



# Town of Lexington

## Police Department

**Subject:** Property and Evidence Control

Reference: 84.1.1; 84.1.2; 84.1.3; 84.1.4; 84.1.5; 84.1.6;  
84.1.7

**Effective Date:**

January 1, 2011

**Review Date:**

Annually

**By Order of:** Mark J. Corr, Chief of Police

**Policy &  
Procedure**

# 83B

*The Municipal Police Institute, Inc. (MPI) is a private, nonprofit charitable affiliate of the Massachusetts Chief's of Police Association. MPI provides training and model policies and procedures for police agencies. This policy is an edited version of MPI Policy 6.02, "Property and Evidence Control."*

## GENERAL CONSIDERATIONS AND GUIDELINES

Police Officers routinely come into the possession of property and evidence in the course of their duties. Property types vary significantly and each type may require specialized handling. It is important however to establish and maintain a system that appropriately accounts for all property that comes into the possession of the Lexington Police Department.

Items of property and evidence, held by police, are typically subject to strict legal constraints. The proper handling of property and evidence is shared equally by every member of the Lexington Police Department. All personnel must understand that an effective and efficient system of evidence collection and control will help to avoid civil and/or criminal charges against officers and the potential inability to successfully prosecute criminal offenders.

The purpose of this policy is to provide guidance for the submission, custody, and disposition of property, which is not the property of the police department.

It is the policy of the Lexington Police Department to:

1. Effectively and efficiently manage and control all found, recovered and evidentiary property and any other property coming into the custody of this department;

2. Properly and lawfully preserve, package, record, account for, handle and store all property and evidence recovered or turned in to the department;
3. Take the initiative to return property to its rightful owner or owners in the most expedient manner;
4. Dispose of property and evidence that are no longer useful or are potentially dangerous, as provided by law; and,
5. Maintain strict accountability for all property and/or evidence.

## PROCEDURES

### A. Definitions

1. **Audit:** An inspection of the documentation and accountability of a random sampling of in-custody property sufficient to evaluate the integrity of the property and evidence function.
2. **Inspection:** An examination of the agency's property storage areas to determine that they are being maintained in a clean and orderly fashion, that the agency directives concerning the property management system are being followed (property handling, documentation, etc.), and that the property is being protected from damage and deterioration.
3. **Inventory:** An accounting of every item of property.
4. **Property Record:** Electronic records contained in the property and evidence management program that document and describe an evidence item and reflect its status within the custody of the property and evidence function. [84.1.5]
5. **Property Room:** A designated storage room for property and evidence under the control of the property and evidence function.
6. **Temporary Storage Locker:** Secure storage lock box with the ability to secure several items when the property room is not accessible.
7. **Property and Evidence Function:** The proper submission of property and evidence to the Evidence Officer or to the temporary storage locker for storage in compliance with the guidelines of this policy.

### B. Property Function Administration and Management

1. **Property Custodian:** The Detective Commander shall be responsible for managing the property and evidence function.

2. Evidence Officer: The Chief of Police has designated the Detective Commander<sup>i</sup> as the custodian of all drugs and narcotics seized in the course of any arrest and investigation.
  3. The Detective Commander is responsible for the management of all property and evidence, including drugs and will be referred to as the Evidence Officer for the remainder of this policy.
- C. Security and Access to Property Storage Areas [84.1.2]
1. Authority to Access Property Room
    - a. The Lexington Police Department shall maintain areas for the secure storage of items of property and evidence in the custody of the police department. These areas shall be secured at all times when left unattended.
    - b. Only those officers authorized by the Chief of Police shall have access to the areas used to secure property/evidence.
  2. Property Room Security
    - a. Any person who is not specifically authorized unescorted access by the Chief of Police shall not possess keys, pass-codes, or other means of entry to property storage areas.
    - b. Key issue and control shall be the responsibility of Evidence Officer.
  3. Limited Security Storage
    - a. Bulky items such as vehicles, boats, and watercraft, which remain in police custody and have already been or will not be subjected to processing for evidence, may be stored in a limited security storage area. Such areas include:
      - i. A designated location within the police department parking lot; and
      - ii. Designated tow company property.
    - b. Vehicles and trailers shall be locked and/or immobilized if possible.
    - c. Keys shall be submitted to the property and evidence function.

D. Packaging Property and Evidence for Submission

1. General Precautions

- a. It is necessary that property and evidence in the department custody be carefully accounted for to minimize the possibility of adverse claims against the department and to maintain the department's credibility in the courts.
- b. To this end, all personnel shall be aware of and practice the following:
  - i. No property, evidence, or contraband shall be stored in any office; desk or locker, vehicle, or other unauthorized location. (Evidence may be temporarily stored in a vehicle for security purposes in the field.)
  - ii. Property or evidence shall not be left unattended or unsecured at any time.
  - iii. Property and evidence shall be handled with care so as to protect any evidentiary value of the item.
  - iv. The chain of custody shall be carefully maintained with as few persons as possible taking custody of the property.
  - v. Upon taking custody of property or evidence, the employee shall promptly return to the station and document, package, and submit item(s) to the property and evidence function pursuant to this policy.
  - vi. No member of the department shall take, use, or possess any item that has been recovered or confiscated by the department, for other than those purposes sanctioned by the department.

2. Documentation of Property and Evidence

- a. All property shall be logged in to the property section of the CRIMETRACK report field prior to the end of the officer's tour of duty. The entry must include as much of the following information as is known: **[84.1.1(a)]**
  - i. Association with the incident number;
  - ii. A description of the property;
  - iii. Quantification of the item (number, weight, size, etc.);

- iv. Type of property (evidence, found, destruction, etc.);
  - v. Name of owner or custodian; and
  - vi. What is to be done with the property, such as:
    - (a) Hold for evidence;
    - (b) Forward to a laboratory for specific testing;
    - (c) Destruction or disposition; or
    - (d) Return to owner.
- b. All property and evidence in the custody of the Lexington Police Department shall be associated with an incident number and accompanied by a log entry or report explaining the circumstances by which the property came into the agency's possession and describing each item of property obtained.  
**[84.1.1(c)]**
- c. The Evidence Officer will regularly inventory the property possessed by the Department and designated as **evidence**, **found** and **held** to maintain the integrity of criminal investigations and the reputation of the Lexington Police Department. In an effort to facilitate inventories, property entries should be made and labeled as follows:
- Evidence of a crime, required for prosecution or, that requires further analysis should be labeled **"E"**, evidence. This includes the fruits/ instrumentalities of a crime, tools, weapons, drugs, alcohol etc. and those documents that may require processing for fingerprints or DNA.
  - Property taken for safekeeping will be labeled **"H"**, held. Examples are firearms taken as the result of a 209A Order and other types of property held here at the police station until the property can otherwise be disposed of, and that generally does not involve criminal activity or prosecution.
  - Property found and turned in as lost and found should be labeled as **"F"**, found property.
- d. Documents such as statement forms, credit card statements and receipts, and other documents, drivers licenses, CD's, DVD's, audio and video tapes, photographs or any other item that will be attached to a report and included in a master name case folder should be labeled as **"I"**, involved, unless they require additional

processing. (fingerprints or DNA Analysis etc.) Criminal histories and Registry print outs need not be labeled but should be attached and submitted with investigative reports.

3. Packaging of Property and Evidence [84.1.1(d)]
  - a. A property label generated by CRIMETRACK or hand written should be included with or affixed to the property container or property tag. Employees should not stick labels directly on any item that could be damaged by the label adhesive.
  - b. The evidence items shall be packaged and labeled prior to being submitted to the property and evidence function. To some degree, packaging and documentation should be guided by the needs of the case.
    - i. Items, which need to be individually identified, should be individually packaged (i.e., a bag of marijuana found in a suspect's pocket, a bag of marijuana found in the glove compartment, a marijuana roach found in an ash tray).
    - iii. Items, which are similar and may be identified collectively, may be packaged collectively (i.e., five bags of marijuana found in a vehicle's console).
    - iii. For further information on packaging of evidence items, see the department policy **83A - Collection and Preservation of Evidence**.
  - c. Bulk items such as bicycles, safes, and vehicles, which will not fit into an evidence bag, shall be tagged. A tag shall be affixed to the item listing the incident number, date and submitting officer's name, or a property tag generated by CRIMETRACK may be attached.
  - d. Items requiring further processing shall be:
    - i. Clearly marked to identify what type of examination or method of examination is requested;
    - ii. Packaged so as to avoid destroying or contaminating the evidence;
    - iii. Marked to ensure the item is handled with care (fingerprints, DNA, etc.).

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- e. Items (with the exception of drugs) requiring further processing by the Massachusetts State Police Laboratory shall be submitted with a completed CL-1 form and a copy of the report. See department policy on **83A -Collection & Preservation of Evidence**.
  - f. Accuracy and completeness are important. Items not properly submitted will be returned to the officer or his/her supervisor for reprocessing and resubmission.
4. DNA Testing Items
- a. Items submitted for processing for DNA shall be packaged in such a manner as to avoid contamination prior to submission.
  - b. Such items shall be clearly marked in order to prevent improper handling.
  - c. For further information, see the Department **Policy 83A - Collection and Preservation of Evidence**.
5. Handling Valuable or Sensitive Items [84.1.1(e)]
- a. Employees must use a higher level of caution when dealing with valuable or sensitive items, such as large amounts of cash, jewelry, precious metals, and drugs.
  - b. At least two employees should package and document such items. In the case where circumstances do not allow for two officers, a supervisor may authorize a single officer to package and document such property. Supervisors should use such discretion judiciously.
  - c. Whenever possible, particularly when an officer is working alone, such items should be processed in view of the booking room video camera, another fixed surveillance camera, or in certain cases, processing should be video-recorded.
    - i. Drugs
      - (a) Drugs must be quantified by type, size, or other classification (2 blue pills, 4 red and white tablets, 3 rocks, 10 bindles, 3 baggies, etc.).
      - (b) Unsealed bags of powder or vegetable matter should be weighed.

- ii. Cash
  - (a) Cash should be counted by at least two employees.
  - (b) The results of the count shall be entered on the front of the property/evidence bag by the number of each denomination accounted for.
  - (c) Each employee shall print his or her name, sign and date the form.
  - (d) The property/evidence bag shall be sealed containing the cash to be submitted to the property and evidence function.
- iii. Jewelry
  - (a) Jewelry, which could contain precious metals or stones.
  - (b) This might include expensive watches or other such items.
- iv. Precious Metals: Precious metal in a solid form may be quantified. Metal in flakes, dust, etc. shall be weighed.
- v. Other Valuable Items: Other items of value may, in the discretion of the employee or supervisor, require such handling.

6. Delayed Entry and Packaging

- a. Large volumes of evidence, such as from a search warrant, which cannot be processed prior to the end of the shift may be stored in a sealed container or locked in a secure room.
- b. Property items seized in an after-hours incident or search warrant may be secured to be processed after employees have rested.
- c. Such actions must be authorized by a supervisor.
- d. The storage area must be secure and the integrity of the evidence not compromised.

E. Submitting Evidence and Property

- 1. Barring extraordinary circumstances, as authorized by a supervisor or as accepted by this directive, property and evidence shall be secured in designated evidence lockers prior to the end of an officer's tour of duty.  
[84.1.1(b)]

2. Direct Submission: Submitting property and evidence directly into the custody of the Evidence Officer is the preferred method.
3. Temporary Evidence Locker/After Hours Storage [84.1.3]
  - a. Property and evidence to be secured when the Evidence Officer is not on duty shall be temporarily stored in the temporary evidence/property locker under the supervision of the commanding officer.
  - b. Items placed in the temporary evidence/property locker shall be entered into CRIMETRACK prior to being secured into the locker.
  - c. A property label should be fixed to the item(s) and shall include:
    - i. Date;
    - ii. Incident number; and
    - iii. Submitting officer.
  - d. The evidence shall be placed in the corresponding locker number and the locker key dropped into the key box.
  - e. Bulk items such as bicycles, safes, and vehicles, which will not fit into an evidence locker shall be tagged and placed in the department garage, with permission of a supervisor.
    - i. E-mail should be sent to the Evidence Officer identifying the location of the evidence.
    - ii. Vehicles or items to be processed for evidence shall be protected with evidence tags or crime scene tape.
    - iii. Uninvolved employees shall not handle items left in the garage.
    - iv. Evidence may be left in the Commanding Officers office under his/her direct supervision, until it can be retrieved by the Evidence Officer.

F. Receiving and Storing Property and Evidence

1. Receiving Property
  - a. The Evidence Officer may receive property or evidence directly from an employee, without prior placement into the temporary property/evidence locker.

- b. When the Evidence Officer removes property and evidence from the temporary storage, he/she shall do the following:
  - i. Take custody of the property;
  - ii. Check the items for proper packaging and documentation. Items not properly prepared need not be accepted and may be returned to the officer or brought to the attention of his/her commanding officer.

2. Processing Property

- a. The Evidence Officer or Designee shall check each property entry in the property and evidence program, and update the property activity to reflect the present status;
- b. Store or prepare property and evidence for transportation to the appropriate lab;
- c. Make a diligent effort to identify and notify owners of found or stolen property, and return the property to the rightful owner as soon as it is no longer needed; and [84.1.1(f)]
- d. Prepare property for legal disposition, such as auction or destruction.

3. Drugs

- a. The Evidence Officer is responsible for the custody of the property and evidence.
  - i. Drugs shall be received, processed and stored under the supervision of the Evidence Officer.
  - ii. Only the Evidence Officer or designee will transport drugs to and from the appropriate state drug laboratory.
- b. Drug Storage: Drugs shall be stored in a locked container or room within the property and evidence storage area. When not in use, such locked container or room shall remain locked and secured.
- c. Transfer of Custody: When drugs are being issued from or returned to evidence/property room, the Evidence Officer shall inspect the drug packaging and contents for any evidence of damage or tampering.

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- i. If the Evidence Officer believes that the evidence has been compromised:
    - (a) The officer shall count and/or weigh the contents, and verify the listed count/weight against any such count or weight recorded by the testing laboratory or existing evidence record.
    - (b) The sample shall be resubmitted to the lab for testing to determine if the contents is the substance noted on the laboratory certificate of analysis.
    - (c) The packaging shall be preserved as evidence.
    - (d) The Chief of Police shall be advised, and the Evidence Officer shall submit a report to the Chief of Police regarding the incident.
  - ii. The Chief will initiate an immediate investigation.
  - iii. Additionally, as part of that investigation, a full inventory and audit of all drugs and drug records will be conducted.
- d. Destruction
- i. Drugs may be destroyed upon receipt of an order of destruction issued by the court, after adjudication of a case, or when submitted for destruction when no court case is involved.
  - ii. When drugs are to be destroyed, the Evidence Officer will ensure that the drugs are prepared for destruction in accordance with guidelines set forth by the Department of Public Health.
    - (a) Drug destructions must be authorized by the Chief of Police.
    - (b) Drug destructions shall be conducted by the Evidence Officer and at least one other employee.
    - (c) Upon completion of drug destruction, the activity for each item shall be updated to reflect the destruction of the item and the closed status of the case.
4. Hypodermic Needles
- a. Hypodermic needles and syringes shall be accepted only when properly packaged to prevent an accidental needle stick. Needles not in factory packaging should be placed into a syringe container prior to being submitted.

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- b. Laboratory policy prohibits analysis of syringes unless requested by the District Attorney's Office.
  - c. Needles and syringes, which are not to be held as evidence shall be placed in a "sharps container" for collection for eventual disposal and shall be recorded as destroyed in evidence records.
5. Fingerprint Items
- a. Items submitted for processing for latent fingerprints shall be clearly marked.
  - b. When such items are handled gloves should be worn.
  - c. Such items shall be handled with care so as to preserve any existing fingerprints.
6. DNA Testing Items
- a. Items submitted for processing for DNA shall not be accepted unless they have been packaged in such a manner as to avoid contamination prior to submission.
  - b. Such items shall be clearly marked.
  - c. Such items shall be handled with care so as not to contaminate the item.
7. High Value Items [84.1.1(e)]
- a. High value items shall be stored within a secured room or container within the property room.
  - b. Cash: The Department will not provide long-term storage of cash unless the Chief of Police specifically authorizes such storage for a specific case.
    - i. Cash received by the Department shall be promptly forwarded to the treasurer for deposit in a police holding account or returned to the proper owner.
    - ii. Cash will be accepted only if it has been accounted for by the submitting employee and placed in a sealed container. See **Handling Sensitive Items** in this policy. Sealed containers of cash should not be opened unless such cash is to be returned to the owner or custodian.

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- (a) Cash for deposit in a police holding account will be forwarded, as received in a sealed container, to the treasurer's office and the activity updated in the property and evidence program.
  - (b) Cash to be immediately returned to the owner or custodian shall be counted in the presence of the owner or custodian and properly returned.
  - (c) Cash to be returned to the owner or custodian at a later time may be deposited into a police holding account and the return made by check.
8. Perishable Items: Perishable property or evidence, such as blood or a Sexual Assault Kit, shall be refrigerated in a secure area until such time that it is transported for analysis. The refrigerator adjacent to the temporary storage locker will house perishable property. The item is to be tagged and the door to that room secured upon departure.
9. Firearms
  - a. Firearms shall be received only after having been unloaded and rendered safe. No loaded firearm shall be accepted or stored in the evidence room or temporary evidence locker. All magazines shall be removed from the magazine well.
  - b. Firearms shall be stored in a locked room or container within the property room, which will remain secured and locked when not in use.
10. Combustible Liquids
  - a. Combustible evidence such as gasoline, toluene, paint thinner, etc., shall be stored in a secure Flammable Liquids Cabinet or placed in the garage.
  - b. Officers should use caution when transporting flammables.
  - c. Whenever possible, small samples of the flammable shall be retained as evidence.
11. Explosive Devices
  - a. No live explosive devices shall be accepted or stored by the property and evidence function.
  - b. Under no circumstances are explosive devices such as dynamite, hand grenades, blasting caps, etc., to be brought into the station.

- c. When an explosive device or suspected explosive device is located, the officer locating the device shall inform a supervisor, who shall notify the Fire Department and the appropriate Bomb Disposal Unit.
- d. Upon being rendered safe, non-explosive components may be properly received.

G. Temporary Release of Property [84.1.1(g)]

1. Primary Release of Property

- a. The temporary release of property or evidence from police custody shall be conducted or coordinated by the Evidence Officer.
- b. Property may be released for the purposes of:
  - i. Use as evidence in court or another hearing;
  - ii. Laboratory examination;
  - iii. Identification of property by the owner, custodian, victim, or witness;
  - iv. Investigation; and
  - v. Other law enforcement purposes.

2. Whenever property or evidence is removed from police custody, the chain of custody shall be maintained.

- a. Whenever evidence/property is removed from storage a chain of custody audit trail notation shall be completed in CRIMETRACK, containing the following information:
  - i. Date and time;
  - ii. Name of person taking custody;
  - iii. Reason for removing the item (court, laboratory processing, investigation, etc.).

- b. The person receiving temporary custody of property must return the property promptly.

3. Secondary Temporary Release of Property

- a. Property temporarily released to an employee may be further released to the custody of another, if necessary to fulfill a law enforcement purpose. Among the reasons for such release are:
  - i. Transfer of evidentiary items to the court or District Attorney's office;

- ii. Release to another investigative agency; or
    - iii. Release to another agency for a specialist to examine.
  - b. Upon such secondary release, the releasing employee shall obtain a written receipt for the property, which should include:
    - i. Date and time;
    - ii. Name of person taking custody;
    - iii. Reason for removing the item (court, laboratory processing, investigation, etc.);
    - iv. Signature of the person taking custody; and
    - v. Name of the person relinquishing custody.
  - c. The receipt shall be forwarded to the property and evidence function for purposes of maintaining the chain of custody.
- 4. Property released for investigative or training purposes [84.1.4]
  - a. Weapons and controlled substances may be used for investigative or training purpose with permission of the Chief of Police.
  - b. Firearms and weapons shall be transferred from the custody of the Department as follows:
    - i. The property activity for such weapon shall be annotated to indicate such transfer and shall reflect a "closed" status.
    - ii. The weapon shall be listed on the Department's Weapons Control Roster.
  - c. Drugs may be issued for training or investigations.
    - i. Only drugs associated with closed cases or submitted for destruction may be used for such purposes.
      - (a) The Evidence Officer shall obtain an incident number, which will be associated with each drug item to be used for such training or investigation.
      - (b) The Evidence Officer shall submit an incident report identifying each property item by description, property number and state lab number (if applicable).
      - (c) For drugs processed and packaged by a state lab, if the drugs must be removed from the packaging, the original packaging shall be maintained by the Evidence Officer.

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- ii. The drugs shall be issued as temporary release of property.
- iii. Drugs not under the immediate control of an authorized person shall be locked in a secure container approved for such purposes by the Chief of Police.
- iv. In the event that any drugs are lost or damaged during such investigation or training, in addition to any other incident reports, the employee having custody of such drugs shall submit a report explaining the circumstances of such loss or damage.
- v. Upon return to the custody of the property and evidence function, the Evidence Officer shall:
  - (a) Inspect the drugs for loss or damage;
  - (b) Submit an addendum to the initial report; and
  - (c) Re-submit same to the state lab along with the original packaging and certificate.<sup>ii</sup>

### 5. Returned Property

- a. When property or evidence is being returned, the returning party should return the item in person to the Evidence Officer. If the Evidence Officer is not on duty, the item may be placed in the temporary storage locker(s).

## H. Final Disposition of Property

### 1. Releasing Property [84.1.1(g)]

- a. All property permanently released from police custody shall be documented and accounted for.
- b. The Evidence Officer will ensure that the property section of the report is updated to reflect the final disposition of the evidence/property.

### 2. Discarded or Destroyed Property

- a. All property which is discarded or destroyed shall be documented and accounted for.
- b. Upon the property's being discarded or destroyed, the property record for each discarded or destroyed property item shall be updated to reflect the return of the property and the change of the status of the property item.

3. Property Submitted for Destruction
  - a. When receipt is received of property submitted for destruction, such property shall be processed and held for destruction or destroyed.
  - b. Drugs submitted for destruction shall be processed in accordance with the guidelines set forth by the Department of Public Health.
4. Evidence No Longer Needed
  - a. When evidence is no longer needed.
    - i. Such evidence will be promptly returned to the owner whenever possible.
    - ii. The Evidence Officer shall make a diligent effort to notify the owner. Such notification may be made by telephone, e-mail or U.S. Mail.
  - b. If the owner or custodian cannot be located, such item may be disposed of.
5. Photograph of Evidence, Return of Property to Owner
  - a. Evidence may be returned to the owner or custodian, at the discretion of the case officer or District Attorney's Office, after having been photographed. The photograph may be admitted in judicial proceedings as competent evidence.
  - b. The property may then be released to the victim prior to trial, provided that the return does not compromise prosecution of the case.
  - c. In determining whether or not to return the property to the victim, the case officer must weigh the hardship created for the victim against the value of the evidence in future court proceedings.
  - d. Return of property in superior court cases must be approved by the District Attorney's Office.
  - e. Before impounded property is returned, it will be photographed in a manner that clearly identifies the property and may be admissible in court as competent evidence.
    - i. When applicable, a readily identifiable object should be used for size comparison.

- ii. The person to whom the property is to be returned shall be asked if the property in the photograph is the same property as that being returned. The person shall then sign and date the photograph.
  - f. The item(s) shall be returned and the return documented in accordance with this policy.
  - g. The signed property return receipt and photograph(s) shall be turned in to the Evidence Officer.
  - h. Property released from police custody shall be annotated to reflect the return of such property and the entry of a photograph into custody, in place of the true item.
  - i. Perishable items, property or evidence that may cause a hardship to the victim if impounded at the scene may be photographed at the scene en lieu of seizure. The photograph procedure will be consistent with section G, 5, e,i, above.
6. Found Property: Right of Claim by the Finder: M.G.L. Chapter 134 section 4 states, the finder of money or property may request that such property be turned over to him/her after one year has passed since the property or money was found. <sup>iii</sup>
- a. If the owner becomes known and makes a claim to such property within one year, the property shall be returned to the owner. <sup>iv</sup>
  - b. If the owner remains unknown or does not make arrangement to obtain the property within one year of the date of finding, the property shall enure to the finder. <sup>v</sup>
  - c. If the finder does not claim the property, such property may be disposed of at auction. <sup>vi</sup>
7. Other lost, stolen, Abandoned, or unclaimed Property
- a. Lost, stolen, abandoned property, or property taken from a person under arrest (excepting arrestee property to be returned upon release), shall be Evidence Officer. Such property shall also include: <sup>vii</sup>
    - i. Property left behind by arrested persons; and
    - ii. Safe keeping property not reclaimed by the owner after notice or attempt of notice.

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- b. All such property shall be retained for a period of at least one year.
  - c. The property may be sold at auction, provided that:<sup>viii</sup>
    - i. The owner or owner's abode or place of business is unknown;
    - ii. If the owner, owner's place of abode or business is known, the owner shall be notified by registered mail; and
    - iii. If the owner refuses or fails to take possession of the property within ten days of receiving notice, the property may be sold at auction.
  - d. Owner's Claim to Property:
    - i. The owner may make claim to the property:
    - ii. Within two years and two months after the property came into the possession of the Department; or
    - iii. Within two years of the sale of such items.
  - e. If the owner can prove ownership of the property, the owner may receive proceeds of the sale of the property, less any incurred expenses.
  - f. If property is not clearly identifiable, and an individual claims ownership, the property shall be released only when that individual establishes ownership rights to such property.
  - g. Any property that becomes the subject of controversy as to the rightful owner shall not be released to any person, except by written order of the Chief of Police or by a court order.
8. Property from Search Warrants
- a. Property or articles stolen, embezzled or obtained by false pretenses, or otherwise obtained in the commission of a crime shall be returned to the rightful owners.<sup>ix</sup>
  - b. All other property seized in execution of a search warrant shall be disposed of as the court or justice orders.
  - c. Rifles, shotguns, knives, or other dangerous weapons which have been found to have been kept, concealed or used

unlawfully or for an unlawful purpose shall be delivered to the State Police for destruction.

I. Disposition of Firearms

1. Firearms turned in for disposition will be forwarded to the Massachusetts State Police for disposal.
2. Firearms Held for Safe Keeping
  - a. Firearms in possession of the police department for the purpose of safe keeping shall be held for a period of not less than thirty days (30) days.
  - b. Firearms held in excess of thirty days may be transferred to a bonded warehouse for storage.
3. License suspension or revocation.<sup>x</sup>
  - a. The owner or his/her legal representative may transfer firearms, rifles, shotguns, machine guns, and ammunition to anyone lawfully permitted to take possession.
  - b. The purchaser or transferee and the former owner shall notify the licensing authority in writing of the intended transfer.
  - c. Within ten days of the receipt of such notice, the firearms shall be transferred.
4. Bonded Warehouse
  - a. Firearms held in police custody may be transferred to a bonded warehouse for storage.<sup>xi</sup>
  - b. This shall apply to all firearms with the exception of firearms being held as evidence in any pending case dealing with a firearms violation.<sup>xii</sup>
5. Firearms, Violation of M.G.L. 265, §10
  - a. A firearm shall be returned to the person from whom it was lost or stolen if that person was lawfully in possession of it.<sup>xiii</sup>
  - b. Otherwise, unless directed by the court, firearms shall be forwarded to the State Police for disposition.<sup>xiv</sup>
6. Firearms, Serial Number removed or mutilated: Such firearms shall be delivered to the State Police for destruction.<sup>xv</sup>

7. Silencers: Unlawfully possessed silencers shall be delivered to the State Police.<sup>xvi</sup>
- J. Asset Forfeiture [84.1.8]
1. Documentation
    - a. A separate incident number shall be assigned to each asset forfeiture application.
    - b. Items seized for possible asset forfeiture shall be documented and turned into the Evidence Officer.
    - c. A report shall be filed documenting:<sup>xvii</sup>
      - i. The exact kinds, quantities and forms of property;
      - ii. From whom the property was received;
      - ii. Under what authority it was held, received, or disposed of
      - iv. To whom it was delivered; and
      - v. The manner of destruction or disposition.
  2. Asset Storage
    - a. Such item(s) shall be stored pending the outcome of such action.
    - b. Vehicles shall be immobilized, locked, and stored in a secure area.
    - c. Cash shall be forwarded to the treasurer for deposit in a police holding account.
    - d. Other items shall be stored in the custody of the property and evidence function.
  3. Application for Asset Forfeiture
    - a. Asset forfeiture actions should be initiated promptly.
    - b. The following documents shall be forwarded to the District Attorney's Office Seizure Unit:
      - i. Request for Asset Forfeiture Form; and

- ii. A copy of the police report. The report must contain necessary probable cause for seizure.

4. Final Disposition

- a. The District Attorney's Office will notify the police department of the award.
- b. Funds awarded to the Lexington Police Department shall be deposited in a police holding account specifically designated for drug asset forfeiture funds only.
- c. All funds shall be disbursed as directed by the forfeiture judgment. Such funds may be used for the following purposes:<sup>xviii</sup>
  - i. To defray the cost of protracted investigations;
  - ii. To provide additional technical equipment or expertise;
  - iii. To provide matching funds to obtain federal grants; or
  - iv. To accomplish such other law enforcement purposes as the Chief of Police deems appropriate.
- d. Such funds shall not be considered a source of revenue to meet the operating needs of the department.
- e. The disposition of all vehicles, real property, and items of value shall be in accordance with the final order of forfeiture. Such disposition may include:
  - i. Official use by the department or other public agency; or
  - ii. Sale at public auction or competitive bidding.
- f. Funds from the sale of vehicles or property shall be disbursed in accordance with M.G.L. c. 94C, §47.

5. Federal Asset Forfeiture

- a. Federal asset forfeitures will be conducted in conjunction with the federal agency involved with the asset seizure.
- b. Funds received shall be deposited in a police holding account for federal asset forfeiture funds only.
- c. Such funds shall be used only for purposes lawfully allowed by the federal asset forfeiture program.

- d. The Chief of Police or designee shall maintain records of all asset forfeiture funds received and disbursed and shall comply with annual reporting requirements

K. Property Room Integrity Inspections

- 1. The Department shall conduct scheduled and unscheduled inspections, inventories, and audits of the property and evidence function to maintain a high degree of evidentiary integrity over agency controlled property and evidence.
- 2. Inspection [84.1.6(a)]
  - a. Inspections to determine adherence to the procedures used for the control of property and evidence shall be conducted by the Chief of Police or his designee (as of 1/1/2011, the Captain of Administration). The inspection shall determine if:
    - i. Property and evidence, and drugs in custody, and the records relating thereto, are being maintained in full compliance with the procedures outlined in this directive, and proper accountability procedures are being maintained;
    - ii. Property is properly stored and protected from damage and/or deterioration;
    - iii. Property having no further evidentiary value is being disposed of promptly; and
    - iv. The evidence/property rooms are being maintained in a clean and orderly condition.
  - b. Inspections shall be conducted **semi-annually**.
  - c. The inspection report shall be kept and maintained in the Chiefs Office.
- 3. Inventory [84.1.6(b)]
  - a. An inventory of all property under the control of the Evidence Officer shall be conducted as follows:
    - i. Whenever the Property Custodian is assigned to or transferred from the position, an inventory shall be conducted by the newly assigned Evidence Officer, jointly, with an employee designated by the Chief of Police. The

inventory shall ensure that records are correct and properly annotated.

- ii. An inventory shall also be conducted when directed by the Chief of Police.
  - b. The purpose of the inventory is to ensure the continuity of custody and not to require the accounting of every single item of property.
    - i. The inventory shall be sufficient to ensure the integrity of the system.
    - ii. The inventory shall include all high risk items:
      - (a) Cash;
      - (b) Precious metals;
      - (c) Jewelry;
      - (d) Firearms; and
      - (e) Drugs.
    - iii. A sufficient sample of property records relative to the volume of property under the care of the property and evidence function shall be reviewed carefully with respect to proper documentation and accountability.
  - c. All discrepancies should be recorded prior to the assumption of property accountability by the new custodian.
  - d. The inventory report shall be kept and maintained in the Chiefs Office.
4. Audit [84.1.6(c)]
- a. An audit of property and evidence in the Department custody shall be conducted:
    - i. **Annually**; or
    - ii. As directed by the Chief of Police.
  - b. Such audit shall be conducted by a supervisor assigned to that task by the Chief of Police. The supervisor assigned shall not be routinely or directly connected with the control of property and evidence. Under no circumstances should the inspector designated by supervisory or command officers have the property function under his or her control.
  - c. The audit report shall be filed in the Chiefs Office.

5. Unannounced Inspections [84.1.6(d)]
  - a. Unannounced inspections of the property storage areas shall be conducted as directed by the Chief of Police, but **at least annually**.
  - b. Accountability and security procedures will be the primary focus of this inspection.
  - c. The inspection report shall be filed in the Chiefs Office.

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<sup>i</sup> M.G.L. c. 94C, §47A.

<sup>ii</sup> Department of Public Health, Drug Destruction Protocol, III.c.

<sup>iii</sup> M.G.L. c. 134, §4.

<sup>iv</sup> M.G.L. c. 134, §3.

<sup>v</sup> M.G.L. c. 134, §4.

<sup>vi</sup> M.G.L. c. 135, §8.

<sup>vii</sup> M.G.L. c. 135, §7.

<sup>viii</sup> M.G.L. c. 135, §7.

<sup>ix</sup> M.G.L. c. 276, §3.

<sup>x</sup> M.G.L. c. 140, §129D.

<sup>xi</sup> M.G.L. c. 140, §129D.

<sup>xii</sup> M.G.L. c. 140, §129D.

<sup>xiii</sup> M.G.L. c. 265, §10(f).

<sup>xiv</sup> M.G.L. c. 265, §10(e).

<sup>xv</sup> M.G.L. c. 265, §1B; M.G.L. c. 265, §11C.

<sup>xvi</sup> M.G.L. c. 265, §10A.

<sup>xvii</sup> M.G.L. c. 94C, §47(e).

<sup>xviii</sup> M.G.L. c. 94C, §47.