquid present in a syringe should be emptied into a small glass vial for subsequent analysis, if appropriate. Always dispose of the syringes and needles in a manner approved for medical waste, which differs by state.

Cold Storage: Items that need refrigeration or freezing should be placed in a respective refrigerator or freezer designated for evidence storage only, depending upon the requirements of the type of evidence and the crime lab's recommendation. Given the importance of temperature control when storing biological evidence, the refrigerator/freezer unit should be equipped with an alarm system to indicate if there is a change in temperature or an equipment malfunction. The alarm should be monitored 24 hours per day (e.g., by automatic

notification to the watch commander, officer in charge, the communications center, or other designated personnel).

Liquids should generally not be frozen in any glass or hard plastic containers, as the container may break.

Evaluation criteria should be developed to ensure that only those items that require refrigeration or freezing are in fact being stored in those locations. Once the item has been tested, consult with the crime lab to determine if it can be stored at a room temperature controlled environment. This may alleviate the need to acquire additional refrigerator or freezer space in the future.

Future crime lab requirements may direct collecting agencies to freeze larger amounts of evidence than is presently needed, and this may lead to an increase in the demand for freezer space. In the event that a new facility is being designed, it is suggested that the servicing crime lab be consulted to determine their evidence preservation recommendations for long-term storage.

Bulky Items: A bulky item can be defined as any item that cannot be conveniently stored readily on shelves and bins due to size or shape. Bulky items may include tires, vehicle parts, carts, lawn equipment, large TVs, hydroponic grow equipment, etc.

Storing bulky items on the floor within painted grids is an acceptable option. The use of cargo containers, pallet racks, or a satellite facility may be required depending upon the size and quantity of items.

Long, Slender Items: The storage of long items such as poles, clubs, shovels, sticks, and similar items are difficult to store in an organized manner. Three ways to make these items easily retrievable are:

- 1) items can be stored vertically by constructing a box with a wire crosshatch at the top and near the bottom to allow items to stand up in an identifiable grid section;
- 2) items may be stored vertically in a container made of large diameter agricultural PVC pipe; or
- 3) items may be stored horizontally on a deep shelf with hang tags on one end making them easy to identify.

Bicycles: Bicycles should be stored in a manner that is both space efficient and permits easy retrieval of individual items while not compromising the safety of the property officer. The use of hooks on an overhead rack from which to hang bicycles is one of the most space efficient methods commonly used. Separate bikes by evidence, found property and safekeeping to facilitate the timely purging of the bikes. Interior storage should be provided to avoid potential liability for damage due to weather exposure. **Another recommended method is to place**

commercially available bicycle wheel clamps on a wall that allows the bicycle to stand vertically. This makes it unnecessary to lift the bicycle minimizing any back injury risk.

Latent Fingerprints: Latent fingerprints that are stored inside the property room should be segregated from other evidence and filed in a systematic manner.

There is no specific standard or requirement that latent fingerprints must be stored inside the property room, only that they should remain secure, tracked, and documented as evidence. Storing fingerprints in some type of locked file cabinet in a location outside the property room, such as an agency's Identification Section, is an acceptable practice.

Photographs: Photos, film canisters, negatives, and prints should ideally be packaged in a uniform size envelope, and store in a drawer, bins, or on a shelf, that only contains photographic evidence. An alternative is to place prints in a paper envelope and file them according to the control number with similar size envelopes.

Digital Images: (See additional information in Standard 16 Digital Evidence Management) Digital images do not need to be stored inside the property room if they are stored in a dedicated, password-protected computer/server. It is imperative that access to the photos is limited in order to protect the chain of custody and unauthorized access to photos. A backup copy of the digital image may be downloaded onto a CD or DVD and stored in the property room as a duplicate or duplicate original.

Digital Media: (See additional information in Standard 16 Digital Evidence Management)

When storing CDs and DVDs:

- Keep dirt or other foreign matter away from the disc.
- Store discs upright (book style) in plastic cases specified for CDs and DVDs.
- Leave discs in their packaging (or cases) to minimize the effects of environmental changes.
- Store discs in a cool, dry, dark environment in which the air is clean.

Computer equipment, flash drives, and hard drives should be protected from dust, moisture, sunlight, heat, and static electricity. Consider wrapping computer equipment in anti-static bags prior to placing on shelves.

Electronics: Large bulky items, such as TVs, sounds systems, computer towers, printers, speakers, etc. may require tall and deep shelves. Consider placing all like items together to best utilize space.

Cell phone data (See additional information in Digital Evidence Management, Standard 16)

Cell phone data is a frequent source of vital evidence in major cases. Many cell phones have the ability to wipe the data clean upon receipt of a command from a remote source. Consider storing all phones seized as evidence in a protective Faraday bag, or other shielded location that prevents such a command from being received to destroy all data.

Vehicle Storage as Evidence: A vehicle held as evidence should be stored in a secure location where it is protected from potential tampering and from the outdoor elements, whenever possible.

Ideally, all vehicles seized as evidence should be managed utilizing the same controls, limited access, and documentation afforded to all other types of evidence.

In the event that secure vehicle storage cannot be accommodated, a contract with a reputable tow yard for towing and storage may be acceptable; however, the site must remain secure from the public and tow yard employees. Periodic inspection to ensure the preservation of this evidence is suggested. An alternative is to have a cargo container for the temporary storage of a vehicle used in a major crime. This will ensure controlled access, but containers do have the possibility of extreme temperature variations.

Homicide Evidence: By its very nature, homicide evidence has no statute of limitations and is frequently retained for decades, and in some cases forever by statute. Given the lengthy storage requirement, homicide evidence should be grouped together and relegated to those areas that are least accessible in the property room. Otherwise, the property officer will walk past the homicide evidence to get to other items that need to be accessed more often.

The following handling precautions should be employed:

1. A large percentage of homicide evidence may contain DNA and trace evidence. Special attention should be given to ensure that all biological and trace evidence is preserved in a manner that protects it from cross-contamination and degradation.
2. Each agency should obtain a written protocol from the forensic lab that it utilizes that specifies their preference on how to store and preserve biological and trace evidence.
3. Once the evidence is submitted to the forensic lab for analysis and returned, property room policy should define how the returned item(s) should be stored for long-term preservation.

4. Given the lengthy storage requirement, homicide evidence should be grouped together and relegated to those areas that are least accessible in the property room, yet still in a room temperature controlled environment.
5. Homicide related firearms, drugs, and money should be stored in the respective designated storage areas, not with the homicide evidence. The reason for segregating these items from other homicide evidence is to place them in enhanced security (see Sections 9, 10, and 11 regarding enhanced security) and to permit the items to be routinely accounted for in an inventory.
6. Items from homicide evidence should be routinely accounted for in a yearly inventory.
7. All homicide evidence should be clearly labeled to avoid accidental disposal.

Standard 7.3: Storage Locations - Found Property

Standard: Found property should be segregated from items of general evidence and placed in a location that is easily accessed and close to the public release area.

Definition: Found Property is generally a non-evidentiary item that is protected until the owner can be located, or it is disposed of according to departmental policy.

Reasoning: Found Property storage is distinguished from general evidence by its short turnaround time and by designating its location where it can easily be viewed and retrieved. Found Property storage is needed because law enforcement agencies are generally required by statute to temporarily take property into custody when citizens and public officials report finding items that belong to others. A copy of the receipt provided to the finder should accompany the found item to permit the property officer to notify the finder if an owner cannot be located.

When found property is turned into the property room, the items should be held the minimum amount of time mandated by laws and policy/procedures. For this reason, Found Property should generally be kept segregated from evidence due to its short-term storage requirements and the possibility of commingled items being overlooked for years.

Exception - Firearms should be stored with other firearms, but conspicuously labeled as Found Property. Found money should also be stored in a segregated location along with other packages of money, but conspicuously labeled as Found Property.

Standard 7.4: Storage Locations - Property for Safekeeping

Standard: Property for Safekeeping should be segregated from items of general evidence and placed in a location that is easily accessed.

Definition: Property for Safekeeping consists of non-evidentiary items of personal property that have value and are temporarily stored for the owner due to incapacity or arrest.

Reasoning: Safekeeping storage is distinguished from general evidence by its short turnaround time and by designating its location where it can easily be viewed and sorted according to time retained.

When Safekeeping items are submitted to the property room, the items should be held the minimum amount of time mandated by laws and policy/procedures. Safekeeping should generally be kept segregated from evidence due to its short-term storage requirements and the possibility of commingled items being overlooked for years.

Exception: Firearms held as Safekeeping should be stored with other firearms, but conspicuously labeled as Safekeeping. Money held for Safekeeping should also be stored in a segregated location along with other packages/envelopes of money, but conspicuously labeled as Safekeeping. Drugs are generally not held for Safekeeping, but temporarily storing prescription medication is a possibility and should also be conspicuously marked.

Standard 7.5: Storage Locations – Sexual Assault Evidence

Standard: Sexual assault evidence should be stored in a manner that protects contents from temperature and humidity, facilitates efficient use of space, permits quick retrieval, minimizes safety hazards, prevents cross-contamination and facilitates conducting inventories.

Definition: The storage of sexual assault evidence involves the short-term and long-term storage in a non-contaminated condition to allow best use in prosecution and exoneration processes as required by state and federal statute¹.

Items should be filed in an ordinal manner that permits easy retrieval. Lab requirements for cold storage may vary; check with your lab.

Reasoning: Sexual assault evidence may be held in the evidence room for many years as a result of long time limits of prosecution and the possibility of a post-conviction appeal. Furthermore, inadmissible DNA evidence from one case may still have evidentiary value in another case if there are multiple victims, or for

¹ *Federal Sexual Assault Survivors Act of 2016*

sentencing purposes to show a pattern of behavior. As a result, sexual assault evidence should have a long-term location designated specifically for this type of evidence.

Any related firearms, money or drug/narcotic case evidence is required to be pulled from other evidence in sexual assault cases, and placed in the storage areas designated specifically for firearms, money or drugs/narcotics. Firearms, money or drug/narcotic case evidence should be labeled as related to sexual assault cases to help ensure retention as required for sexual assault cases.

Audits of stored sexual assault evidence should be conducted annually by the agency, to verify if they are being stored correctly, labeled correctly, and if they have been sent to the lab for testing according to statute or policy. These findings, by individual case number, should be reported to the assigned investigator or the investigator's supervisor for their investigative information.²

Regardless of size or shape, sexual assault evidence collection kits should be stored in a common location where they may be easily be inventoried on a yearly basis, and labeled when they are sent to the forensic lab for analysis, and when they have returned.³

IAPE STANDARDS SECTION 8 – SECURITY

Standard 8.1: Security – Policy

Standard: Written policy should require access controls that will ensure that unauthorized persons do not enter secure areas. These controls include, but are not limited to: key control, changing locks or access codes with changes of personnel, access logs, after-hours procedures, use of surveillance cameras and alarms.

Definition: Security policy is written policy that defines all issues related to the security of the various property and evidence storage areas.

Reasoning: Enforceable written policies are needed compelling employees to adhere to security requirements that, if violated, can jeopardize the integrity of the property room and interfere with the chain of custody.

A written directive should require that only authorized personnel have access to the areas used by the agency for storage of property and evidence. Policy should define who has access to keys, access control, key duplication, changing of locks

² The 2017 *National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach*

³ Ibid

or access code with changes of personnel, access logs, after-hours procedures, and alarm testing.

Consideration should be given to including policy direction for after-hours key control. For example, may the evidence room keys be taken home at night and not stored in a locked location, or should the keys be deposited in a drop-safe at the end of the shift?

It should be clearly stated in the agency's policy that anyone who has keys or access to the keys will be questioned and may be considered as a suspect in an investigation relating to any missing evidence. If the Chief/Sheriff/CEO has a key, it may also negate his/her ability to oversee a criminal and/or administrative investigation.

Standard 8.2: Security – Access

Standard: A written policy should permit only authorized personnel to have access to the property room storage areas, and no one other than property unit personnel should have keys or mechanical/electronic access to the property storage areas.

Definition: Access refers to the process that controls entry into restricted areas.

Reasoning: Entry into restricted storage areas should be closely controlled to prevent accusations of alteration, unauthorized removal, theft, or tampering with property or evidence stored by the agency. Access restriction protects the proper chain of custody. Those permitted access should include the property officer(s), and the supervisor. All other persons who enter the property room/storage areas must be documented in an Access Log with the reason for needing access and they should be escorted at all times while within the room and/or storage areas.

The manager/administrator who has oversight of the property unit and the Chief/Sheriff/CEO of the agency should not have independent, unescorted access into the property room and/or storage areas. If one of those individuals has a key or access, the agency should establish a system that requires another authorized person to disarm the alarm, thereby creating a two-person rule.

As noted in Standard 8.1, having independent/unescorted access into the property room/storage areas may adversely impact an administrative inquiry and/or a criminal investigation. The agency's policy should clearly articulate that anyone, including the Chief/Sheriff/C.E.O., who has independent/unescorted access into the property room/storage areas might be investigated if there is any breach of security in those areas.

Standard 8.3: Security – Access Logs

Standard: An access log should be maintained for documenting any entry by anyone that is not assigned to the Property Unit.

Definition: An access log is a document that records the entry of non-assigned personnel into the property room, and why the entry was necessary. The log should record name, ID number, reason for the entry and which employee assigned to the property unit escorted the person.

Reasoning: Personnel outside the property unit may occasionally have a need to enter the storage locations of the property unit. Detectives may need to view a large piece of evidence that cannot be easily moved outside of the permanent storage location, or some type of building maintenance issue might require access. These persons should not be allowed access without immediate supervision at all times.

Supervisors should review the access log on a monthly basis and it should also be inspected as part of a periodic audit by the agency or outside consultants. The purpose of the inspection is to ensure that the department policy is being complied with.

Evidence or property is often discovered missing years after the actual theft. Therefore, it is imperative that access logs be maintained for at least 10 years so that they are available to investigators. Additionally, in the event of a defense challenge in court, the retention of the logs should reflect the time period for the oldest item of evidence in the property room in the event it is challenged in court.

Standard 8.4: Security – After Hours Access

Standard: It is suggested that an assigned property officer be called in for after-hours entry or the key-holding supervisor if the property officer is not available. If this is not practical, a two-person rule is necessary, which would include the completion of the access log.

Definition: After-hours access to the secure property room means anytime an assigned property officer is not available for call-out, and there is a compelling reason for immediate access that cannot wait for the property officer or supervisor to arrive.

Reasoning: After-hours access by non-assigned personnel should be discouraged. In the event that after-hours access is necessary and assigned property room staff are not available for recall, policy should restrict the method of entry into the

property room. At no time should one person enter alone; two individuals should be present.

Standard 8.5: Security – Key Control / Electronic Access Control

Standard: All keys, access codes, combination numbers, and proximity cards should be closely monitored, and accounted for annually. Keys should not be available to anyone other than property room personnel.

Definition: Key and electronic access control refers to accounting for all keys and access cards on a scheduled basis to guard the integrity of the evidence.

Reasoning: Conducting periodic audits of a key-holding persons' keys/access cards ensures that authorized employees have possession of them and that all are accounted for.

Backup keys to the evidence storage areas should not be utilized unless they are kept by the Unit Commander, or designee, in a locked safe or drawer. Entry of the Unit Commander into the property room without a second person may result in the Commander becoming part of the investigation in the event evidence is missing.

Under no circumstances should an unsecured key to the property room be kept in a location where multiple persons have access to it, such as the **Watch Commander's office, Patrol Sergeant's office,** or the Officer in Charge's office.

Standard 8.6: Security - Lock Changes

Standard: Locks, access codes, and combinations to the property room should always be changed with any resignation, termination, retirement or transfer of Property Unit key-holding personnel.

Definition: Lock changes refers to changing the locks, keys, combinations or other electronic access devices which secure the storage and office areas of the Property Unit. Locking systems include, but are not limited to keys, access codes, combinations and locks.

Reasoning: Locking systems should be changed whenever personnel reassignments occur to ensure that a departing employee no longer has access to the various storage and office areas.

The property room should be equipped with high quality locks that can be replaced whenever personnel changes occur. One way to achieve this is to use interchangeable core locks that permit the keys to be changed easily and inexpensively.

Alternatives to traditional keys are either electronic locking systems or mechanical systems that may include a personal identification number (PIN) which records who accessed the door and includes date/time of entry.

The replacement process needs to be closely monitored to ensure that a third party doesn't gain future access a secure area when locks, access codes, or combinations are changed by an employee outside of the property unit (facilities manager) or an outside service (locksmith). One safeguard may be to have an independent alarm system that the third party or contractor can't control or defeat.

Standard 8.7: Security – Alarms

Standard: All storage areas should be alarmed and monitored on a 24-hour basis. Storage rooms that contain guns, money and drugs should be separately alarmed or independently zoned area whenever possible.

Definition: A security alarm system may include an audible or silent signal that is activated anytime there is an unauthorized entry.

Reasoning: Intrusion alarms need to be installed so as to alert other department personnel in a 24-hour monitoring position that there has been a breach of security in a specific area.

Alarm technology now permits many different activation methods, including, but not limited to: motion, thermal, sound, contact points, pressure pads, seismic alarms, and even laser beams.

The activation of any alarm should be monitored in a communications center, front desk, Watch Commander's office, or at a private alarm company. Having a third party such as a private alarm company receiving the activation signal is a good practice as the alarm company provides an outside source for the notification process and reduces the likelihood of other station personnel from compromising the system.

Many alarm systems are capable of sending a text message alerts directed to a manager or property officer's cell phone or computer.

Rooms that contain high-profile items, such as firearms, drugs and money should be provided with enhanced security that may be achieved with alarms for separate storage areas.

Refrigerators and freezers should be equipped with alarms that indicate if the temperature changes above a designated level. The alarm should be monitored in a 24-hour location, such as the communications center, for example.

Standard 8.8: Security – Duress Alarms

Standard: Property release counters without the presence of a sworn officer should have a duress alarm to summon assistance quickly, if needed.

Definition: An audible or silent duress alarm may be used to summon assistance when a person becomes boisterous or threatening while conducting business at a public release counter.

Reasoning: Civilian personnel are occasionally called upon to release property to persons who may disagree with departmental policy, property description, or legal constraints. When this occurs at a public counter that is remote from immediate uniformed assistance, the civilian employee should have some method of discretely calling for assistance. This may be a telephone, a portable radio, a silent alarm, a duress button, or just a buzzer that remains on until it is reset.

Any type of duress alarm should be tested monthly and a record of the tests should be maintained for future reference.

Standard 8.9: Security – Video Surveillance

Standard: Video surveillance cameras should be utilized whenever enhanced security or a long-term record of ingress, movement, and egress is desired.

Definition: Video surveillance systems are used to record who and when anyone has gained entry into specific defined areas.

Reasoning: Installation of video surveillance equipment should be considered to act as both a deterrent for good internal controls and externally to dissuade unauthorized entry without detection.

All doors into a secure area should be equipped with cameras in addition to those areas where guns, money and drugs are stored. Including cameras where evidence is deposited, such as counters and lockers, can validate when evidence was submitted as well as confirming that evidence was indeed submitted. Installation of cameras at any release counter may document the release, memorialize the transaction, and may protect the agency from accusations of mishandling evidence.

Video equipment consisting of controllers and recording devices should be in a secure location and should only be accessible to the manager, as long as he or she does not have independent access to the property room. The suggested restriction is a check and balance designed to prevent any tampering with or altering the permanent record.

New digital technologies now allows the data to be stored on a hard drive only when there is movement in front of the camera, thus limiting the amount of data needed to be stored. The recording is initiated based upon the movement and the digital data is stored on a hard drive. Once the person creating the motion leaves, the area the recording stops.

The digital data should be stored for a period of years, e.g. at least three or four years, so that it is available to investigators should it be discovered that evidence is missing.

IAPE STANDARDS SECTION 9 – DRUGS

Standard 9.1: Drugs – Packaging

Standard: **Controlled substances** and drugs should be packaged and weighed in a manner that is consistent with crime lab requirements and department storage requirements.

Definition: Packaging refers to the manner in which drugs are preserved and labeled prior to being sent to the crime lab.

Reasoning: Illegal drugs are often made or processed with hazardous materials and should have adequate packaging to prevent leakage or the emission of gasses from the material. Contact the crime lab used by your agency to ascertain the preferred method of packaging for each class of contraband.

Some illegal drugs, such as Phencyclidine **and Fentanyl** are so potent that they should be heat sealed in heavy-duty (4.5mil) plastic bags and preferably inside a secondary airtight container. Check with the local crime lab for regional preferences on how to store.

Live plant material should generally be dried before it is packaged in a breathable container; however, some local laws may now require live plants to be preserved. Check with legal counsel when in doubt.

Whatever packaging material is used, it should be labeled with a case, item, or control number. Non-rigid plastic bags may be placed inside a “convenience container” such as a paper envelope for easier filing and retrieval.

The drugs envelope may be preprinted with prompts for case numbers, control number, defendant’s name, weights, and description for continuity in packaging and labeling. An adhesive label with descriptive prompts may also be used to assist in identifying the package. The envelope should be sealed and initialed using evidence sealing tape.

Larger quantities of drugs may require larger convenience packaging. For example, kilos of cocaine may be stored in boxes, while dried bales of marijuana may already be adequately wrapped and only require paper wrapping to preserve latent fingerprints or trace evidence.

The two most important factors when deciding how to package drugs are the crime lab requirements and the storage needs of the department. If the crime lab provides an envelope, then that becomes the standard. If there are no requirements, the agency should establish the best practice and insist personnel consistently adhere to this standard.

Most forensic crime lab accreditation standards suggest that drugs should also be stored in a room temperature controlled environment that maintains 45% to 60% relative humidity prior to sending to the forensic lab. Storage in relative humidity outside of this range can measurably impact the item's weight and may conflict with the forensic lab's quality control standards.

Standard 9.2: Drugs - Documentation

Standard: Drugs should be described in a manner that enables the reader to visualize the item without physically examining it. Additionally, the documentation should provide a record of all parties that have handled the item, storage locations, transaction dates and times.

Definition: Documentation refers to identifying the item with a unique number, describing the item, and providing a record of all parties handling, various storage locations, along with dates and times of the transactions.

Reasoning: All drug evidence should be documented in a manner that provides a thorough and accurate description and chain of custody including, chronological documentation, and/or paper trail, a record of the seizure, custody, control, transfer, analysis, and disposition of the evidence, either paper-based or digital.

Documentation begins with assigning an individual control number or barcode number to each item of suspected contraband. The paraphernalia associated with the drug should be separated from the drug itself consistent with the instructions listed in the Packaging Manual. In a computerized system the separate control numbers may appear in one report under the case number, but the items may be individually disposed of. In a manual system, it is advisable to group drugs under one report, and items of general evidence, such as paraphernalia under another report. Evidence items should always be separated from Safekeeping and Found Property by writing separate reports since the retention periods are different.

The booking officer's documentation of drugs should NOT include the suspected type of drug, as this may conflict with what the actual sample contains. A generic description, such as a clear crystalline substance resembling methamphetamine or

white powder resembling cocaine is generally preferred by the forensic lab to avoid the possibility of discrediting the officer's experience if the test result differs from the label. Each agency should inquire with their local prosecutor to determine the desired method of documentation for their needs.

The protocols for weighing drugs should be carefully worded by the law enforcement agency to avoid unnecessary conflict with the forensic lab standards. For example, all weighing of drugs should be consistently performed approximate net (without packaging), or approximate gross (with packaging), along with a description of the type of scale used and when it was last calibrated. Many departments are specifying that officers use approximate weights for evidence booking, and use the crime lab analysis report for charging purposes.

Standard 9.3: Drugs – Documentation of Movement

Standard: Drugs leaving the custody of the agency should have the most stringent internal controls to ensure the integrity of the evidence.

Definition: Movement refers to the transfer of drugs to court, crime lab, other agency, out for investigations, and the return of the item.

Reasoning: Drugs are considered a high profile item and requires extra internal controls that provide a clearly documented chain of custody. Documenting the person who authorized the transfer, the person who released the item, and the person who received the item along with dates and times is the preferred practice. Any time that property or evidence is released to a person, the receiving and releasing investigator's signature, destination, date and time should be required.

Providing a subpoena for the court case or obtaining a supervisor's written approval provides a credible record that the drugs are being taken out of the property room for the reasons stated.

Any time there is movement of drugs from the property room, there should be documentation in the form of a tickler or suspense file that notes when items are "out to the crime lab", "out for investigation", and "out to court", "out to another agency", and who is responsible for it. This tickler file will prompt the property officer to inquire regarding the item when it has not returned in a timely manner. The property officer should be required to query all signed out evidence on a periodic basis. For example, firearms, money, and drugs should be queried on the next working day.

All drugs that have been taken to court and not returned by the end of the court day should have a receipt signed by an officer of the court and a court stamp. This receipt should subsequently be returned to the property officer in order to update the evidence record.

Drugs needed for sting operations, K-9, or other training purposes should only come from cases that have been closed and the drugs have been signed off for disposal. Quantities for this purpose should be limited to the smallest amount needed to accomplish the training or sting goals. Written approval from a department or division head to use drugs for this purpose should be obtained. A court order signed by a magistrate provides strongly recommended third party oversight.

Once these drugs for special purposes have been checked out from the evidence room, a secure storage location with a rule of two for access should be established. When the training drugs are no longer needed, they should be returned to the evidence room for disposal.

Standard 9.4: Drugs – Storage

Standard: Drugs should be stored separately from general evidence items in a location with enhanced security.

Definition: Regardless of the size needed, a drugs storage area should be designed in a manner that it is separate from general evidence, provides enhanced security, environmental safety, and easy retrieval.

Reasoning: The size of drug storage needed is dependent upon the anticipated quantity of drugs needing storage. A small agency may only need a locker or file cabinet; a medium size agency may need a closet or cage, while a larger agency may need an entire room or walk-in vault. All drug enclosures should have an independent method of being locked.

Drug evidence should not be commingled with any other property types, except when a common enhanced security area is shared with the separate storage of firearms or money. Nothing precludes the enhanced security recommendations for firearms, money, and drugs from being combined into one common secure area with three distinct storage locations

The following are recommended features for a drugs storage room:

1. A drug room, closet, or cage should be constructed of concrete block, lath and plaster, or drywall that has been reinforced with plywood or wire mesh. The room should not have suspended ceiling access from an adjacent room. Ingress should be via a solid core door equipped with a double cylinder (keys on both sides) dead-bolt keyed separately from the main property room.
2. A locker, cabinet, or file drawer may be used for smaller quantities of drugs. There should be a separate padlock on a hasp to secure the door. Do not rely solely on cabinet locks that can easily be defeated.

3. Multiple hasps and locks on a drug storage area may be used to design a “rule of two”, if needed. By having more than one lock with only one person having the key/access to each lock, two people are required to gain access.
4. Any drug storage area or enclosure should have a separate alarm and video camera to monitor ingress and activity inside.
5. Storage shelf and bin identifiers should be consistent with the storage scheme of the main Property room.
6. Drugs from “Active” cases should be kept separate from drugs “Pending Destruction.” This may be accomplished by using separate shelves or boxes.

Standard 9.5: Drugs - Ventilation

Standard: Dedicated drug storage rooms should have a ventilation system that vents odors and fumes to the exterior of the building.

Definition: Ventilation refers to the circulation of fresh, outside air, within the drugs room to prevent health and environmental hazards.

Reasoning: Any area that is used for storing drugs should be independently ventilated in a manner that noxious fumes are removed from the building, and not re-circulated into the building’s heating, ventilation, and air conditioning (HVAC) system. **The proper design of a drug storage area should include a “negative pressure” ventilation system that changes the air in the storage room approximately 10-12 CPH (changes per hour).** Negative pressure is defined as a method of providing low-velocity airflow from uncontaminated areas into contaminated areas by means of a portable exhaust system equipped with HEPA filters.”

Standard 9.6: Drugs - Storage Pending Destruction

Standard: Drugs pending destruction should always be stored in a designated area that has an enhanced level of security in the property room.

Definition: Drugs for Destruction security refers to the level of security afforded to the most vulnerable items in the evidence room.

Reasoning: Drugs pending destruction have the greatest likelihood of being pilfered from storage. Storing these items in a locked room, sealed container, secured locker, or locked file cabinet provides an enhanced level of security. This segregation may occur in the same room as active drug cases.

A “rule of two” is a principle that requires two persons to jointly move or stage the drugs awaiting destruction. A “rule of two” may be created by using two different locks on the storage container, locker, or room/vault. Each person would possess one of the keys, requiring both to be present to access the secure items.

Additionally, storing drugs for destruction in an area away from active evidence provides a method to better track and visually monitor the quantity of drugs pending destruction.

Policy should define a threshold that, when met, will initiate the destruction process. A threshold can be based upon the calendar, for example, twice a year. A threshold may also be based upon quantity, such as every 20 lbs. Thresholds make all parties in the destruction process accountable and ensure that the process occurs before the drugs become a target of theft.

Many agencies are providing drug collection boxes for the community to anonymously submit left-over medications for disposal.

The ability to safely destroy these drugs is a valuable service that needs careful management to avoid having sole access by any one employee. For the highest level of security, the collection box should be fitted with two separate locks requiring two people to empty the box and collect its contents.

Ideally, the box contents are placed in a clear plastic **tamper evident** bag that is sealed at the scene and does not require repackaging prior to its destruction. Policy should require that the sealed drugs be stored in a location that also has two locks and requires two persons to move or transport for destruction.

These unspecified drugs are most vulnerable because there is no documentation or accountability; they are often subject to being stolen because no one knows what is inside. Video surveillance of the storage and collection process is highly recommended to provide another level of security.

Standard 9.7: Drugs - Destruction Documentation

Standard: Destroyed drugs need to provide detailed documentation that defines all personnel involved in the destruction process and protocols that ensure that an independent witness is able to validate that each and every item was destroyed.

Definition: Destruction documentation refers to the memorializing of the destruction process to provide a transparent and verifiable chain of custody and final disposal.

Reasoning: Drugs pending destruction have the greatest likelihood of being pilfered from storage, or during transportation to a destruction site, as there is generally no longer any interest in the item for prosecution. As a result, there is a need for thorough documentation and verification of every step in the destruction process to leave no room for doubt or suspicion as to its final disposition.

In short, the documentation should include: who authorized the drug item for destruction, who staged and verified the item on the destruction list, who sealed the item in a destruction container, who transported the destruction container to the destruction location, and who witnessed the physical destruction of the drugs.

Maintaining a running drug destruction list that includes the case number, item number, tracking number, defendant's name and an accurate description of each item enhances the integrity of the process. Once the drugs authorized for destruction have been listed, they should be staged and validated by an independent witness from outside the property unit, and placed in a container with the validated list attached. Each item should be accounted for, witnessed, and individually initialed.

Once this container has been filled, it should be sealed and initialed by the independent witness and a property officer. Attaching a copy of the destruction list to the sealed container and retaining it for future reference is a good practice to provide a method to later audit the items prior to destruction. The items awaiting destruction should never be documented as destroyed until the actual destruction has taken place.

Once the destruction has been completed and witnessed, the original destruction list with witness signatures should be filed, and a copy should be forwarded to the appropriate supervisor or manager for an independent record of the destruction.

In order to best document the destruction process, writing a general case report describing the destruction method, who staged the drugs for destruction, who witnessed the items being placed in the destruction container, identifying at least two persons who transported the items together (Rule of Two), who actually observed the items being burned is recommended. This case report should remain on file within the Records Bureau for the normal report retention schedule.

Standard 9.8: Drugs – Destruction Method

Standard: All drugs should be destroyed and witnessed in a manner that will totally consume the item(s) and prevent its future use.

Definition: Drugs destruction refers to the participants involved, the process that is used to prepare items ready for destruction, identify witnesses to the destruction, and fully document the action taken for a long-term history of what was destroyed, including dates and times.

Reasoning: The destruction should take place at a designated site capable of burning the items according to environmental safety rules as well as abiding by all state and federal laws. Drugs should not be destroyed by dumping in waterways, flushing down a toilet, or burying in a landfill.

Every agency's policy statement needs to specifically outline procedures for the handling, storage, transportation, and auditing of drugs for destruction. Policy/Procedures should also include requiring independent witnesses to audit the destruction, and specifying the number of armed sworn escorts to the destruction site.

Standard 9.9: Drugs - Drugs for Destruction Audit

Standard: Drugs packages should be randomly inspected prior to destruction for tampering, weight discrepancies and even perform a random qualitative analysis when practical to provide credibility and additional safeguards to the destruction process.

Definition: Drugs for destruction audit refers to the method used to determine that the drugs packages being destroyed have not had its contents substituted or removed from its packaging altogether.

Reasoning: Inspecting drugs for destruction adds an internal control to the process and discourages any illegal practices

Having an independent participant from outside the property unit's chain of command examine the packages for any signs of tampering immediately prior to destruction is an excellent internal control. Some packages may even have a random presumptive test conducted to ensure that there has been no substitution.

The person who inspects the packages should write a memo to the chief executive officer with a description of the findings. If there are signs of tampering or substitution, an internal investigation should be initiated.

Standard 9.10: Drugs – Drug Take-Back Program

Standard: Drugs in a drug take-back program should be submitted in a secure temporary storage container with enhanced security until it is received by the property officer.

Definition: Temporary storage with enhanced security refers to a locked container designed for the drug take-back program with a secondary security measure, such as two separate locks and keys, one held by an employee outside of the evidence room.

Reasoning: Drugs are considered a high profile item and require extra internal controls. Drug drop-off boxes often contain dangerous drugs that have value on the street and represent a target for theft. The use of two different locks and two different keys is highly recommended effectively creating a “rule of two” for security purposes. The use of surveillance cameras is recommended.

Two persons should be used to empty the contents of the Take-Back container and place it in box that is sealed and initialed by two persons. An alternative to a box is the use of a tamper evident plastic bag that is sealed at the collection point and cannot be opened without obvious damage. The sealed box or bag should then be placed in a drug vault that has enhanced security.

IAPE STANDARDS SECTION 10 - MONEY

Standard 10.1: Money - Packaging

Standard: Money should be packaged in uniquely colored envelopes or in containers with unique labels attached. Information on the label or package should provide sufficient data to identify the case, submitting and verifying employees, persons involved, contents and money listed by denomination and total.

Definition: Money packaging refers to the manner in which money is preserved, documented, and labeled. Money, by definition, does not include counterfeit notes, as this cannot legally be exchanged for goods or services.

Reasoning: Based upon audits, direct observations, and feedback from numerous property officers, there is a significantly high error rate in money counts by booking officers. Often, these errors can be related to simple arithmetic calculations. One method to reduce this error rate is to document the number and type of coins and bills for each denomination, e.g. $3 \times .25 = .75$, $4 \times \$1 \text{ bill} = \4.00 . There should be a subtotal for each denomination as well as a total for the money within the package. Additionally, double checking the math will help to reduce the error rate.

The package or label used should have prompts that document the date and time, case number, tracking number, denominations, sum, and the signatures of the booking and verifying parties. Verification by a second party should occur regardless of the dollar amount. The package or label should contain the booking and verifying officer’s name printed in a legible manner along with signatures or initials and employee number. Verification of the count is necessary to ensure that the amount of money has been counted correctly, and that a second person is responsible for both a correct count and the sealing of the money in the envelope

or bag. Money should be sealed in a container that is tamper resistant and can be filed in an easily retrievable manner.

Most sums of money booked will generally fit in a 4" x 6" or even an 8.5" x 11" manila envelope, which is ideal for uniform size filing in a drawer or box. The manila envelope can be uniquely colored to provide a visual clue regarding the contents of the envelope and aids in locating items. The closing flap and seams may be sealed with evidence tape and initialed by both parties to prevent and identify tampering.

Some agencies prefer to use tamper-resistant plastic bags with similar prompts for documentation, but this option may lack color-coding. In this event, the agency should attach a uniquely colored label consistent with the color code established for other packages of money.

Counterfeit notes should be packaged in a standard envelope with the quantity of the different notes documented. There is no need to add the total amount, but the quantity, denominations, and serial numbers are important. The sum of counterfeit money should not be included with other genuine money. The words SUSPECTED COUNTERFEIT should be readily visible on the front.

Standard 10.2: Money – Documentation

Standard: Money should be described in a manner that enables the reader to visualize the item without physically examining it. Additionally, the documentation should provide a record of all parties that have handled the item, storage locations, and transaction dates and times.

Definition: Documentation refers to identifying the item with a unique number, describing the item, and providing a record of all parties handling, various storage locations, along with dates and times of the transaction.

Reasoning: All money evidence should be documented in a manner that provides a thorough and accurate description and chain of custody, including: chronological documentation, paper trail, details of the seizure, custody, control, transfer, and disposition of the evidence, either paper-based or electronic.

Documentation begins with assigning an individual control number or barcode number to each money envelope. Money seized from multiple suspects should have multiple envelopes, one for each person. In a computerized system the separate control numbers may appear in one report under the case number, but the items may be individually disposed of. In a manual system, it is advisable to group all money envelopes under one report, and items of general evidence, under another report. Evidence items should always be separated from Safekeeping and Found Property by writing separate reports since the retention periods are different.

The booking officer's documentation of the money should include the subtotals by denomination, totals, the signature of the verifying employees, and dates and times.

The property room should retain a log, either manual or automated, of all monies entering and leaving the property room and the current balance. If the package is sealed and initialed there is no need to open the package for verification; however, some agencies insist that a third count by the property officer and another witness be conducted when the money enters the property room.

The desire for a count upon receipt by the property room comes from a philosophical perspective that any miscounts or thefts are easier to resolve before a lengthy period of storage time elapses. If the money is validated upon receipt in the property room by two parties, and there is a discrepancy, it can be corrected in a timely manner and the two booking officers have been excluded from any later culpability. Conversely, if the miscount is discovered five years later, anyone in the property room and the two booking officers are now part of the inquiry.

A real-time list of money items that are ready for deposit should be maintained either on paper or in a computer. This list should be itemized by case, item, amount, and running total.

Standard 10.3: Money – Documentation of Movement

Standard: Money should be deposited or transferred out of the property room as soon as practical once it no longer has evidentiary value.

Definition: Deposit or transfer refers to the movement of money from the property room into the Finance Department or a financial institution. Movement refers to a change in location.

Reasoning: Money is considered a high profile item and requires the highest level of internal controls. Documenting the person who authorized the transfer, the person who released the item, and the person who received the item along with dates and times is the preferred practice. Any time that property or evidence is released to a person, the receiving and releasing person's signature, date and time should be required.

Providing a subpoena for the court case or obtaining a supervisor's written approval provides a credible record that the money was taken out of the property room for the reasons stated.

Any time there is movement of money from the property room, there should be documentation in the form of a tickler or suspense file that notes when items are “out to the crime lab”, “out for investigation”, and “out to court”, “out to another agency”, and who is responsible for it. This tickler file will prompt the property officer to inquire regarding the item when it has not returned in a timely manner. The property officer should be required to query all signed out evidence on a periodic basis. For example, firearms, money, and drugs should be queried on the next working day.

All money that has been taken to court and not returned by the end of the court day should have a receipt signed by an officer of the court and a court stamp. The receipt should be returned to the property officer in order to update the official record.

Standard 10.4: Money - Storage

Standard: Money should be stored separately from general evidence items in a location with enhanced security.

Definition: A money storage area refers to the location where it is segregated from items of general evidence, provided with enhanced security, and is categorized by active and pending transfer designations.

Reasoning: The size of a money storage area, or vault, is defined by the quantity of money packages that an agency has historically stored. If only five or six packages are taken in each month, a cabinet or file drawer may suffice. If larger quantities are taken in, a box on a shelf in a closet might be appropriate. Larger quantities yet may require several boxes on several shelves in a designated room/vault.

Money evidence should not be commingled with any other property types, except when a common enhanced security area is shared with the storage of firearms or money.

The following are recommended features for a money storage area:

1. For a large agency, an interior money room, vault, or cage should be constructed of concrete block, lath and plaster, or drywall that has been reinforced with plywood or wire mesh. The room should not have suspended ceiling access from an adjacent room. Ingress should be via a solid core door equipped with a double cylinder dead-bolt keyed separately from the main property room. The room should have a separate alarm and video camera to monitor ingress and activity inside. A “rule of two” may be designed by providing the room key or combination to one person and the alarm code to another.

2. A safe, locker, cabinet, or file drawer may be used for smaller quantities of money. There should be a separate padlock on a hasp to secure cabinet doors. Multiple hasps and locks may be used to design a “rule of two”, if needed. Do not rely solely on cabinet locks that can easily be defeated. A video camera to monitor activity is recommended.
3. Storage shelf and bin identifiers should be consistent with the storage scheme of the main property room.
4. Money from “Active” cases should be kept separate from money “Pending Transfer.” This may be accomplished by using separate shelves or boxes.
5. Nothing precludes the enhanced security recommendations for firearms, money, and drugs from being combined into one common secure area with three distinct storage locations.
6. Other valuables, such as negotiable securities, foreign money, counterfeit bills, jewelry and precious stones should also be provided additional levels of security and documentation regarding their handling and ultimate disposition.
7. There may be instances when booking a sealed package of uncounted money may be necessary due to difficulties in accurately counting larger quantities of damaged or dirty bills. This exception should require the approval of a supervisor or a container should be placed in the money vault or room with enhanced security as soon as practical.

Standard 10.5: Money – Storage Pending Transfer

Standard: Money pending transfer to the agency’s finance department or a financial institution should always be stored in a designated area that has an enhanced level of security in the property room.

Definition: Money for transfer refers to segregating items that have been authorized for transfer from the property room.

Reasoning: Money pending transfer has the greatest likelihood of being pilfered from storage. Storing money in a locked room, safe, sealed container, secured locker, or locked file cabinet provides an enhanced level of security. This segregation may occur in the same room as active drugs and firearm cases.

Counterfeit notes pending transfer to the Secret Service should be kept separate to avoid mixing with genuine U.S. notes.

Additionally, storing money pending transfer in an area away from active money provides a method to better track and visually monitor the quantity of money awaiting transfer.

The department's policy should define a threshold that will trigger the transfer. A threshold may be based upon the calendar, for example, weekly or monthly. A threshold may also be based upon quantity, such as every \$2,000. Thresholds make all parties in the transfer process accountable and ensure that the process occurs before the money becomes a target of theft.

Standard 10.6: Money – Disposition: Release

Standard: All releases of money should be authorized in writing by the investigating officer to the custody of a specific person, or other agency, and appropriately documented.

Definition: A money release refers to the return of money to the rightful owner, designee, finder, or transfer to another agency or court.

Reasoning: All releases of money should be specifically authorized in writing by the investigating officer. The receiving party should present valid government issued picture identification to match against the authorized name listed by the investigating officer.

A second person should be present when opening the money package to witness the transaction, or the release should be done under a recording surveillance camera to document the count and release of the money. The receiving party should also sign the property release to acknowledge the receipt of the specified amount. The final record should be accompanied with the signature, date and time of the release.

Standard 10.7: Money – Disposition Transfer to Finance

Standard: All transfers of money to Finance or to a financial institution should be specifically authorized in writing by the investigating officer or prosecutor. Policy should define the process in which inactive money is to be transferred from the property room as well as a threshold for the transfer to occur.

Definition: Transfer to Finance refers to removing the physical presence of cash from the evidence room and making a deposit with the agency's finance department or another insured financial institution.

Reasoning: Money should be deposited with the agency's finance department or a financial institution as quickly as possible after the assigned investigator signs an authorization for transfer. The goal should be to remove money from the property room as soon as practical to reduce the potential for theft or being misplaced.

When money is transferred from the property room to the Finance Department or a financial institution, a transfer list should identify the sum for each case number that comprises the total deposit amount. A query of the money disposition on a specific case should reveal a clear paper or electronic trail as part of the deposit.

Standard 10.8: Money – Disposition Asset Forfeiture

Standard: Departmental policy should provide protocols to be followed when money associated with potential asset forfeiture is seized. The protocols should direct that money evidence connected with an asset seizure should be booked into the property room and subsequently deposited into a designated account in a financial institution as soon as possible.

Definition: Criminal enterprise asset forfeiture refers to the civil action against money or property seized that was gained as a result of criminal activity.

Reasoning: Large sums of money should be deposited into a financial institution as soon as practical to remove the target of theft from the property room. The transfer of asset seizure money from the law enforcement agency to the prosecutor's office should be accomplished via check, money order, bank check so that there is a clear paper trail as to the transfer of the money.

Arrangements should be made for the money to be counted at a financial institution, with two witnesses, on the next bank day. Once the count has been verified by two witnesses, the money should be deposited into the financial institution. Transfer of the money to the prosecutor's office should be accomplished in accordance with local, state, or federal asset forfeiture guidelines. A copy of the asset forfeiture application, the container in which the money was seized, the evidence envelope which contains the amount of the seizure (broken down by denomination, and the signature is of the individuals who validated the count should all be booked into the property room as evidence.

A copy of the forfeiture application, money container and the evidence envelope with signatures and count, by denomination, should then be booked into evidence as another case exhibit showing the chain of custody.

IAPE STANDARDS SECTION 11 – FIREARMS

Standard 11.1: Firearms – Packaging

Standard: Firearms should be packaged in a manner that protects the employee, protects the evidentiary value of the item, and permits efficient storage. Firearm safety must be a priority.

Definition: Packaging refers to the container used to; safeguard the firearm, permit appropriate labeling, preserve trace evidence, and protect the firearm from cross-contamination.

Reasoning: Firearms should be packaged in a manner that easily identifies the item as a firearm, and permits the reading of identifying make, caliber, model numbers, and serial numbers. The packaging should also safeguard the evidence from cross-contamination and permit the highest level of safety for employees by allowing a visual inspection to confirm that the firearm is not loaded.

A good practice to prevent a loaded firearm from being submitted to the property room is to insert a nylon safety tie through the action or cylinder when feasible. The tie should not be inserted through the barrel as it may alter the barrel markings. Any proposed policy to this effect should be reviewed by the crime lab in use to satisfy any forensic objections.

Firearms may be stored in a variety of containers, such as gun boxes, gun bags, kraft paper, Tyvek bags, paper bags, or manila envelopes. Some agencies elect to not package their firearms at all, but this is not recommended due to the possibility of cross-contamination of DNA related material.

Any container used for the storage of firearms should protect the safety of the employee from biohazardous substances, such as bloodborne pathogens.

The firearm should also be protected in its packaging from the loss of evidentiary value by protecting any trace evidence present from cross-contamination or unintentional obliteration.

Selecting the correct method of packaging can greatly impact the effectiveness of storage and retrieval of firearms.

A firearm placed inside a gun box should be secured with nylon tie wraps, zip ties, or cable wraps, after it has been safety checked for being unloaded.

Boxes and bags should generally not be reused if the cross-contamination of trace evidence from a previous use may be an issue in the new case.

The exterior of the container should have color-coded labels to indicate if the firearm has been contaminated with biohazards, or if it had been used in a homicide, officer-involved shooting, found property, safekeeping, or any other special issue.

Each department should develop a policy that provides guidance on the submission of live ammunition. Some agencies chose to place ammunition separately inside a gun box, while other may chose to book and store it separately. Note: placing ammunition inside a gun box may deem the firearm to be loaded

under certain state's statutes. This is an important distinction if the firearm is ever transported or handled by civilians.

Standard 11.2: Firearms – Documentation

Standard: Firearms should be described in a manner that enables the reader to visualize the item without physically examining it. Additionally, the documentation should provide a record of all parties that have handled the item, storage locations, and transaction dates and times.

Definition: Documentation refers to identifying the item with a unique number, describing the item, and providing a record of all parties handling, various storage locations, along with dates and times of the transaction.

Reasoning: All firearms evidence needs to be documented in a manner that provides a thorough and accurate description and chain of custody including, chronological documentation, and/or paper trail, showing the seizure, custody, control, transfer, analysis, and disposition of evidence, physical or electronic.

Documentation begins with assigning an individual control number or barcode number to each firearm. Magazines and 'scopes generally do not require separate documentation if they are attached to the firearm and described in the report. In a computerized system the separate control numbers may appear in one report under the case number, but the items may be individually disposed of. In a manual system, it is advisable to group all firearms under one report, and items of general evidence, such as ammunition under another property report. Evidence items should always be separated from Safekeeping and Found Property by writing separate reports since the retention periods are different.

Documentation of the firearm should include a full description including the make, model, caliber, type, and serial number. The booking officer should cause the firearm to be queried through NCIC and any state databases to determine the status and history, if known. A good practice is to provide the NCIC or state computer printout to the property room. The property officer should verify the accuracy of the serial number information by comparing the serial number on the firearm against the paperwork.

Standard 11.3: Firearms – Documentation of Movement

Standard: High profile evidence such as firearms, money, and drugs leaving the custody of the agency should have the most stringent internal controls to ensure the integrity of the evidence.

Definition: Movement refers to the temporary transfer of a firearm to any external location, such as court, crime lab, other agency, or out for investigations, and its return.

Reasoning: Firearms are considered a high profile item and require extra internal controls that provide a transparent chain of custody. Documenting the person who authorized the transfer, the person who released the item, and the person who received the item along with dates and times is the preferred practice. Any time that property or evidence is released to a person, the receiving and releasing person's signature, destination, date and time should be required.

Providing a subpoena for the court case, or obtaining a supervisor's written approval provides a credible record that the firearm is being taken out of the property room for the reasons stated.

Any time there is movement of firearms from the property room, there should be documentation in the form of a tickler or suspense file that notes when items are "out to the crime lab", "out for investigation", and "out to court", and who is responsible for it. This tickler file will prompt the property officer to inquire regarding the item when it has not returned in a timely manner. The property officer should be required to query all signed out evidence on a periodic basis. For example, firearms, money, and drugs should be queried on the next working day.

All firearms that have been taken to court and not returned by the end of the court day should have a receipt signed by an officer of the court and a court stamp.

eTrace is the tracing of firearm ownership by ATF (Alcohol, Tobacco, and Firearms). IF the department policy calls for the submission of certain firearms to the ATF, the policy should also assign responsibility for such documentation. Generally, the person best suited to make this determination and documentation is the investigating officer. In many cases, firearm ownership is not an issue and therefore does not require federal resources to determine a chain of possession.

NIBIN

If department policy requires all, or just certain firearms and spent casings that are seized as evidence to be entered into NIBIN (National Integrated Ballistic Information Network), the policy should also assign responsibility for its submission. Generally, the person best suited for making this determination is the investigating officer. Departmental policy should consider NIBIN recommendations when writing retention policy.

Standard 11.4: Firearms - Storage

Standard: Firearms should be stored separately from general evidence items in a location with enhanced security.

Definition: Regardless of the size needed, a firearm storage area should to be designed in a manner that it is separate from general evidence, provides enhanced security, environmental safety, and easy retrieval.

Reasoning: The size of the firearm storage area needed is dependent upon the quantity of firearms anticipated needing storage. A small agency may only need a locker; a medium size agency may need a closet or cage, while a larger agency may need an entire room.

Firearm evidence should not be commingled with any other property types, except when a common enhanced security area is shared with the storage of drugs or money.

The following are recommended features for a firearm storage area:

1. A firearm room, closet, or cage should be constructed of concrete block, lath and plaster, security screen, or drywall that has been reinforced with plywood or wire mesh. The room should not have suspended ceiling access from an adjacent room. Ingress should be via a solid core door equipped with a double cylinder dead-bolt keyed separately from the main property room.
2. A locker, cabinet, or locking shelves may be used for smaller quantities of firearms. There should be a separate padlock on a hasp to secure the doors.
3. Any room or area that maintains firearms should have a separate alarm and video system to monitor ingress and activity inside.
4. If necessary, a “rule of two” may be designed by providing the room key to one person and the alarm code to another
5. Storage shelf and bin identifiers should be consistent with the storage scheme of the main property room.
6. Firearms from “Active” cases should be kept separate from firearms “Pending Destruction.” This may be accomplished by using separate shelves.
7. Nothing precludes the enhanced security recommendations for firearms, money, and drugs from being combined into one common secure area with three distinct storage facilities.
8. Rifles and shotguns should be placed in rifle boxes to permit a consecutive and systematic filing system. Any firearm, with or without a container should be filed on the shelf in a consecutive and systematic manner using

the case or control number. The use of rifle boxes protects the firearm from cross-contamination and permits box magazines to be secured outside of the rifle for safety.

9. Using gun boxes allows the rifle and handgun boxes to be stored on edge to permit easy retrieval. Use additional shelves if necessary; vertical clearance between shelves should be little more than the height of the box to avoid wasting space. Avoid stacking boxes one on top of another to eliminate moving multiple boxes during retrieval. Not all long guns will fit in boxes, therefore an area for oversized handguns and long guns should be made available.
10. Firearms from active cases should be in one location, and firearms pending destruction should be in another.

Standard 11.5: Firearms – Storage Pending Destruction

Standard: Firearms pending destruction should always be stored in a designated area that has an enhanced level of security in the property room.

Definition: Firearms pending destruction security refers to the area where firearms are maintained prior to the actual destruction.

Reasoning: Firearms pending destruction have the greatest likelihood of being pilfered from storage. Storing these items in a locked room, secured locker, or locked cabinet provides an enhanced level of security.

Additionally, storing firearms for destruction in an area away from active evidence provides a method to better track and visually monitor the quantity of firearms pending destruction.

Policy should define a threshold when firearms that are pending destruction should occur. A threshold can be based upon the calendar, for example, twice a year. A threshold may also be based upon quantity, such as every 50 firearms. Thresholds make all parties in the destruction process accountable and ensure that the process occurs before the firearms become a target of theft.

Standard 11.6: Firearms – Disposition/Release

Standard: All releases of firearms should be specifically authorized in writing by the investigating officer to the custody of a specific person or agency.

Definition: Disposition and release refers to the return of a firearm to the rightful owner if he/she is not restricted from possessing a firearm.

Reasoning: Due to the inherent risk of firearm misuse, a firearm should only be released to its owner after this person has demonstrated that they are not prohibited from possessing a firearm pursuant to federal or state laws. A prior history of domestic violence, mental instability, or conviction of certain crimes may prohibit the person from possessing a firearm. Improper release of a firearm to a person that is prohibited has tremendous potential liability if the firearm is used in a crime.

This responsibility for checking the status of claimants should be assigned to one person in the agency, who has been thoroughly trained in gun laws and interpreting criminal histories. The authorization to release must bear the signature of the person authorizing the release.

In the event that the owner of a firearm is NOT permitted to take possession, department policy may enable the firearm's ownership to be transferred by the owner to or by a federally licensed firearm dealer in lieu of being destroyed.

The actual release should be thoroughly documented with a signature of the person physically releasing the firearm, a copy of government issued ID and signature of the owner accepting the firearm, and a photo of the release.

Policy should ensure that NCIC and state computer databases are updated accordingly any time a firearm is released to prevent a legitimately released firearm from remaining listed as stolen.

Consider releasing ammunition pertaining to a released firearm on a different day to avoid providing a potentially loaded firearm in the station.

Standard 11.7: Firearms – Disposition/Diversion to Agency Use

Standard: The diversion of firearms for official use of the agency should be memorialized by policy, or codified by local ordinance or state law.

Definition: Firearms that have no rightful owner, or have been approved for destruction, may be retained by the law enforcement agency for public agency use pursuant to local laws.

Reasoning: The diversion of firearms for agency use is generally an acceptable practice for transferring ownership of the firearm for departmental use. The diversion process should include a justification memo from the requesting party, approval from a manager, and approval from the Chief Executive Officer or agency designee. To add an additional level of transparency to the process, consider having an official from outside the agency - such as a purchasing administrator or a court magistrate approving the request.

Documentation of the diversion process should be maintained by the property unit and the division commander. The diverted firearm should be included on the agency's equipment inventory for audit purposes and transparency.

Standard 11.8: Firearms – Disposition & Sale or Trade

Standard: The sale or trade of firearms by an agency should be memorialized in policy, or codified by local ordinance or state law. The sale of a firearm to an employee should be carefully documented and transparent.

Definition: The exchange of firearms that have been diverted for public agency use to a licensed firearm dealer for cash or in-kind goods.

Reasoning: Firearms are generally traded for new firearms or other equipment as a way to purchase new equipment without using budget resources. The sale or trade of firearms has many risks, liabilities, and potential ethical problems. It is customary for the proceeds of any auction or sale to go to the governing body's general fund to avoid the appearance of any direct conflict of interest.

There is a potential for abuse any time there is a direct connection between the law enforcement agency and the sale or trade of surplus firearms. There may be an incentive NOT to find the rightful owner of property if the sale proceeds go directly to the agency.

Once due process for ownership is complete, the Chief Executive Officer should obtain a resolution from the governing body instructing the law enforcement agency to proceed with the sale or trade. This resolution will help to share any responsibility and negative publicity in the event that a firearm is subsequently used in an unlawful manner.

The sales of firearms to employees should be discouraged as some persons may interpret the action as providing preferential treatment that is not available to the general public. If a sale is made regardless of objections, ensure that the transfer is made through a federally licensed firearms dealer.

Standard 11.9: Firearms - Destruction Documentation

Standard: Destroyed firearms should provide transparent documentation that identifies all personnel involved in the destruction process and ensures that an independent witness is able to validate that each and every firearm was destroyed.

Definition: Destruction documentation refers to the memorializing of the destruction process to provide a transparent and verifiable chain of custody and final disposal.

Reasoning: Firearms pending destruction have the greatest likelihood of being pilfered from storage or during transportation to a destruction site, as there is generally no longer any interest in the item for prosecution or release. As a result, there is a need for thorough documentation and verification of every step in the destruction process to leave no room for doubt or suspicion as to its final disposition.

Maintaining a running firearm destruction list that includes the case number, item number, tracking number, defendant's name and an accurate description of each item enhances the integrity of the process.

Once the firearms are authorized for destruction and have been listed, they should be staged, verified by an independent witness, and placed in a sealed container with the validated firearm destruction list attached. Each item on the list should be individually initialed, and witnessed.

The documentation should include: who authorized the firearm for destruction, who staged and verified the item on the destruction list, who transported the firearms to the destruction site, and who witnessed and verified each individual firearm being destroyed.

Attaching a copy of the destruction list to the sealed container is a good practice to provide a method to later audit the items prior to destruction. The items awaiting destruction should never be documented as destroyed until the actual process occurs.

Once the destruction has been completed and witnessed, the *original* firearm destruction list with witness signatures should be filed, and a copy should be forwarded to the appropriate supervisor or manager for an independent record of the destruction.

In order to best document the destruction process, writing a general case report describing the destruction method, who staged the firearms for destruction, who witnessed the items being placed in the destruction container, who transported the items, and who actually observed the items being destroyed is recommended. This case report should remain on file within the Records Bureau for the normal report retention schedule.

Standard 11.10: Firearm – Destruction Method

Standard: All firearms should be destroyed and witnessed in a manner that will totally demolish the item to prevent its future use.

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Definition: Firearm destruction method refers to the method or process that is used to render the firearm unusable.

Reasoning: Firearms should be destroyed to prevent its illegal use at some time in the future. Different agencies may use different methods of rendering firearms unusable. Some agencies may chose to burn, chop, melt, or crush firearms as a method of rendering them unusable. The burying of firearms in a landfill is only acceptable when the firearm has been previously rendered unusable. Agencies that strip parts from firearms for official use should still ensure that the portion of the frame containing the serial number cannot be reused, and that a court order permits non-serialized parts to be recycled for public use.

IAPE STANDARDS SECTION 12 – FOUND PROPERTY

Standard 12.1: Found Property – Reporting Policy

Standard: Departmental policy should instruct all personnel that a numbered case report or other easily retrievable document is required whenever Found Property is turned over to, or found by any employee.

Definition: A numbered found property report should be searchable by day, date, time, location, article, and reporting employee.

Reasoning: Found property may consist of item(s) that are lost or misplaced by the owner, or it may be item(s) that are evidence of criminal activity that has not been reported. Forwarding a copy of the found property report to the investigation division may link the found property to a crime.

It is important that basic information is documented identifying the finder:

1. If known, the description of the item(s), the location where the item(s) was found
2. Date and time the item(s) was found
3. When it was turned over to agency personnel
4. Whether or not the finder is interested in claiming the item(s) if the owner is not located

Failure to properly report found property could result in items not being returned to the rightful owner, or it could lead a finder to believe that the items were misappropriated for personal use by a department employee.

The statute or municipal code that governs “found property” should be cited within the departmental directive. The directive should also specify the minimum amount of time that the department is responsible to hold the found property. In

the event that there is neither statute nor code governing "found property" the department should consider establishing a policy and procedure related to this topic.

Department policy should provide guidance on the protocols for returning found firearms.

Standard 12.2: Found Property – Receipt

Standard: Departmental policy should instruct all personnel that when a citizen turns found property over to departmental personnel, that the finder be given an official department receipt that provides direction on how to claim the property and cite any legal requirements.

Definition: A Found Property Receipt is a form that is given to the finder that describes the found item and provides guidance on how to legally claim it if the owner is not found.

Reasoning: Providing the finder of property with a receipt on how to claim an item may reduce many inquiries to the department. The receipt should provide a brief description of the property, the case number, a phone number of who to call with questions, any legal requirements, the statute numbers, and a signature block where the finder acknowledges they received and understand the process if they wish to claim the property. A two-part form, with one part accompanying the property, and the other provided to the finder should be provided.

Standard 12.3: Found Property – Storage

Standard: Found property should be segregated from items of general evidence and clearly labeled as found property.

Exception: Found property consisting of firearms, money, and **drugs** should be stored with other high profile items with enhanced security, but still clearly labeled with a distinctive tag as Found Property. Large or bulky items may also be stored in the bulky storage area if clearly labeled with a color-coded tag.

Reasoning: Found property is generally required to be held for a specified short period of time while attempts to locate the rightful owner are made.

Due to the short-term nature of Found Property storage, the location of these storage shelves should be where it is more convenient to frequently access than other items of general evidence. Generally speaking, there should be no items on the Found Property shelves that exceed the minimum statutory requirements or departmental policy.

Standard 12.4: Found Property – Investigation

Standard: Departmental policy should assign responsibility for attempting to locate the rightful owners of found property.

Definition: Assigned responsibility refers to whom the investigative duties are assigned

Reasoning: Departmental policy should define who is responsible for conducting any follow-up investigations to locate the owner of found property. The reason for assigning responsibility is to ensure that a good faith attempt to locate the rightful owner is made, and not overlooked.

Assigning this responsibility to the property officer is an acceptable practice. The complexity of the investigation or the nature of found property may determine if the property officer needs to collaborate with a detective.

Standard 12.5: Found Property – Release

Standard: Any time found property is released to the owner, finder, or designee; a release form and signature should be obtained from the person claiming the property.

Definition: A release refers to returning found property to the rightful owner, finder, or designee.

Reasoning: Obtaining a signature on the property record from the owner, finder, or designee with appropriate identification may insulate the agency and its employees from any false accusation of theft or mismanagement. Scanning the ID into a computer database, or obtaining a photocopy of the ID should be part of the release process.

Standard 12.6: Found Property – Disposition

Standard: Found Property should be released to the rightful owner or designee, claimed by the finder, or disposed of according to statute or departmental policy.

Definition: Disposition refers to the sale of unclaimed property at auction, the diversion to the agency for public use, or the transfer of ownership to another individual or agency.

Reasoning: When the rightful owner of found property cannot be determined, the finder may claim the item pursuant to statute or departmental policy. If the finder declines to claim the property, it may be diverted for public use by the agency or sold at auction. The final disposition of the found property should be documented as part of the permanent case file.

If the rightful owner of property is contested and cannot be determined, consult with the agency's legal counsel. Failure to release the property to the rightful owner may result in legal action.

IAPE STANDARDS SECTION 13 – PROPERTY FOR SAFEKEEPING

Standard 13.1: Property for Safekeeping – Reporting Policy

Standard: Departmental policy should instruct all personnel that a numbered report is required whenever Property for Safekeeping comes into the custody of an employee.

Definition: A Property for Safekeeping report or other retrievable document should be searchable by day, date, location, article, and reporting employee.

Reasoning: Property for Safekeeping may consist of personal property item(s) that need safeguarding as a result of the owner's infirmity, accident, or arrest. The Property for Safekeeping report or property record should be separate from any related crime or accident report because the disposition of property held as safekeeping may be conducted much sooner than evidence in a criminal case.

Some states permit the disposition of unclaimed personal property after a specified period of time. Consider enacting a department policy in the absence of a local resolution, ordinance, or state guidelines.

Consider providing written notice to arrestees at the time of booking that Property for Safekeeping will be disposed of pursuant to departmental policy within a specified time unless claimed prior.

Standard 13.2: Property for Safekeeping – Receipt

Standard: Departmental policy should instruct all personnel that anytime personal property (Property for Safekeeping) is taken from a citizen that the owner is given a department authorized receipt with information on how to claim the property

Definition: A Property for Safekeeping Receipt is a document that is given to the owner that defines how to retrieve their property.

Reasoning: Providing the owner of property with a receipt on how to claim the item may reduce many inquiries to the department on how to claim their property. The receipt should provide a brief description of the property, a date the property will be available, case number, phone number of who to call with questions, any legal requirements, the statute numbers, and a signature block where the finder acknowledges they received the property and understands their obligations to claim it. Completing the receipts in duplicate is encouraged, as it can provide both the owner and the property unit a copy of the document.

Standard 13.3: Property for Safekeeping – Storage

Standard: Property for Safekeeping should be segregated from items of general evidence and clearly labeled as Property for Safekeeping.

Exception: Property for Safekeeping consisting of firearms, money, and prescription drugs should be stored with other high profile items with enhanced security, but still clearly labeled as Property for Safekeeping. Large or bulky items may also be stored in the bulky storage area if clearly labeled.

Reasoning: Property for Safekeeping should be considered a short-term item that in most cases doesn't have to be retained as long as any evidence from the same case.

Due to the short-term nature of Property for Safekeeping storage, the location of these storage shelves should be where it is more convenient to frequently access than other items of general evidence. Generally speaking, there should be no items on the Property for Safekeeping shelves that significantly exceeds the minimum specified time requirements that may be determined by statute or policy.

Standard 13.4: Property for Safekeeping – Disposition

Standard: Property for Safekeeping should be released to the rightful owner or disposed of according to departmental policy as quickly as practical.

Definition: Disposition refers to the release of the property to the owner or designee, sale of unclaimed property at auction, the diversion to the agency for public use, or release to an other authorized entity, or destruction and disposal.

Reasoning: The department has an obligation to return a person's personal property to them as quickly as possible. In an arrest situation always attempt to return the Property for Safekeeping prior to the adjudication of the criminal case to free up storage space. If the owner of the property is incarcerated, he/she may complete a written and notarized authorization form that authorizes a friend or relative to retrieve the property.

IAPE STANDARDS SECTION 14 – DISPOSITION

Standard 14.1: Disposition – Review

Standard: Law enforcement agencies should have a systematic review process assuring that each item of property and evidence is evaluated for possible purging on an annual basis.

Definition: Review is the assessment of whether an item may be removed from the inventory based upon an elapsed period of time, or completion of all legal and departmental mandates.

Reasoning: There is no procedure more important to keeping the inventory of a property room at a manageable level than an effective on-going purging program. The property room inventory should be kept free of items that are no longer needed in order to avoid the need for additional storage space and staffing.

The timely and appropriate disposition of property is extremely important to the efficient management of the property room. Overcrowded evidence rooms generally require more staffing to manage simply because the size of their inventory has a tendency to slow down routine operations involving evidence storage and retrieval.

Methodology: Types of Systems

In order to establish an effective purging system, certain criteria must be established to provide guidance in how long property and evidence should be retained before being reviewed.

Statutes of Limitation:

The most common review system used in property rooms utilizes the statutes of limitations as a review date. For example, if the time limit for a misdemeanor were one year, the assigned detective or arresting officer would receive a “Review Notice” after one year. Each agency should utilize the statutory requirements for their own respective state.

In felony cases, the review should be sent out to the investigating officer when the statutes of limitations have expired. In most states, the statutes of limitations for felony crimes is generally much longer than misdemeanors, making the retention and review period for these serious crimes proportionally longer. An important factor in making a purging system work effectively is to apply the various statutes of limitations to cases where evidence is being retained. The review notice should request approval to release, dispose of or retain the property or evidence.

Here are factors to consider in setting review dates based upon the statute of limitations for each particular state.

1. In many states there are fixed periods of time after which prosecution on specified types of crimes can no longer be initiated.
2. In some states the time limit is absolute, in some it does not start until a suspect is identified, and in some it is extended by the length of time that the suspect is out of state during the statutory period.
3. In many states, the limitation no longer applies once a warrant is issued for the suspect, as long as the agency can show due diligence in attempting to serve the warrant.

Accelerated Review:

The accelerated review is similar to the Statutes of Limitation system, but the review dates may be reduced to a much shorter period of time. For example, a misdemeanor case may have a review date at six months instead of one year. Felonies may be reviewed in one year instead of three.

The review date is not a purge date, it's only a date to reassess the evidence and inquire whether the case has already been adjudicated, and whether or not the evidence can be disposed of. This process may be riskier because evidence could be disposed of prior to the Statute of Limitations expiring, thereby limiting prosecution.

Departments that implement an accelerated review often see a large proportion of the items forwarded to the detective are in fact signed off for release or destruction before the Statute of Limitations has expired.

Administrative Kill Policy:

A department whose inventory is completely out of control and lacking any staff to research all of the cases may consider utilizing an "Administrative Kill" policy. The Administrative Kill is the riskiest, but sometimes the only alternative to address the problem in a timely manner.

The Chief Executive Officer of the agency should initiate the Administrative Kill Policy with a written executive order to dispose of certain categories of evidence. This order should be specific as to the classifications of evidence covered, e.g. "all misdemeanors over 'X' months old, without a related arrest warrant, will be destroyed/released." Another example of a written kill policy would be, "designated felony property crimes that are beyond 'X' period of time and which will never be investigated."

Special attention should be given to prevent the "Administrative Kill" of any evidence in crimes against persons and sex related crimes. These could become both a political liability as well as a civil tort against the investigator, the agency and the umbrella organization. For this reason, the prosecutor should also review any "Administrative Kill" requests.

With recent advances in DNA technology, many states have adopted statutes that require a specific length of time that biological evidence must be retained. Department policies should ensure adherence to these statutes.

After establishing the time limits that are most suitable for the department, a system needs to be developed to add a review date to every item of evidence.

Some type of review form or memorandum should be used by the property unit to notify an investigating officer when a case is due for review. The form should include check boxes to differentiate items to be released, disposed of, or retained. The investigating officer should be required to sign the form for accountability purposes, and state why it should be retained. A supervisor should approve whenever evidence is retained beyond the respective statute of limitation. A schedule for re-review, or a second review within a year, should be set for property or evidence that is labeled as “retained.”

The purging process can best be accomplished by requiring an annual review by the assigned case investigating officer. The most efficient process is for the property room to generate a review notice requiring the investing officer to evaluate each case for potential purging. When the property unit does not initiate the review process, departmental policy should define who is responsible, and when the review should occur.

There should be special consideration given to NOT disposing of certain evidence without prosecutorial or judicial review, such as: sex crimes, capital crimes, other serious felonies, and pending civil litigation.

Standard 14.2: Disposition – Authority to Purge

Standard: The final authority to purge evidence from the property room should be reviewed and authorized by the investigating officer. In some jurisdictions this process may also require additional approval from the prosecutor or the court. Department policy should establish whether the authorization for the purging of Found Property and Safekeeping might be delegated to the property officer.

Definition: Authorization to purge refers to the process by which evidence from a case is reviewed to determine if it has potential evidentiary value. If not, the approval may be granted to dispose of the item(s).

Reasoning: The authorization to purge and dispose of evidence should be reserved for the investigating officer, and in some states the prosecutor, and courts. The investigating officer may be the only person who has specific knowledge that the evidence may be related to another case; therefore, it is imperative that the assigned case investigator be the approval process.

In general, the property officer should not be making final decisions on the disposition of evidence. The property officer should be considered the guardian of the items and not the decision-maker of its final disposition. Such procedures provides for a good internal control by separating responsibilities and duties

Homicide evidence is generally held for extended periods of time due to the statues of limitations being open-ended and a lack of policy that governs its retention.

Absent any statute which requires otherwise, there are times when even homicide evidence may be eligible for being purged from the property system, such as when:

1. The suspect has completed sentence
2. The suspect died in custody
3. All appeals have been exhausted
4. The suspect waives right to retain evidence

In any homicide or manslaughter case, departmental policy should require some type of periodic review to determine if the case has been adjudicated, and whether or not the evidence is eligible for final disposition. Policy should require that all such cases be approved by the investigating officer in conjunction with the prosecutor. In cases where evidence has been seized pursuant to a search warrant, court approval may be necessary.

Due to the nature of recent post-conviction appeals, some states' statutes are requiring that biological evidence be retained beyond the death of the defendant, and, in some cases "forever". It is incumbent upon each agency to be aware of the applicable statutes in this area and adhere to them.

Suicide evidence is unique in its potential for being reclassified as a homicide if new evidence is discovered. Any suicide evidence that is reviewed for possible purging should be considered on a case-by-case basis.

Standard 14.3: Disposition – Release to Owner

Standard: All property or evidence releases should document who authorized the transfer, who actually released the item, full description of the item, and complete identifying information of the person receiving the item.

Definition: A "release to owner" refers to the return of property or evidence to its rightful owner or designee.

Reasoning: The investigating officer should inform the property room in writing, giving specific instructions to whom specific items should be released.

Department policy should designate who is responsible for sending or making such notification to the owner.

All release notices should have some type of “drop dead date” to initiate action if there is no response within a specified period of time. All notifications made should be documented in the property record in order to “start the clock” on any length of time provided for a response.

All releases should be signed by the receiving person along with other personal data, such as, address, phone, and government issued photo ID. In addition, a photograph of the person while receiving the article should be considered when items of high value are released. The signed release should be attached to the paper evidence record, or electronically as an attachment to the item record. The purpose of this procedure is to counter any future claims and/or allegations regarding the release of the items.

In agencies that have an automated tracking system, it may be possible to have the signature captured on an electronic signature pad, a government ID card scanned, and a digital photo attached to the file for complete documentation.

Standard 14.4: Disposition - Auctions

Standard: Law enforcement agencies should develop policies for auction sales of property that is consistent with state and local laws.

Definition: An auction is public sale where items are sold to the highest bidder.

Reasoning: Most local codes require the selling of unclaimed and surplus property at public auction. Department policy should designate who is responsible for evaluating what property is to be auctioned, and what property should be destroyed.

Agencies may choose to conduct in-house public auctions, contract with an auction company to conduct an auction, or utilize an online auction company. In-house auctions require the use of storage space for items pending auction, while outside auctioneers will routinely pick-up items at the department’s request. All proceeds from auction sales should be deposited in the umbrella agency’s general fund to avoid a potential conflict of interest. Requests for future funds may cite offsetting revenue from auction sales as justification, thus enhancing transparency.

More people are likely to bid on items at a professional auction or online service often resulting in a higher return than an in-house auction. The goal of the auction should not necessarily be to garner the greatest return for the city or county, but should be to control the property room’s inventory and recapture needed space.

The property unit managers should thoroughly familiarize themselves with the specific state and local statutes regarding the sale of property. Policy should prohibit any departmental employees from bidding on auction items due to the appearance of, or an actual conflict of interest.

Standard 14.5: Disposition - Diversion

Standard: Law enforcement agencies should develop written policy and procedures that enable the diversion of unclaimed property for public use.

Definition: Diversion is the process by which a public agency may transfer ownership of unclaimed property in its possession for public use. Law enforcement agencies may generally divert property for public use when the rightful owner is either unidentified, or has failed to claim the item within a designated time frame.

Reasoning: Most states provide statutory approval to transfer unclaimed property for city, county, or state use. If there is no authorizing state statute applicable, the development of a municipal or county ordinance may legally permit the process and insulate the agency from any civil litigation.

Agencies should have a written policy and procedures to guide department personnel on the requirement to divert the requested property. The procedures should include a request for the retention of a specific item and the justification should originate with the person in charge of the area where the item is to be used. The approval process should include approval by the requesting person's direct chain of command, including the Chief Executive Officer or designee.

Once the departmental approval process has been completed, consider including a third party approval from outside the agency for items of designated value. This could be the city or county's Purchasing Director, City Manager, County Executive, Mayor, or any other disassociated official. The property unit should maintain a permanent record of all property diversions. Refer to Standard 11.7 for the diversion of firearms.

Use of any property so retained must be for official purposes only; the practice of allowing employees to retain property for personal or non-governmental purposes should be prohibited.

Standard 14.6: Disposition - Destruction

Standard: Evidence items that are not released to owner, diverted for government use, or sold at auction should be destroyed.

Definition: Destruction is the act of breaking apart, melting, crushing, or making an item of property unusable prior to discarding.

Reasoning: When property has been authorized for destruction it should be rendered unusable and placed in a secure holding area until it is transported to the disposal site. This action prevents the items being removed from the trash for personal gain. Having a witness to the destruction of items that are of a sensitive nature, such as pornography, for instance, is always a good idea.

Items consisting of drugs and firearms require specialized destruction techniques to guarantee the items cannot be retrieved and used illegally. Refer to Standard 11 for destruction of firearms and Standard 9 for the destruction of drugs.

Recycling of component materials, batteries, metals, plastics, glass, paper, and electronics is the preferred method of disposal.

Small quantities of regulated waste may fall under a “household waste exemption”, however, commercial and government waste management is probably not exempt. The term “Universal Waste” is regulated and defined as batteries, mercury thermostats, fluorescent lights, cathode ray tube devices, and other product containing mercury or other heavy metals. It is also illegal to dispose of hazardous waste in the garbage. Examples of hazardous waste include: oil and paint, anything coated in which with blood, and materials that could potentially spread diseases. The federal universal waste regulations are found in Title 40 of the Code of Federal Regulations (CFR) in part 273 and apply to four types of universal waste.

To properly dispose of biohazardous waste, one should be collecting it in a red bag or red plastic bin specifically meant to handle biohazardous waste. This collection should continue until there is sufficient quantity to justify calling a hazardous waste disposal company. Disposing biohazardous waste in a common general waste container exposes the agency to expensive fines for such violations.

Biohazard items should be disposed of in a manner consistent with OSHA rules regarding blood-borne pathogens.

Biohazard regulated medical waste (RMW) is known as biohazardous, biomedical, infectious, sharps waste, and clinical medical waste. This waste is defined as waste containing infectious materials or potentially infectious substances such as blood. Other examples include blood products, animal waste, microbiological waste, and pathological waste.

Standard 14.7: Disposition – Sexual Assault Evidence

Standard: Law enforcement agencies should have a systematic review process assuring that each item of evidence in sexual assault cases is evaluated at least annually to:

- Aid in the submission or resubmission of investigator identified evidence to a forensic lab in unsolved or appealed cases
- Aid agency investigators assigned to “cold case” investigations
- Allow purging of unneeded items as regulated by federal or state statute
- Assist in the tracking of evidence directly by a sexual assault victim

Definition: The disposition of sexual refers to the disposal of all items of evidentiary value that pertain to unsolved sexual assault cases. This includes biological samples taken from the victim’s person as well as biological samples taken from the crime scene.

Reasoning: The systematic review process is the assessment of whether an item related to sexual assault is:

- Still needed in the inventory after all legal and departmental mandates have been satisfied
- Should be submitted for forensic analysis for prosecutorial or defense purposes
- Needed for current criminal case prosecution or appeal
- Legally available to be returned to a victim after proper notification is made per federal or state statute

The timely and appropriate handling of sexual assault evidence for criminal case prosecution and appeals is extremely important to maintaining the criminal justice system for those involved in these cases and the communities that the criminal justice system serves.

Sexual assault evidence must undergo a thorough disposition process before any items are destroyed, transferred or released. The case investigator must be involved in the process. No evidence in sexual assault cases should ever be disposed of without the approval of the case investigator and compliance with state statutes.

The following requirements in federal statutes,⁴ should be considered by the agency responsible for sexual assault evidence:

A sexual assault survivor has the right to:

⁴ Title 18, USC §3772 *Sexual Assault Survivor’s Rights Act*

1. Have a sexual assault evidence collection kit or its probative contents preserved, without charge, for the duration of the maximum applicable statute of limitations or 20 years, whichever is shorter.
2. Be informed of any result of a sexual assault evidence collection kit, including a DNA profile match, toxicology report, or other information collected as part of a medical forensic examination, if such disclosure would not impede or compromise an ongoing investigation; and be informed in writing of policies governing the collection and preservation of a sexual assault evidence collection kit.
3. Be notified by the law enforcement agency, no later than 60 days prior to the date of the intended destruction or disposal of the items.
4. Upon written request, be granted further preservation of the sexual assault kit or its probative contents.

IAPE STANDARDS SECTION 15 – INTERNAL CONTROLS

Standard 15.1: Inventories

Standard: An inventory should be conducted annually, or whenever a change in key-holding personnel or in the Chief Executive Officer is made.

Definition: An inventory is the process of individually checking all or a specified portion of the property/evidence items against the agency's records.

Reasoning: The purpose of an inventory is to ensure that all items of property/evidence are accounted for. A complete inventory involves matching each piece of property or evidence with its corresponding documentation.

Conducting annual inventories will identify property or evidence that is missing or misplaced from its assigned location, and it will identify items that are present in a particular location that should have been previously removed.

Routine inventories will limit the time frame for investigating missing items. Without a timely inventory the time frame of an investigation and the total number of persons involved will expand significantly. Additionally it is unfair to burden a new employee, supervisors, or managers with responsibility for items that may have been misplaced, lost, or stolen prior to his/her assignment.

Agencies that conduct regular inventories are far less likely to experience an internal loss of property or evidence.

In agencies where the size of the property unit inventory is so large as to prohibit the complete inventory of the facility at one time, a plan should be developed which requires an inventory of specific locations on scheduled basis. For example, if 10% of the locations were inventoried each month, a complete inventory could be accomplished annually. Additionally, the inventory of guns, money and drugs should be done more often. It is suggested that these three high-risk categories of property or evidence be accounted for several times within a calendar year.

Methodology: When conducting an inventory, the persons accounting for individual pieces may encounter sealed packages that are labeled to contain multiple items. **It is not necessary for each package to be opened, but only to compare the package label with the associated paperwork or computer record.** If the package appears to have been opened or tampered with, further examination is in order.

Computerized systems with barcodes and scanners:

The most efficient method of conducting an inventory is with the use of barcodes, a barcode scanner, and appropriate inventory software. In order to conduct a thorough and accurate inventory, the barcode must represent only one specific item, and not the contents of a package containing multiple items. If there are multiple items within a package and each item has its own barcode, it is recommended that a duplicate barcode for each item be placed on the exterior of the package. This method enables the inventory of all items within the package as well as facilitating the release or transfer of just one of the items within the package.

Once all the items in a location have been scanned, the software should compare what is physically present with the computer record. Properly designed software should provide an exception report that lists items that are missing and items that are present that don't belong in that location. An archived list of the items on the shelf during the inventory should be retained for future reference.

Computerized systems, without barcodes or scanners:

In those agencies that have an automated tracking system but no ability to use barcode scanners, the property officer can print a list of all items in a specific location. A comparison of the printout against what is actually in each designated location should be conducted and the outcome as well as the list should be retained for future reference, i.e. if property or evidence is found missing in the future.

Manual, paper-based system, with *separate* active and inactive records:

Active records represent items that should be in the current inventory, while inactive records represent items that should have previously been removed.

In order to conduct an inventory in a manual system where all the active items are filed *separately*, the preferred method is to list all of the items located in a particular location. This list of items is then reconciled with the property records in the active files.

In the event that a sealed package contains numerous items under one case number, compare the tracking number (case or control number) with the property record in the file. It may not be possible to reconcile each item without opening the package for inspection. The decision to open sealed packages should be determined by management. If it is determined that a package must be opened for inventory purposes, it is recommended that the agency have a written procedure which provides step-by-step guidance to be followed as well as the documentation of the actions. This is important in the event of a challenge regarding the chain-of-custody during a trial or hearing

Manual paper-based system, with commingled active and inactive records:

In the event that active and inactive records are commingled in one file or file drawer, the inventory process becomes arduous and labor intensive due to the need to search through all records for one specific record to be reconciled. Therefore, it is recommended that active and inactive records should be filed separately.

Any items identified as missing should be brought to the attention of a supervisor/manager in writing as soon as practical. Depending on the value (both evidentiary and monetary) and circumstances of the missing item, a determination by the supervisor/manager should be made whether or not to initiate an internal investigation. When the item has no significant monetary value and no evidentiary value, management should consider closing the record administratively to prevent the recurrence of the same item being identified as missing in a future inventory.

When an item is located on the shelf and cannot be linked to a particular case, the item should be photographed and listed on a “found property” report, held for the statutory period, and then disposed of according to existing laws.

Standard 15.2: Audits and Inspections

Standard: Comprehensive audits should be conducted at least annually by the Chief Executive Officer or designee. Additionally, there should be inspections of the property room conducted by the supervisor, or the unit commander, who are responsible for that component of the agency.

Definition: An audit is a review of the policies, procedures, and processes of the property and evidence functions of the agency to determine whether or not they meet the recognized standards, best practices, and are in compliance with applicable statutes and codes.

An inspection is a periodic review of designated aspects of the Property and Evidence Room function by its unit commander and/or supervisor(s). In addition to audits, agencies should conduct inspections. These inspections should be both formal, i.e. scheduled inspections as well as informal random inspections.

Inspections should cover such areas as: security, access control, tickler files, missing evidence, partial examination of records; general cleanliness and housekeeping of the area; inventory levels within the Property Room; safety practices; training of Property Officers; etc. In both cases any findings of the inspections should be documented in writing.

Reasoning: The audit is an important internal control that provides for early identification of problems or deficiencies in the system as well as confirming that the property and evidence functions within the agency are free from significant errors or problems.

Policy should define when audits are to be conducted, by whom, and the scope of the audit.

The entire property and evidence function within the agency should be periodically audited to ensure:

1. the integrity of the system and the individuals working in it,
2. that departmental policies, directives, and procedural manuals are in compliance with the legal requirements and,
3. that departmental personnel are complying with the agency's written policies and procedures

AUDIT COMPONENTS

Comprehensive System Audit:

Policies and Procedures as they pertain to:

1. Review of any previous audits and recommendations
2. Staffing
3. Training
4. Purging- Disposition
5. Security
6. Compliance with statutory mandates, including OSHA
7. Special Handling – high profile items such as:
 - a) Firearms
 - b) Drugs
 - c) Money
8. Found Property

9. Property for Safekeeping
10. Inventories
11. Audits
12. Packaging
13. Compliance with packaging manual/policy (if any)
14. Uniform size containers
15. Labeling
16. Protection of evidence, trace, bio, tool marks, etc.
17. Right of refusal for improperly packaged items.
18. Facilities
19. Construction
20. Layout
21. Storage Schemes
22. Temporary storage
23. Long-Term Storage
24. High Profile Storage
 - a) Firearms
 - b) Drugs
 - c) Money
25. Documentation – (aka: “Paper Chase”), the methodology used for a complete inspection of selected property and evidence records in the following categories:
 26. Open-Active Property Reports
 27. Closed-Inactive Property Reports
 28. Pending destruction
 29. Disposed of
 30. Chain of Custody- Movement
 31. Out to crime lab
 32. Out to case investigator
 33. Out to court
 34. Out to other agency
 35. Computerized property records
 - a) Firearms
 - b) Money
 - c) Drugs
36. Safety - Environmental

Supervisory Audit - (aka: Supervisory Inspection)

In addition to comprehensive system audits, first line supervisors and/or managers should conduct periodic inspections of the property room. These inspections should include the following items that can be added based upon the particular needs of the individual agency:

1. Work Schedules – Work schedules should be adequate for the needs of the agency and public.

2. Public Hours for the Property Room – This refers to the days of the week and hours that the public has access to retrieve property.
3. Security of Property Room – This includes alarms, access control, testing of alarms, etc.
4. Disposal Procedures – This area of inspection should include, at a minimum, the procedures for the disposal of firearms, drugs, and bio-hazardous materials.
5. Tickler Files – All tickler files should be reviewed to determine if required actions have been completed within the agency's time frames (as specified in department directives), e.g. evidence out to court, evidence out to the lab, release notice sent to legal owner, etc.
6. Authorization and Release of Property – Records should be reviewed to determine if officers/investigators are providing timely authorization for the release of property (This is dependent upon agency directives.) The documentation regarding the release of property to the legal owner should be checked to insure that department requirements have been complied with, e.g. copy of government issued photo ID, signature, etc.
7. Training - firearm safety, OSHA, Property and Evidence Management Class, computer software training
8. Safety – working conditions, workplace hazards, use of equipment, use of Personal Protective Equipment when necessary, etc.

Internal Audits / External Audits

Internal Audits: When practical, an internal audit should be conducted by a person that does not have responsibilities within the property unit. An Inspections Unit, Internal Affairs Unit, or a Professional Standards Unit, etc. would be appropriate for the auditing procedure. The assignment of an impartial, third party, from another command avoids a possible accusation that the audit team had a vested interest in covering up any irregularities.

Audits by Outside Agencies/Private Auditors: The Chief Executive Officer may choose to periodically bring in auditors from other agencies or from a private auditing company to conduct a comprehensive audit. This approach helps to avoid internal politics and provides a level of independence that can sometimes be difficult to achieve in an Internal Audit. An external audit performed by non-employees of the agency avoids internal politics and provides a level of independence that cannot be obtained from any internal audit.

As an additional safeguard, unannounced inspections or random audits should be held at the discretion of the agency's Chief Executive Officer. As noted above, both the unit supervisor and manager should periodically conduct inspections for adherence to policy, housekeeping and workload.

Conducting routine audits sends a message to everyone in the organization that property and evidence is important. Failure to conduct periodic audits may lead to problems that can later result in criminal prosecutions being lost, a loss of public confidence, personnel problems and possible financial loss.

Standard 15.3: Other Internal Controls

Standard: In addition to audits and inventories, internal controls consisting of tickler files, due diligence inquiries, **discrepancy reports**, random sampling and qualitative testing of drugs for disposal, periodic management inspections should be implemented, **when applicable**.

Definition:

- “tickler files” are computer file locations or physical folders where a notation or document is placed as a reminder of where an item was sent
- “due diligence” inquiries are periodic checks to ensure that an item is still where it was sent and is not ready to be returned yet.
- “**discrepancy reports**” are needed whenever items cannot be located where they are supposed to be, and cannot be readily found.
- “random sampling” is a means of checking a representative group for possible inconsistency within a margin of error for policy violations.
- “qualitative testing” of drugs for disposal is a means of checking for possible substitution in drug items that are scheduled for disposal.
- “periodic management inspections” are an informal form of internal audits that are designed to keep quality control consistent.

Reasoning: Management participation and oversight is critical to maintaining control over the property and evidence function. Without management oversight, there is no certainty that the unit is operating under the established parameters. The need for internal controls becomes very apparent when disposing of high profile items. What proof is there that the items that are claimed to be destroyed have actually been destroyed?

IAPE STANDARDS SECTION 16 – DIGITAL EVIDENCE

IAPE STANDARD SECTION 16.1 – DIGITAL EVIDENCE

Standard: Digital evidence is a critical element of modern criminal investigation that should be maintained in strict adherence to the basic principles of evidence management from acquisition through disposition, chain of custody, preservation, storage, security, and limited access.

Definition: Digital evidence refers to digital information that has probative value in either tending to prove or disprove a material fact in a criminal or civil case.

Digital information is any type of electronic file containing text, data, signal, image, video, or voice recording stored on magnetic, optical, or flash media.

Reasoning: Digital evidence generally consists of digital information from many different sources. The range of what is considered digital evidence continues to expand at a rate that corresponds with the growth in technology. The following sources are commonly encountered:

Audio data may come from these sources:

- pocket digital voice recorders
- cellular phone voice recorders
- in-car audio recorders
- victim provided telephone communications
- 911 call data
- court approved wiretaps
- message centers
- interrogation audio
- internet feed
- baby monitor feed
- parabolic antenna surveillance feed

Video images may come from these sources:

- digital cameras
- cellular phones
- internet feed
- traffic cameras
- automated teller machines
- moving video image may come from these sources:
 - digital cameras
 - cellular phones
 - surveillance video
 - security cameras
 - body worn video

- in-car cameras
- interrogation video
- internet feed
- traffic cameras
- nanny cams

Digital data may come from these sources:

- automobile computer data, aka “black box data”.
- fleet management monitoring
- GPS tracking location and speed data
- email
- letters, memos, reports, or other text files

Standard 16.2 Digital Evidence Preservation

Standard: Digital evidence should be preserved in a manner that retains the original content and format of the files, ensures the integrity of the digital information stored, and documents any changes to the files for the duration of its storage as evidence.

Definition: Digital evidence preservation refers to specific standardized procedures that are used to govern the acquisition, storage, backup, duplication, access, distribution, and final disposition of digital information with evidentiary value.

Reasoning: The appropriate handling and management of digital evidence ensures the integrity and availability of the digital information throughout the duration of its custody.

The original file should retain the authentic content and format of the source information. The digital information may require its translation or storage in a usable format and condition that is capable of retrieval for the duration of the required retention of the digital asset.

Digital information files preserved as evidence must retain the authentic content and format of the original file. That is not to say that only original assets may be preserved as evidence, nor should this be misconstrued to mean that assets transferred from a primary source (i.e. camera SD card) to permanent storage (i.e. optical media) are not authentic assets. Digital evidence assets must be verifiable as an authentic and true rendering of the originally submitted evidence.

One method of verifying the authenticity of a digital asset is through the use of applications designed for authenticating files or assets. If needed, this should only be performed by a high technology investigations expert.

Another critical component of preservation is simply the ability to retain and retrieve a required asset using the agency's digital management system. If a digital asset cannot be retained, or is retained but cannot be retrieved, the evidentiary value of the digital asset is non-existent. Any preservation or storage method employed by an agency must provide authorized users with the ability to access the information contained.

Consumer quality DVDs/CDs have not demonstrated that they are capable of reliably storing digital information for long-term under all storage conditions. Some DVDs/CDs may only preserve digital information for as little as five years if exposed to improper storage, such as heat, humidity, dust, or sunlight. It is critical to use media that is designed and intended for long-term storage.

Standard 16.3 Digital Evidence Security

Standard: Digital evidence should be stored in a secure environment, with appropriate safeguards to ensure the security of individual digital assets, storage locations and systems used to facilitate the management of digital evidence.

Definition: Digital evidence security is a systematic process designed to protect the digital file from unauthorized access, alteration or removal. Digital evidence security often involves a combination of traditional physical evidence security and computer security processes and systems to accomplish the task of securely storing digital evidence and keeping a paper or computerized trail, with signatures, of who had access to the item and when.

Reasoning:

Regardless of whether digital evidence is physically stored on electronic media inside the property room, or stored on network storage or a single computer workstation; digital evidence must be protected from unauthorized access, alteration or removal.

Maintaining the security of digital evidence is of paramount importance. Security measures should begin at the time the first employee comes into the possession of the digital information. This first employee, "Employee zero," must make a determination on how best to preserve the original data. Is it possible to upload the data to a server, or should the entire device on which the recording was made be seized? Department policy, not an individual officer's judgment should guide when to seize the original recording equipment, and when copying the data to a duplicate original will suffice.

Once the original digital information data has been preserved, it should be uploaded to a dedicated digital information server or copied to media capable of preserving the information for the duration of its custody.

A decision should be made to place the server where it can be secure, and where uninterrupted power is available. Once the server is located and functioning, policy should direct staff on how and when to fill requests for duplicate originals. Ideally, the assigned investigating officer, or the detail supervisor, should approve all requests for digital information before it is copied. All completed data requests should go back to the assigned investigating officer for delivery to the requesting party, as one point of contact.

Who should be responsible for the data? Some options are having the server located in IT, Records, or Evidence, depending on the size of the agency and the technical computer ability of the assigned staff. Assigning the digital information server to Evidence is preferable, unless the evidence custodian(s) have limited computer skills. Placing the server in IT or Records is not discouraged if the staff is appropriately trained in chain of evidence issues and documentation of requests for copies made, and orders filled.

Security of original digital evidence data is maintained by:

- limiting access to files to only authorized persons
- ensuring that original image files never leaves the server or storage facility unless the item is formally released from custody or disposed following departmental policy
- running software that detects changes to content
- making automatic uploads of body camera data without user input.
- having in-car camera data uploaded by automatic activation, not selectively downloaded by operator input to eliminate claims of user tampering.
- having the main server backed up to cloud storage, or other third party (off-site) storage to guarantee access to the court and transparency on a daily basis
- ensuring that the original files are only accessed in a read only format and duplicate originals preserved to guarantee access and transparency; no “lost” or “misplaced” files

Standard 16.4 Digital Evidence Infrastructure

Standard: Agencies utilizing digital evidence should maintain the technological capacity to appropriately manage and store digital evidence, and adopt measures to accommodate future demands in digital evidence technology.

Definition: Digital evidence infrastructure refers to physical storage of digital evidence; as well as any software, storage media, hardware and network or cloud storage used to acquire, manage or store digital evidence.

Reasoning: Digital evidence management practices should be supported by the department’s information technology infrastructure to ensure compatibility between digital evidence storage and existing and future information technology systems. Planning and decision making for digital evidence management processes and systems should account for future technology needs.

Digital evidence practices should support requirements and processes for the forensic analysis of digital evidence.

Departments should ensure that digital evidence management systems provide a clearly defined set of procedures and utilize a user interface that makes the process convenient and understandable to the end user. For example, providing a link to “read only” copies of all digital evidence in a case could simplify discovery and increase security. Numbered copies of photos could be provided under subpoena, and also identify where unauthorized copies, if any, may originate.

Digital images come in a variety of formats, some are common and some are proprietary. There is a need to convert one master copy to a common user-friendly format in order to store and duplicate the images on the department’s designated digital evidence server. The original data (tape, flash memory drive, or optical storage in user-unfriendly format) should be booked into evidence as an archive copy, if needed. Law enforcement agencies should be prepared to store images in different common formats, or convert a duplicate original to a user-friendly format master copy.

Proprietary formats used for un-coding surveillance cameras in stores or from ATMs can create a critical need. It is always useful to know what the forensic digital capabilities of the local, county, or state crime labs are before seeking commercial assistance.

Agencies should have equipment available to copy and upload digital information from many different sources when the need arises. Digital data comes from many sources and should be uploaded to the designated digital evidence server to properly manage its distribution.

Standard 16.5 Disposal of Items Containing Digital Data

Standard: No memory devices containing contraband or personal information should ever be auctioned or diverted unless it has been “wiped clean,”

Definition: “Wiped clean,” is a term used to indicate it contains no data, or has been completely overwritten to prevent unauthorized access.

Reasoning: IAPE recommends destroying any used memory device due to the complexity and cost of completely wiping the device clean.

TAB 3

HR550 – Harassment Policy

NOTES: A draft of the courts' new harassment policy is attached for review and discussion. This draft was prepared by Mr. Rob Rice and Mr. Brent Johnson. It was then reviewed by the Human Resources Policy and Procedure Review Committee. Notes from that review were sent back to Mr. Rice and Mr. Johnson for feedback prior to the draft being included in this packet.

Human Resources Policy 550 – Discrimination and Harassment

1. The judicial branch is committed to providing a work environment free from all forms of discrimination and harassment based on the following: sex, gender, age, ancestry, national origin, race, color, religious creed, mental or physical disability or medical condition, sexual orientation, gender identity or expression, marital status, military or veteran status, genetic information, or any other category protected by federal, state or applicable local law. In addition to the protections provided by this policy, commissioners, judges and justices are prohibited under the Utah Code of Judicial Conduct from manifesting bias or prejudice or engaging in harassment.

2. **Sexual harassment.**

2.1 The judicial branch strictly prohibits and will not tolerate sexual harassment of any kind by any individual, employee, commissioner, judge or justice. Sexual harassment may include any conduct of a sexual nature that is unwelcome and makes a reasonable person feel that the work environment is intimidating, offensive or hostile. Sexual harassment may occur between people of the opposite sex or the same sex. Sexual harassment may also include non-sexual comments, threats or actions that display hostility toward a person in the workplace because of gender.

2.2 All types of unlawful offensive, hostile and intimidating behavior are prohibited by this policy. The following list is not intended to be all-inclusive, but illustrates kinds of behavior that may be considered forms of sexual harassment, and are strictly prohibited:

2.2.1 Offering a job benefit in return for sexual favors.

2.2.2 Taking or threatening to take an adverse action against an individual who refuses sexual advances.

2.2.3 Other advances or requests of a sexual nature.

2.2.4 Unwelcome or inappropriate sexual flirtations.

2.2.5 (Graphic?) statements about an individual's body or sexuality.

2.2.6 Sexually degrading words to describe a person.

2.2.7 Gestures of an obscene or sexually suggestive nature.

2.2.8 Humor or jokes of a sexual nature.

2.2.9 Posters, pictures, cartoons, toys or objects of a sexual nature.

2.2.10 Leering or staring that is offensive.

2.2.11 Any unwelcome touching or other physical contact with an individual.

2.2.12 Hostile comments toward employees in the workplace because of gender.

2.2.13 Sexting, texting, emailing, or any other form of communication of a sexually suggestive nature.

3. **Other types of harassment.**

3.1 Harassment based on an individual's race, color, religion, religious affiliation, age, national origin, ancestry, mental or physical disability or medical condition, sex, gender, sexual orientation, gender identity or expression, genetic information, marital status, military or veteran status or any other category protected by federal, state or local law, is prohibited under this policy and will not be tolerated.

3.2 All types of unlawful offensive, hostile and intimidating behavior are prohibited by this policy. The following list is not intended to be all-inclusive, but illustrates kinds of behavior that may be considered forms of harassment, and are strictly prohibited.

3.2.1 Telling racial, ethnic, disability, age-related or other types of degrading jokes.

3.2.2 Making racial, ethnic, or religious slurs, and other forms of degrading name calling.

3.2.3 Making threats or intimidation based on a category protected by the judiciary's policies.

3.2.4 Possessing written or graphic material or communications in the workplace that is offensive based on a category protected by the judiciary's policies or that violates universal standards of conduct.

3.2.5 Texting, emailing, or any other form of communication of that is offensive, hostile or intimidating.

4. **Retaliation.**

4.1 The judiciary also prohibits retaliation against persons who make reports of discrimination or harassment or who provide assistance during an investigation.

Retaliation will not be tolerated and will be considered a serious form of misconduct which can result in disciplinary action up to and including immediate termination of employment. This policy specifically protects every employee from retaliation by any other employee of the judiciary and includes retaliation by commissioners, judges and justices.

5. **Reporting Procedures.**

5.1 Any employee who believes they have been subject to, have witnessed, or are aware of discrimination or harassment by any employee, commissioner, judge or justice,

individual or entity is strongly encouraged to report the incident. All employees can report discrimination, harassment, or retaliation verbally or in writing by any of the following methods:

5.1.1 By contacting directly to an immediate supervisor/manager, any member of management at or associated with their location.

5.1.2 By contacting directly a trial court executive, director, or any court-level administrator.

5.1.3 By contacting Human Resources at *insertpositionhere@utcourts.gov* or (801) ###-#### (contact info for a position, not a specific person, so the info doesn't change).

5.1.4 By contacting any commissioner, judge or justice.

5.1.5 By contacting the State Court Administrator, Deputy State Court Administrator, or Assistant State Court Administrator.

5.2 Commissioners, judges, justices, court executives and administrators, supervisors and managers must report any complaints or misconduct under this policy promptly to an appropriate authority, including but not limited to a member of management at or associated with their location, or a Human Resources representative for further action.

5.3 Upon receipt, Human Resources must promptly forward any complaint of discrimination, harassment, or retaliation to ____who?____ for investigation and resolution by ____who?____.

6. Confidentiality.

6.1 All reports will be investigated promptly and thoroughly in as confidential a manner as possible. Information will be disclosed only on a need-to-know basis for the purpose of investigating and resolving the complaint. Upon conclusion of an investigation, the complaining party will be advised that the investigation has been completed and appropriate action taken. Any person accused of misconduct will be notified of the investigation results and any remedial action.

7. Corrective Action.

7.1 Violation of this policy will be considered a serious form of misconduct which can result in disciplinary action up to and including immediate termination of employment.

8. Definitions.

8.1 "Harassment" is unwelcome conduct toward an individual because of sex, gender, age, ancestry, mental or physical disability or medical condition, marital status, race or color, national origin, religion, religious affiliation, sexual orientation or gender

identity or expression, genetic information, military or veteran status, or any other category protected by federal, state or local law when the conduct creates an intimidating, hostile or offensive work environment that causes work performance to suffer, or negatively affects the terms and conditions of the individual's employment.

8.2 "Sexual Harassment" is a form of harassment that is based on a person's sex or that is sex-based behavior. It is also sexual harassment for anyone in a position of authority to tie hiring, promotion, termination or any other condition of employment to a request or demand for sexual favors.

8.3 "Retaliation" refers to any action that is done to punish someone for reporting harassment or discrimination, participating or providing assistance in an investigation of harassment or discrimination, or any action that might discourage an employee from bringing a complaint. For example, it would be improper to refuse to promote an employee or reduce pay because the employee reported harassment.

Effective May/November 1, 20__

TAB 4

Rules back from public comment

NOTES: On July 23, 2019, this committee's proposed drafts of CJA 4-401.02 (Possession and use of portable electronic devices) (prompted by the JPEC pilot for basic evaluation of certain justice courts) and CJA 4-103 (Civil calendar management) were published for public comment. The comment period officially closes on September 5, 2019. As a result, the most up-to-date public comment information will not be available until the meeting. At the time these meeting materials were prepared and submitted to the committee (Friday, August 30, 2019 at 18:00), only one comment had been received on either rule. Up-to-date comments can be viewed at any time by visiting:

<https://www.utcourts.gov/utc/rules-comment/2019/07/23/code-of-judicial-administration-comment-period-closes-september-5-2019/>

1 **Rule 4-103. Civil calendar management.**

2 **Intent:**

3 To establish a procedure that allows the trial courts to manage civil case processing.

4 To reduce the time between case filing and disposition.

5 **Applicability:**

6 This rule shall apply to the District Court.

7 **Statement of the Rule:**

8 (1) If a default judgment has not been entered by the plaintiff within 60 days of the availability
9 of default, the clerk will mail written notification to the plaintiff stating that absent a
10 showing of good cause by a date specified in the notification, the court will dismiss the
11 case without prejudice for lack of prosecution.

12 (2) If a certificate of readiness for trial has not been served and filed within 330 days of the
13 first answer, the clerk will mail written notification to the parties stating that absent a
14 showing of good cause by a date specified in the notification, the court will dismiss the
15 case without prejudice for lack of prosecution.

16 (3) ~~Pursuant to Rule 41 of the Utah Rules of Civil Procedure, all Orders-orders~~ of dismissal
17 entered under this rule must contain the language “without prejudice.”

18 (4) Any party may, pursuant to the Utah Rules of Civil Procedure, move to vacate a dismissal
19 entered under this rule.

20 *Effective November 1, 2019*

Rule 4-401.02. Possession and use of portable electronic devices.**Intent:**

To permit the use of portable electronic devices in courthouses and courtrooms, subject to local restrictions.

Applicability:

This rule applies to the courts of record and not of record.

Statement of the Rule:**(1) Definitions.**

(1)(A) "Judge" as used in this rule means the judge, justice, or court commissioner who is presiding over the proceeding.

(1)(B) "Portable electronic device" as used in this rule means any device that can record or transmit data, images or sounds, or access the internet, including a pager, laptop/notebook/personal computer, handheld PC, PDA, audio or video recorder, wireless device, cellular telephone, or electronic calendar.

(2) Possession and use of portable electronic devices in a courthouse.

(2)(A) A person may possess and use a portable electronic device anywhere in a courthouse, except as limited by this rule or directive of the judge.

(2)(B) All portable electronic devices are subject to screening or inspection at the time of entry to the courthouse and at any time within the courthouse in accordance with Rule 3-414.

(2)(C) All portable electronic devices are subject to confiscation if there is reason to believe that a device is or will be used in violation of this rule. Violation of this rule or directive of the judge may be treated as contempt of court.

(2)(D) For the limited purpose of conducting a pilot project to evaluate the performance of justice court judges using courtroom observation, the Judicial Performance Evaluation Commission may record and transmit video and sound of court proceedings. These recordings and transmissions are not public, pursuant to Utah Code sections 63G-2-201(3) and 78A-12-206.

(3) Restrictions.

(3)(A) Use of portable electronic devices in common areas. The presiding judges may restrict the time, place, and manner of using a portable electronic device to

maintain safety, decorum, and order of common areas of the courthouse, such as lobbies and corridors.

(3)(B) Use of portable electronic devices in courtrooms.

(3)(B)(i) A person may silently use a portable electronic device inside a courtroom.

(3)(B)(ii) A person may not use a portable electronic device to record or transmit images or sound of court proceedings, except in accordance with Rule 4-401.01 or subsection (2)(D) above.

(3)(B)(iii) A judge may further restrict use of portable electronic devices in his or her courtroom. Judges are encouraged not to impose further restrictions unless use of a portable electronic device might interfere with the administration of justice, disrupt the proceedings, pose any threat to safety or security, compromise the integrity of the proceedings, or threaten the interests of a minor.

(3)(B)(iv) During trial and juror selection, prospective, seated, and alternate jurors are prohibited from researching and discussing the case they are or will be trying. Once selected, jurors shall not use a portable electronic device while in the courtroom and shall not possess an electronic device while deliberating.

(4) Use of portable electronic devices in court chambers. A person may not use a portable electronic device in chambers without prior approval from the judge.

(5) Instruction to witnesses. It should be anticipated that observers in the courtroom will use portable electronic devices to transmit news accounts and commentary during the proceedings. Judges should instruct counsel to instruct witnesses who have been excluded from the courtroom not to view accounts of other witnesses' testimony before giving their own testimony.

Effective May/November 1, 20__

TAB 5

Update to Problem-Solving Court Certification Checklist

NOTES: At the August 23, 2019 Judicial Council meeting, the Council requested a change to the problem-solving court certification checklist: "Presumed Certification Criteria" #2 changed to a "Non-Certification-Related Best Practice Standard." This criteria states: "The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants." This criteria relates to NADCP best practice standards II.B. and X.E. The committee should consider the impact of this change and determine if problem-solving courts around the state are able to comply with this criteria if it continues to be a "Presumed Certification Criteria."

UTAH JUDICIAL COUNCIL
ADULT DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED JANUARY 28, 2019

*Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
<input type="checkbox"/>	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
<input type="checkbox"/>	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
<input type="checkbox"/>	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
<input type="checkbox"/>	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
<input type="checkbox"/>	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.
<input type="checkbox"/>	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
<input type="checkbox"/>	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
<input type="checkbox"/>	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
<input type="checkbox"/>	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
<input type="checkbox"/>	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
<input type="checkbox"/>	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
<input type="checkbox"/>	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
<input type="checkbox"/>	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
<input type="checkbox"/>	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
<input type="checkbox"/>	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
<input type="checkbox"/>	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
<input type="checkbox"/>	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
<input type="checkbox"/>	<input type="checkbox"/>	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
<input type="checkbox"/>	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
<input type="checkbox"/>	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
<input type="checkbox"/>	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
<input type="checkbox"/>	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
<input type="checkbox"/>	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
<input type="checkbox"/>	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
<input type="checkbox"/>	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
<input type="checkbox"/>	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
<input type="checkbox"/>	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
<input type="checkbox"/>	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Drug Court session.	VIII.A.*
<input type="checkbox"/>	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case.	VIII.B.
<input type="checkbox"/>	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
<input type="checkbox"/>	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services.	
<input type="checkbox"/>	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
<input type="checkbox"/>	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
<input type="checkbox"/>	<input type="checkbox"/>	54	The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.
<input type="checkbox"/>	<input type="checkbox"/>	32	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
<input type="checkbox"/>	<input type="checkbox"/>	43	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
<input type="checkbox"/>	<input type="checkbox"/>	54	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
<input type="checkbox"/>	<input type="checkbox"/>	65	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
<input type="checkbox"/>	<input type="checkbox"/>	76	The Judge spends an average of at least three minutes with each participant.	III.F.*
<input type="checkbox"/>	<input type="checkbox"/>	87	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	98	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	109	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	1110	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	1211	Drug test results are available within 48 hours.	VII.H.
<input type="checkbox"/>	<input type="checkbox"/>	1312	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
<input type="checkbox"/>	<input type="checkbox"/>	1413	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII.D.
<input type="checkbox"/>	<input type="checkbox"/>	1514	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
<input type="checkbox"/>	<input type="checkbox"/>	1615	Standardized patient placement criteria govern the level of care that is provided.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	1716	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	1817	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
<input type="checkbox"/>	<input type="checkbox"/>	1918	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	2019	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	2120	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
<input type="checkbox"/>	<input type="checkbox"/>	2221	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
<input type="checkbox"/>	<input type="checkbox"/>	2322	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	2423	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	2524	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	2625	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	<u>2726</u>	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	<u>2827</u>	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	<u>2928</u>	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	<u>3029</u>	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
<input type="checkbox"/>	<input type="checkbox"/>	<u>3130</u>	Clients are placed in the program within 50 days of arrest.	
<input type="checkbox"/>	<input type="checkbox"/>	<u>3231</u>	Team members are assigned to Drug Court for no less than two years.	
<input type="checkbox"/>	<input type="checkbox"/>	<u>3332</u>	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
<input type="checkbox"/>	<input type="checkbox"/>	<u>3433</u>	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	<u>3534</u>	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	<u>3635</u>	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
<input type="checkbox"/>	<input type="checkbox"/>	<u>3736</u>	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
<input type="checkbox"/>	<input type="checkbox"/>	<u>3837</u>	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
<input type="checkbox"/>	<input type="checkbox"/>	<u>3938</u>	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
<input type="checkbox"/>	<input type="checkbox"/>	<u>4039</u>	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
<input type="checkbox"/>	<input type="checkbox"/>	<u>4140</u>	The program conducts an exit interview for self-improvement.	

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
<input type="checkbox"/>	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
<input type="checkbox"/>	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
<input type="checkbox"/>	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
<input type="checkbox"/>	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
<input type="checkbox"/>	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	<input type="checkbox"/>	16	<u>The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.</u>	<u>II.B.</u> <u>X.E.</u>

TAB 6

Repeal of CJA 10-1-202

NOTES: In June 2019, staff for the committee received word that CJA 10-1-202, a local supplemental rule in effect for Second District, was no longer relevant. Over the year prior to that time, court staff has had ongoing discussion with the trial court executive in Second District about general court orders versus local supplemental rules. Through those discussions the Second District realized the procedures in rule 10-1-202 are no longer needed. The Second District therefore asks that the rule be repealed. The Second District is now following practices set forth in the general rules observed by all other judicial districts. A copy of the rule is attached for the committee's review.

~~Rule 10-1-202. Verifying use of jury.~~

~~Intent:~~

~~To establish a procedure allowing attorneys to enter an appearance or request a trial setting by telephone.~~

~~To establish a procedure allowing attorneys to verify with the clerk's office, by telephone, the need for a jury in criminal cases.~~

~~Applicability:~~

~~This rule shall apply to the Second District Court in Class B and C misdemeanors and infractions.~~

~~Statement of the Rule:~~

~~(1) — Defendants and/or their attorneys, who enter an appearance in a criminal case or request a trial setting by telephone, shall be deemed by the Court as having waived the filing of a formal Information and having agreed to proceed on the citation, unless the filing of an Information is specifically requested in writing.~~

~~(2) — Defendants and/or their attorneys who demand a jury trial in a criminal case may file a written demand in accordance with the Rules of Criminal Procedure or, in the alternative, may request a jury trial and move the Court to waive the filing of the written demand upon assuming responsibility for verifying the need for a jury with the Clerk of the Court on the business day before commencement of the trial and stipulating that a failure to do so shall be construed by the Court as a waiver of a jury trial.~~

~~Effective May/November 1, 20__~~

TAB 7

CJA 1-205 Standing and Ad Hoc Committees

NOTES: The Judicial Council formerly had a standing committee called the Online Court Assistance Committee. That committee no longer exists. Two of the membership lists of the remaining standing committees (the Committee on Resources for Self-Represented Parties and the Committee on Court Forms) include “one member of the Online Court Assistance Committee.” Because the Online Court Assistance Committee no longer exists, those membership lists should be revised to remove those members. A draft is attached.

Rule 1-205. Standing and Ad Hoc Committees.**Intent:**

To establish standing and ad hoc committees to assist the Council and provide recommendations on topical issues.

To establish uniform terms and a uniform method for appointing committee members.

To provide for a periodic review of existing committees to assure that their activities are appropriately related to the administration of the judiciary.

Applicability:

This rule shall apply to the internal operation of the Council.

Statement of the Rule:**(1) Standing Committees.**

(1)(A) **Establishment.** The following standing committees of the Council are hereby established:

- (1)(A)(i) Technology Committee;
- (1)(A)(ii) Uniform Fine Schedule Committee;
- (1)(A)(iii) Ethics Advisory Committee;
- (1)(A)(iv) Judicial Branch Education Committee;
- (1)(A)(v) Court Facility Planning Committee;
- (1)(A)(vi) Committee on Children and Family Law;
- (1)(A)(vii) Committee on Judicial Outreach;
- (1)(A)(viii) Committee on Resources for Self-represented Parties;
- (1)(A)(ix) Language Access Committee;
- (1)(A)(x) Guardian ad Litem Oversight Committee;
- (1)(A)(xi) Committee on Model Utah Civil Jury Instructions;
- (1)(A)(xii) Committee on Model Utah Criminal Jury Instructions;
- (1)(A)(xiii) Committee on Pretrial Release and Supervision; and
- (1)(A)(xiv) Committee on Court Forms.

(1)(B) Composition.

- (1)(B)(i) The Technology Committee shall consist of:
- (1)(B)(i)(a) one judge from each court of record;
 - (1)(B)(i)(b) one justice court judge;
 - (1)(B)(i)(c) one lawyer recommended by the Board of Bar Commissioners;
 - (1)(B)(i)(d) two court executives;

- (1)(B)(i)(e) two court clerks; and
- (1)(B)(i)(f) two staff members from the Administrative Office.
- (1)(B)(ii) The Uniform Fine/Bail Schedule Committee shall consist of:
- (1)(B)(ii)(a) one district court judge who has experience with a felony docket;
- (1)(B)(ii)(b) three district court judges who have experience with a misdemeanor docket;
- (1)(B)(ii)(c) one juvenile court judge; and
- (1)(B)(ii)(d) three justice court judges.
- (1)(B)(iii) The Ethics Advisory Committee shall consist of:
- (1)(B)(iii)(a) one judge from the Court of Appeals;
- (1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iii)(d) one juvenile court judge;
- (1)(B)(iii)(e) one justice court judge; and
- (1)(B)(iii)(f) an attorney from either the Bar or a college of law.
- (1)(B)(iv) The Judicial Branch Education Committee shall consist of:
- (1)(B)(iv)(a) one judge from an appellate court;
- (1)(B)(iv)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iv)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iv)(d) one juvenile court judge;
- (1)(B)(iv)(e) the education liaison of the Board of Justice Court Judges;
- (1)(B)(iv)(f) one state level administrator;
- (1)(B)(iv)(g) the Human Resource Management Director;
- (1)(B)(iv)(h) one court executive;
- (1)(B)(iv)(i) one juvenile court probation representative;
- (1)(B)(iv)(j) two court clerks from different levels of court and different judicial districts;
- (1)(B)(iv)(k) one data processing manager; and
- (1)(B)(iv)(l) one adult educator from higher education.
- (1)(B)(iv)(m) The Human Resource Management Director and the adult educator shall serve as non-voting members. The state level administrator and the Human Resource Management Director shall serve as permanent Committee members.
- (1)(B)(v) The Court Facility Planning Committee shall consist of:
- (1)(B)(v)(a) one judge from each level of trial court;
- (1)(B)(v)(b) one appellate court judge;

- 72 (1)(B)(v)(c) the state court administrator;
73 (1)(B)(v)(d) a trial court executive;
74 (1)(B)(v)(e) two business people with experience in the construction or
75 financing of facilities; and
76 (1)(B)(v)(f) the court security director.
- 77 (1)(B)(vi) The Committee on Children and Family Law shall consist of:
78 (1)(B)(vi)(a) one Senator appointed by the President of the Senate;
79 (1)(B)(vi)(b) one Representative appointed by the Speaker of the House;
80 (1)(B)(vi)(c) the Director of the Department of Human Services or
81 designee;
82 (1)(B)(vi)(d) one attorney of the Executive Committee of the Family Law
83 Section of the Utah State Bar;
84 (1)(B)(vi)(e) one attorney with experience in abuse, neglect and
85 dependency cases;
86 (1)(B)(vi)(f) one attorney with experience representing parents in abuse,
87 neglect and dependency cases;
88 (1)(B)(vi)(g) one representative of a child advocacy organization;
89 (1)(B)(vi)(h) one mediator;
90 (1)(B)(vi)(i) one professional in the area of child development;
91 (1)(B)(vi)(j) one representative of the community;
92 (1)(B)(vi)(k) the Director of the Office of Guardian ad Litem or designee;
93 (1)(B)(vi)(l) one court commissioner;
94 (1)(B)(vi)(m) two district court judges; and
95 (1)(B)(vi)(n) two juvenile court judges.
96 (1)(B)(vi)(o) One of the district court judges and one of the juvenile court
97 judges shall serve as co-chairs to the committee. In its
98 discretion the committee may appoint non-members to serve
99 on its subcommittees.
- 100 (1)(B)(vii) The Committee on Judicial Outreach shall consist of:
101 (1)(B)(vii)(a) one appellate court judge;
102 (1)(B)(vii)(b) one district court judge;
103 (1)(B)(vii)(c) one juvenile court judge;
104 (1)(B)(vii)(d) one justice court judge; one state level administrator;
105 (1)(B)(vii)(e) a state level judicial education representative;
106 (1)(B)(vii)(f) one court executive;
107 (1)(B)(vii)(g) one Utah State Bar representative;
108 (1)(B)(vii)(h) one communication representative;

- 109 (1)(B)(vii)(i) one law library representative;
- 110 (1)(B)(vii)(j) one civic community representative; and
- 111 (1)(B)(vii)(k) one state education representative.
- 112 (1)(B)(vii)(l) Chairs of the Judicial Outreach Committee's subcommittees
- 113 shall also serve as members of the committee.
- 114 (1)(B)(viii) The Committee on Resources for Self-represented Parties shall consist of:
- 115 (1)(B)(viii)(a) two district court judges;
- 116 (1)(B)(viii)(b) one juvenile court judge;
- 117 (1)(B)(viii)(c) two justice court judges;
- 118 (1)(B)(viii)(d) three clerks of court – one from an appellate court, one from
- 119 an urban district and one from a rural district;
- 120 ~~(1)(B)(viii)(e) one member of the Online Court Assistance Committee;~~
- 121 ~~(1)(B)(viii)(f)(1)(B)(viii)(e)~~ one representative from the Self-Help Center;
- 122 ~~(1)(B)(viii)(g)(1)(B)(viii)(f)~~ one representative from the Utah State Bar;
- 123 ~~(1)(B)(viii)(h)(1)(B)(viii)(g)~~ two representatives from legal service
- 124 organizations that serve low-income clients;
- 125 ~~(1)(B)(viii)(i)(1)(B)(viii)(h)~~ one private attorney experienced in providing
- 126 services to self-represented parties;
- 127 ~~(1)(B)(viii)(j)(1)(B)(viii)(i)~~ two law school representatives;
- 128 ~~(1)(B)(viii)(k)(1)(B)(viii)(j)~~ the state law librarian; and
- 129 ~~(1)(B)(viii)(l)(1)(B)(viii)(k)~~ two community representatives.
- 130 (1)(B)(ix) The Language Access Committee shall consist of:
- 131 (1)(B)(ix)(a) one district court judge;
- 132 (1)(B)(ix)(b) one juvenile court judge;
- 133 (1)(B)(ix)(c) one justice court judge;
- 134 (1)(B)(ix)(d) one trial court executive;
- 135 (1)(B)(ix)(e) one court clerk;
- 136 (1)(B)(ix)(f) one interpreter coordinator;
- 137 (1)(B)(ix)(g) one probation officer;
- 138 (1)(B)(ix)(h) one prosecuting attorney;
- 139 (1)(B)(ix)(i) one defense attorney;
- 140 (1)(B)(ix)(j) two certified interpreters;
- 141 (1)(B)(ix)(k) one approved interpreter;
- 142 (1)(B)(ix)(l) one expert in the field of linguistics; and
- 143 (1)(B)(ix)(m) one American Sign Language representative.
- 144 (1)(B)(x) The Guardian ad Litem Oversight Committee shall consist of:

- 145 (1)(B)(x)(a) seven members with experience in the administration of law
146 and public services selected from public, private and non-
147 profit organizations.
- 148 (1)(B)(xi) The Committee on Model Utah Civil Jury Instructions shall consist of:
149 (1)(B)(xi)(a) two district court judges;
150 (1)(B)(xi)(b) four lawyers who primarily represent plaintiffs;
151 (1)(B)(xi)(c) four lawyers who primarily represent defendants; and
152 (1)(B)(xi)(d) one person skilled in linguistics or communication.
- 153 (1)(B)(xii) The Committee on Model Utah Criminal Jury Instructions shall consist of:
154 (1)(B)(xii)(a) two district court judges;
155 (1)(B)(xii)(b) one justice court judge;
156 (1)(B)(xii)(c) four prosecutors;
157 (1)(B)(xii)(d) four defense counsel;
158 (1)(B)(xii)(e) one professor of criminal law; and
159 (1)(B)(xii)(f) one person skilled in linguistics or communication.
- 160 (1)(B)(xiii) The Committee on Pretrial Release and Supervision shall consist of:
161 (1)(B)(xiii)(a) two district court judges;
162 (1)(B)(xiii)(b) one juvenile court judge;
163 (1)(B)(xiii)(c) two justice court judges;
164 (1)(B)(xiii)(d) one prosecutor;
165 (1)(B)(xiii)(e) one defense attorney;
166 (1)(B)(xiii)(f) one county sheriff;
167 (1)(B)(xiii)(g) one representative of counties;
168 (1)(B)(xiii)(h) one representative of a county pretrial services agency;
169 (1)(B)(xiii)(i) one representative of the Utah Insurance Department;
170 (1)(B)(xiii)(j) one representative of the Utah Commission on Criminal and
171 Juvenile Justice;
172 (1)(B)(xiii)(k) one commercial surety agent;
173 (1)(B)(xiii)(l) one state senator;
174 (1)(B)(xiii)(m) one state representative;
175 (1)(B)(xiii)(n) the Director of the Indigent Defense Commission or
176 designee; and
177 (1)(B)(xiii)(o) the court's general counsel or designee.
- 178 (1)(B)(xiv) The Committee on Court Forms shall consist of:
179 (1)(B)(xiv)(a) one district court judge;
180 (1)(B)(xiv)(b) one court commissioner;
181 (1)(B)(xiv)(c) one juvenile court judge;

- (1)(B)(xiv)(d) one justice court judge;
- (1)(B)(xiv)(e) one court clerk;
- (1)(B)(xiv)(f) one appellate court staff attorney;
- (1)(B)(xiv)(g) one representative from the Self-Help Center;
- (1)(B)(xiv)(h) the State Law Librarian;
- (1)(B)(xiv)(i) the Court Services Director;
- ~~(1)(B)(xiv)(j) one member selected by the Online Court Assistance~~
- ~~Committee;~~
- ~~(1)(B)(xiv)(k)~~ (1)(B)(xiv)(j) one representative from a legal service organization that serves low-income clients;
- ~~(1)(B)(xiv)(l)~~ (1)(B)(xiv)(k) one paralegal;
- ~~(1)(B)(xiv)(m)~~ (1)(B)(xiv)(l) one educator from a paralegal program or law school;
- ~~(1)(B)(xiv)(n)~~ (1)(B)(xiv)(m) one person skilled in linguistics or communication; and
- ~~(1)(B)(xiv)(o)~~ (1)(B)(xiv)(n) one representative from the Utah State Bar.

(1)(C) **Standing committee chairs.** The Judicial Council shall designate the chair of each standing committee. Standing committees shall meet as necessary to accomplish their work. Standing committees shall report to the Council as necessary but a minimum of once every year. Council members may not serve, participate or vote on standing committees. Standing committees may invite participation by others as they deem advisable, but only members designated by this rule may make motions and vote. All members designated by this rule may make motions and vote unless otherwise specified. Standing committees may form subcommittees as they deem advisable.

(1)(D) **Committee performance review.** At least once every six years, the Management Committee shall review the performance of each committee. If the Management Committee determines that committee continues to serve its purpose, the Management Committee shall recommend to the Judicial Council that the committee continue. If the Management Committee determines that modification of a committee is warranted, it may so recommend to the Judicial Council.

(1)(D)(i) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight Committee, recognized by Section 78A-6-901, shall not terminate.

(2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider topical issues outside the scope of the standing committees and to recommend rules or resolutions concerning such issues. The Council may set and extend a date for the termination of any ad hoc committee. The Council may invite non-Council members to participate and vote on ad hoc committees. Ad hoc committees shall keep the Council informed of their activities. Ad hoc

committees may form sub-committees as they deem advisable. Ad hoc committees shall disband upon issuing a final report or recommendations to the Council, upon expiration of the time set for termination, or upon the order of the Council.

(3) **General provisions.**

(3)(A) **Appointment process.**

(3)(A)(i) **Administrator's responsibilities.** The state court administrator shall select a member of the administrative staff to serve as the administrator for committee appointments. Except as otherwise provided in this rule, the administrator shall:

(3)(A)(i)(a) announce expected vacancies on standing committees two months in advance and announce vacancies on ad hoc committees in a timely manner;

(3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve from each prospective appointee and information regarding the prospective appointee's present and past committee service;

(3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the prospective reappointee, the length of the prospective reappointee's service on the committee, the attendance record of the prospective reappointee, the prospective reappointee's contributions to the committee, and the prospective reappointee's other present and past committee assignments; and

(3)(A)(i)(d) present a list of prospective appointees and reappointees to the Council and report on recommendations received regarding the appointment of members and chairs.

(3)(A)(ii) **Council's responsibilities.** The Council shall appoint the chair of each committee. Whenever practical, appointments shall reflect geographical, gender, cultural and ethnic diversity.

(3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members shall serve staggered three year terms. Standing committee members shall not serve more than two consecutive terms on a committee unless the Council determines that exceptional circumstances exist which justify service of more than two consecutive terms.

(3)(C) **Expenses.** Members of standing and ad hoc committees may receive reimbursement for actual and necessary expenses incurred in the execution of their duties as committee members.

255 (3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's
256 committees.

257 *Effective May 1, 2019*