



[REDACTED]@joyfulheartfoundation.org>

Fwd: FW: WPD Response: Public Records Request Joyful Heart Foundation

5 messages

[REDACTED]@joyfulheartfoundation.org>

Fri, Sep 6, 2019 at 12:29 PM

To: [REDACTED]@joyfulheartfoundation.org>

Hi! Here is a FOIA response. Can you reach through their evidence and property guides and see what they say about testing and destroying kits if anything?

Thanks!!

[REDACTED]

[REDACTED]

----- Forwarded message -----

From: [REDACTED]@goodwinlaw.com>

Date: Fri, Sep 6, 2019 at 12:23 PM

Subject: FW: WPD Response: Public Records Request Joyful Heart Foundation

To: [REDACTED]@joyfulheartfoundation.org [REDACTED]@joyfulheartfoundation.org>

Cc: [REDACTED]@goodwinlaw.com>, [REDACTED]@goodwinlaw.com>, [REDACTED]@goodwinlaw.com>

[REDACTED]

I received a response from the Waltham police department. Please see the attached and below. It looks like the attached spreadsheet only goes back to 2012 so let me know if you would like me to confirm that there are no kits or information prior to 2012.

Thanks,



Goodwin Procter LLP



[\[redacted\]@goodwinlaw.com](mailto:[redacted]@goodwinlaw.com) | goodwinlaw.com

From: Feeney, Donald [\[redacted\]@police.waltham.ma.us](mailto:[redacted]@police.waltham.ma.us)>
Sent: Friday, September 6, 2019 12:03 PM
To: [\[redacted\]@goodwinlaw.com](mailto:[redacted]@goodwinlaw.com)>
Subject: WPD Response: Public Records Request Joyful Heart Foundation

We have 5 total UNSUBMITTED SAECK'S from 2018 and 2019. These kits are associated with UNREPORTED/NON INVESTIGATORY sexual assault cases for which the MA State Police Crime Laboratory will not accept for analysis.

Any further questions please contact me.

From: [\[redacted\]@goodwinlaw.com](mailto:[redacted]@goodwinlaw.com)>
Sent: Wednesday, September 4, 2019 9:22 AM
To: Feeney, Donald [\[redacted\]@police.waltham.ma.us](mailto:[redacted]@police.waltham.ma.us)>
Cc: Hovsepian, Scott [\[redacted\]@police.waltham.ma.us](mailto:[redacted]@police.waltham.ma.us)>
Subject: RE: Public Records Request Joyful Heart Foundation

Capt. Feeney,

Thank you for your prompt response. Let me know if you have any questions, or if you would like to discuss.



Goodwin Procter LLP



[\[redacted\]@goodwinlaw.com](mailto:[redacted]@goodwinlaw.com) | goodwinlaw.com

From: Feeney, Donald [\[redacted\]@police.waltham.ma.us](mailto:[redacted]@police.waltham.ma.us)>
Sent: Wednesday, September 4, 2019 9:15 AM
To: [\[redacted\]@goodwinlaw.com](mailto:[redacted]@goodwinlaw.com)>
Cc: Hovsepian, Scott [\[redacted\]@police.waltham.ma.us](mailto:[redacted]@police.waltham.ma.us)>
Subject: Public Records Request Joyful Heart Foundation



My name is Captain Donald Feeney and I am in charge of the evidence room for the Waltham Police Department. I was forwarded your request in regards to the Waltham Police Departments records in regards to sexual assaults and evidence kits. I am working with our evidence/property officer and I will email you the requested information as soon as possible.

Thank You

Capt. Don Feeney

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3 attachments

 **Ch 83 Evidence (Updated).pdf**
269K

 **Ch 84 Property Management and Evidence Control draft.pdf**
307K

 **Copy of S.A. KIT REQUEST 2019 (003).xlsx**
9K

To: [REDACTED]@joyfulheartfoundation.org>
[REDACTED]@joyfulheartfoundation.org>

Fri, Sep 6, 2019 at 2:59 PM

They don't have anything specific about rape kits, or about DNA kits in general. It says the bodily fluids should be sent to the lab within a few hours and lab should be notified right away to test the sample as soon as they can.

The destruction part says evidence is destroyed by other departments (for DNA kits, it should be the Crime Lab), or stored until a notice from such department. They have an annual internal audit and keep a record of everything destroyed (date, time, and location of destruction). They also keep receipts from the Crime Lab regarding evidence submitted.

We could potentially request a record of those receipts from the Lab or their records.

[Quoted text hidden]

--

[REDACTED]

To: [REDACTED]@joyfulheartfoundation.org>
[REDACTED]@joyfulheartfoundation.org>

Wed, Sep 25, 2019 at 10:40 AM

[REDACTED]

[REDACTED]

----- Forwarded message -----

From: [REDACTED]@goodwinlaw.com>

Date: Wed, Sep 25, 2019 at 10:32 AM

Subject: FW: WPD Response: Public Records Request Joyful Heart Foundation

To: [REDACTED]@joyfulheartfoundation.org>

[REDACTED]

Below is an update on the response from Waltham. I will pass along any further information that they provide.

Thanks,

[REDACTED]

From: Feeney, Donald [REDACTED]@police.waltham.ma.us>

Sent: Wednesday, September 25, 2019 7:03 AM

To: [REDACTED]@goodwinlaw.com>

Subject: RE: WPD Response: Public Records Request Joyful Heart Foundation

Good Morning [REDACTED]

We are actively trying to find a way to get a accurate count for you on cases from the 1970's and 1980'S. We physically have all of these kits in their original sealed cartons. They were then later sealed in larger carboard boxes to save space and for evidence audit purposes. The problem is trying to get an actual number of cases per year without breaking open the sealed carboard boxes in the evidence storage room. Back then we used a different computer system and these prior cases have to be located by their individual case/incident number which doesn't work where now we can search for kits by using a computer search field such as "sexual assault cases" or "SAECK'S". I do know our practice was to send every case to the State Police Lab. Reported or not.

I will update you shortly with our results,

Thank You

From: [REDACTED]@goodwinlaw.com>
Sent: Wednesday, September 18, 2019 9:41 PM
To: Feeney, Donald [REDACTED]@police.waltham.ma.us>
Subject: Re: WPD Response: Public Records Request Joyful Heart Foundation

Thanks, much appreciated.

[REDACTED]
Goodwin Procter LLP
[REDACTED]
[REDACTED]
[REDACTED]

@goodwinlaw.com | goodwinlaw.com

On Sep 18, 2019, at 9:37 PM, Feeney, Donald [REDACTED]@police.waltham.ma.us> wrote:

I'll check when I get back to work on Monday and I'll let you know what we can do

Captain Donald M. Feeney

Sent from my iPhone

On Sep 18, 2019, at 9:15 PM, [REDACTED]@goodwinlaw.com> wrote:

Joyful Heart requested 30 years back.

Thanks,



<image001.png>

Goodwin Procter LLP



@goodwinlaw.com | goodwinlaw.com

From: Feeney, Donald [REDACTED]@police.waltham.ma.us>

Sent: Wednesday, September 18, 2019 7:20 PM

To: [REDACTED]@goodwinlaw.com>

Subject: Re: WPD Response: Public Records Request Joyful Heart Foundation

I am out of the office until Monday how far back are you interested in?

Captain Donald M. Feeney

Sent from my iPhone

On Sep 18, 2019, at 5:54 PM, [REDACTED]@goodwinlaw.com> wrote:

Captain Feeney,

Could you please let me know the expected cost of the hand search and the estimated time for completion?

Thanks,



<image001.png>

Goodwin Procter LLP



@goodwinlaw.com | goodwinlaw.com

From: Feeney, Donald [REDACTED]@police.waltham.ma.us>

Sent: Friday, September 6, 2019 1:46 PM

To: [REDACTED]@goodwinlaw.com>

Subject: Re: WPD Response: Public Records Request Joyful Heart Foundation

That is the date we started with our current computer system in evidence. To the go back prior it would require a hand search.

Captain Donald M. Feeney

Sent from my iPhone

On Sep 6, 2019, at 1:37 PM, [REDACTED]@goodwinlaw.com> wrote:

Capt. Feeney,

Thank you. I noticed that the spreadsheet you provided only goes back to 2012. Joyful Heart is looking for any records as far as they go back for its requests. Do you have any responsive records prior to 2012? Thanks again and have a great weekend!





<image001.png>

Goodwin Procter LLP



@goodwinlaw.com | goodwinlaw.com

From: Feeney, Donald [REDACTED]@police.waltham.ma.us>

Sent: Friday, September 6, 2019 12:03 PM

To: [REDACTED]@goodwinlaw.com>

Subject: WPD Response: Public Records Request Joyful Heart Foundation

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Cc: Hovsepian, Scott [REDACTED]@police.waltham.ma.us>

Subject: RE: Public Records Request Joyful Heart Foundation

Capt. Feeney,

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<image001.png>

Goodwin Procter LLP



@goodwinlaw.com | goodwinlaw.com

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Cc: Hovsepian, Scott [REDACTED] <[\[REDACTED\]@police.waltham.ma.us](mailto:[REDACTED]@police.waltham.ma.us)>

Subject: Public Records Request Joyful Heart Foundation



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Thank You

Capt. Don Feeney

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<Copy of S.A. KIT REQUEST 2019 (003).xlsx>

[REDACTED]@goodwinlaw.com>

Tue, Nov 5, 2019 at 3:20 PM

To: [REDACTED]@joyfulheartfoundation.org>, [REDACTED]@joyfulheartfoundation.org" [REDACTED]@joyfulheartfoundation.org>

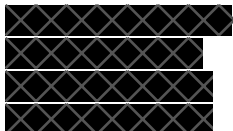


Here is the supplemental information for Waltham. Let me know if you need anything else.

Thanks,



Goodwin Procter LLP



[REDACTED]@goodwinlaw.com | goodwinlaw.com

From: [REDACTED]

Sent: Wednesday, October 2, 2019 2:20 PM

To: [REDACTED]@joyfulheartfoundation.org>

Subject: FW: WPD Response: Public Records Request Joyful Heart Foundation



Waltham provided data going back to 1990. Please see the attached. Let me know if you need anything else from the Waltham Police Department.

Thanks!

[REDACTED]

From: Feeney, Donald <[REDACTED]@police.waltham.ma.us>
Sent: Wednesday, October 2, 2019 12:48 PM
To: [REDACTED]@goodwinlaw.com>
Subject: RE: WPD Response: Public Records Request Joyful Heart Foundation

Hi [REDACTED]

We contacted our liaison with QED which is our computer operating/records system and asked if they could set up a program and run rape kits from our old record system. I have reviewed their report and updated the prior work sheet I sent you.

I don't really trust these number 100%. Also we got no number response from this report for 2006 and 2007.

[Quoted text hidden]



Copy of S.A. KIT REQUEST 2019 (003) DF.xlsx
10K

[REDACTED]@joyfulheartfoundation.org>
To: [REDACTED]@goodwinlaw.com>
Cc: "[REDACTED]@joyfulheartfoundation.org" [REDACTED]@joyfulheartfoundation.org>

Wed, Nov 6, 2019 at 11:34 AM

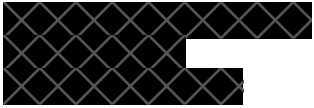
[REDACTED]

[REDACTED]

[REDACTED]

6/29/2020

Joyful Heart Foundation Mail - Fwd: FW: WPD Response: Public Records Request Joyful Heart Foundation



[Quoted text hidden]

S.A. KITS YEAR	#OF KITS	TO THE LAB	NOT TO THE LAB	DESTROYED`
2012	15	15	0	0
2013	19	19	0	0
2014	18	18	0	0
2015	11	11	0	0
2016	10	10	0	0
2017	13	13	0	0
2018	11	8	3	0
2019	9	7	2	0
2011	9	9		
2010	10	10		
2009	9	9		
2008	7	7		
2007 ?		?		
2006 ?		?		
2005	1	1		
2004	4	4		
2003	13	13		
2002	11	11		
2001	11	11		
2000	9	9		
1999	15	15		
1998	5	5		
1997	3	3		
1996	2	2		
1995	11	11		
1994	10	10		
1993	2	2		
1992	2	2		
1991	1	1		
1990	2	2		

S.A. KITS YEAR	# OF KITS	TO THE LAB	NOT TO THE LAB	DESTROYED`
2012	15	15	0	0
2013	19	19	0	0
2014	18	18	0	0
2015	11	11	0	0
2016	10	10	0	0
2017	13	13	0	0
2018	11	8	3	0
2019	9	7	2	0

Waltham Police Department

EVIDENCE CHAPTER 83

General Order Number: GO-01 2009

Effective Date: 01/09

Accred. Standard #: 83.1.1, 83.2.1.-83.2.7, 83.3.1, 83.3.2

POLICY:

One of the most basic and most important functions of the police is the investigation of criminal offenses. It has for its objective the successful identification, apprehension, and prosecution of criminal offenders. The ultimate success or failure of this police effort is closely related to the quality of the evidence taken at the time that a crime is first brought to police attention.

It is the policy of the Waltham Police Department to ensure that all evidence is identified, collected, and preserved in such a manner that facilitates this objective.

PROCEDURES:

1. RESPONSIBILITIES OF FIRST OFFICER ON A CRIME SCENE:

Normally, the first officer on the scene will be the patrol officer. The following steps should be taken until additional assistance arrives:

- A. Take necessary action(s) to deal with immediate danger to the officer or others.
- B. Provide medical assistance when necessary.
- C. Determine the nature of the crime committed.
- D. Apprehend the criminal offender if possible (when the right of arrest exists).
- E. Protect the scene to prevent the destruction or contamination of evidence. No unauthorized persons shall be permitted to enter the crime scene.
- F. If necessary, request the assistance of a superior officer, the Investigations Division, and/ or evidence technicians.
- G. Confiscate items of evidence.

- H.** Locate and identify witnesses.
- I.** Photograph and sketch the scene when appropriate.
- J.** Collect physical evidence.
- K.** Officers should take universal precautions when dealing with DNA evidence, such as semen and blood. First responders shall await the arrival of a trained investigator before collecting such items. **[83.2.7a]** DNA evidence, with the exception of buccal swabs are usually collected by the State Police.
- L.** Preservation and packaging of physical evidence.
- M.** Submit evidence for processing (fingerprint, chemical, film, etc.) through the Property Officer. This will ensure a proper continuity of evidence.

2. SERIOUS CRIMES- INVESTIGATIONS DIVISION RESPONSE:

The following offenses are of a nature requiring the immediate assignment of a detective to assume the responsibility for the completion of the preliminary investigation, begin the follow-up investigation, and take control of the crime scene. An evidence technician may also be assigned to evaluate, collect, and process evidence at the scene. Major crimes usually require the Massachusetts State Police to come in and assist or take control of the investigation (ie: murder investigation).

- A.** Death of a violent or suspicious nature.
- B.** Rapes or suspected rapes.
- C.** Assaults resulting in serious injury or death to the victim.
- D.** Armed robberies of commercial institutions.
- E.** Burglaries where there is excessive or unusual loss (high dollar value, negotiables, cash, jewelry, silver, etc.).
- F.** Any major disaster (where detectives can assist in identification of victims).
- G.** Kidnapping, extortion.
- H.** Bombings.
- I.** Fires of suspicious origin where arson is suspected.

3. **PROCESSING AND COLLECTION OF PHYSICAL EVIDENCE IN THE FIELD:**
[83.2.1]

To ensure that methods used by all members in the department are those that will preserve the condition of the evidence in the process of collection, prevent the introduction of foreign materials to it, and ensure as complete a sample as possible and practical, officers shall familiarize themselves with the proper procedures.

The Massachusetts State Police Crime Scene technicians may be contacted for any incidents or crime scenes requiring extensive crime scene processing.

4. **FINGERPRINTS: Collection and submission of evidence to be fingerprinted:**
[82.2.3]

Only Officers that have been trained and certified in the processing, developing, lifting and labeling of fingerprints shall be authorized to take prints.

DNA: Collection and Submission [83.2.7b,c,d]

DNA is primarily collected by the State Police when called to a scene requiring DNA Collection. Detectives are trained in collecting Buccal Swabs which are collected by the use of a Buccal Swab kit. These are conducted by specifically trained Detectives who then bring the kit directly to the evidence.

6. **COMPUTER EQUIPMENT** [83.2.5]

Computers, PDA's, and any other computer storage device are seized in the same manner as any other evidence at a crime scene or with a warrant in hand. Once the computer or any other electronic device is seized, the District Attorney's Office of NEMLEC should be notified as well as possibly Middlesex District Attorney's Office – Digital Evidence Lab for their computer forensic team to take over. Waltham Police Department Detectives/Officers sometimes access GPS units, etc for data and do not bring to lab or bring to lab upon completion of information gathering.

7. **CRIME SCENE EQUIPMENT:**

The Investigations Division shall keep the necessary crime scene processing equipment, readily accessible to them for transport to allow effective and timely processing of a crime scene. Normal response time should average less than one hour.

8. **CRIME SCENE EQUIPMENT - TECHNICIAN NOT ON DUTY:**

In the event that there are no detectives on duty when a need for their services arises, the Commanding Officer - Platoon on Duty shall contact the Commanding Officer –

Investigations Division or any lieutenant of the Investigations Division. It shall then be their responsibility to determine what, if any, detective personnel shall be summoned to the crime scene.

In the event that it is impossible to reach any of the Waltham Police Detectives. The Commanding Officer - Platoon on Duty shall contact the headquarters of the Massachusetts State Police, Crime Laboratory. A state police evidence technician is on call 24 hours a day, and will be summoned. Normal response time should average less than one hour. [83.1.1]

9. **REASONS CRIME SCENE NOT PHOTOGRAPHED OR EVIDENCE COLLECTED:**

Whenever photographs are not taken or where physical evidence is not recovered from the scene of a serious crime, the investigator assigned shall prepare a report stating the reasons why.

10. **PRESERVATION AND SUBMISSION OF EVIDENCE TO THE STATE POLICE LABORATORY:**

A. **RESPONSIBILITY FOR REQUESTING CRIME LABORATORY EXAMINATIONS: [83.3.2a]**

1. Under normal circumstances, the responsibility for the request for laboratory examination will lie with the officer or detective who actually processed the scene and took custody of the evidence.
2. In those cases where there may be more than one officer processing the scene, the case officer present shall designate one officer to take custody of all evidence collected.

B. **SUBMISSION OF EVIDENCE FOR CRIME LABORATORY ANALYSIS: [83.3.2]**

All evidence must be submitted to an accredited laboratory.

In all instances of evidence submission to a Crime Lab, Massachusetts State Police Forensic Service Group Evidence Submission Form (all evidence except drugs) and Form SP295Drug Submission form shall be filled out and brought to the lab by the evidence officer with all evidence. The crime lab will provide a yellow copy of the form to the submitting agency as a receipt. In the case of submitting drug evidence, the gold form will be given as an initial receipt. Upon returning to the lab to pick up processed drugs and certifications, the lab will additionally provide the evidence officer with the white and yellow receipts, keeping the pink for their records. [83.3.2c]

1. Non-Perishable Evidence:

Shall be tagged in accordance with Department adopted manuals listed in Section 3A-C of this Chapter (Appendix 1) and turned over directly to the Property/Evidence Officer. In his absence, all evidence shall be placed in an evidence locker, the locker shall be locked, and a complete report, including requests for analysis, shall also be placed in the evidence locker. The Property/Evidence Officer, upon receipt of evidence, shall submit the evidence for analysis as soon as is practicable. When a doubt exists as to the proper disposition of evidence, the Property/Evidence Officer shall consult with a Department evidence technician and be guided by his advice.

2. Submission of Perishable Evidence:

- a.** When an item of evidence has been collected that by its very nature may deteriorate (for example, a liquid sample of semen, a gasoline soaked item, etc.), it should be transported to the laboratory as soon as possible and in no case should transportation be delayed for more than several hours. In cases of bodily fluids, the State Police Crime Lab will come and collect.
- b.** Anytime that a perishable item is to be transported to the crime laboratory for analysis, the laboratory should be called first so that they will be prepared to receive the item.
- c.** Officers shall submit all documentation received from the laboratory and a copy of their report to the Property/Evidence Officer. [83.3.2c]
- d.** In those cases where immediate transport to the crime laboratory is not possible, items should be preserved according to Department adopted manuals listed in Section 3A-C of this Chapter.

3. Submission of hazardous, flammable evidence:

- a.** An evidence locker shall be maintained in the garage for hazardous and/or flammable evidence.
- b.** Officers placing items in this locker must submit a complete report to the Property/Evidence Officer.
- c.** The Property/Evidence Officer shall consult with Fire Department officials and the Commanding Officer – Investigations Division to make certain that the evidence is stored and processed in a manner that will ensure both safety and the admissibility of the evidence.

4. Submission of evidence to be fingerprinted:

- a.** Officers submitting evidence that they believe may contain fingerprints of evidentiary value must note this on their report.
- b.** An evidence tag shall be affixed to the outside of any locker containing fingerprint evidence to forewarn the Property/Evidence Officer.

C. COLLECTION AND SUBMISSION OF KNOWN SPECIMEN FOR COMPARISON: [83.3.1]

Many items submitted to the laboratory must be accompanied by a known specimen so a comparison can be made. The investigating officer on the case will be responsible for obtaining any required known specimens, when such specimens can be legally obtained, and sending them, along with the items of evidence, to the laboratory for analysis and comparison.

- D. DOCUMENTATION:** Officers submitting evidence for analysis shall specify in their report or lab paperwork what is to be analyzed and what analysis is requested.

**11. CRIME SCENE SKETCHES:
[83.2.4]**

Detailed crime scene sketches are rarely used due to the advent of technology in areas of digital photography and videography. Detectives photograph and/or video crime scenes. In the event of a major crime, the State Police are called to the scene and use detailed videography and photography. In the event that a sketch is done, the detail to be included in a crime scene sketch should include, but not be limited to, the following:

- A.** Dimensions.
- B.** Relation of scene to other buildings, geographical features, or roads.
- C.** Address, floor, or room number as appropriate.
- D.** Location of significant features of the scene, including victim.
- E.** Date and time of preparation.
- F.** Name of person preparing sketch.
- G.** Direction of north.
- H.** Location of items of physical evidence recovered.

- I. Officers are to be further guided in the preparation of crime scene sketches by Department adopted manuals listed in Section 3A-C of this Chapter.
- J. Disclaimer as to scale.

12. PHOTOGRAPHING/VIDEOING THE CRIME SCENE/EVIDENCE: [83.2.2]

Department personnel trained in the use of the equipment shall take digital photographs or videotape of the crime scene or evidence. All items of evidence to be collected shall, when practicable, be photographed or video taped before being moved. A Department Digital "Photographic/Video Log" (Form 83-1) shall be maintained and shall be complete as to:

- A. Date and Time
- B. Incident #, Type, Location
- C. Reporting Officer
- D. Photographing Officer
- E. Photo Descriptions
- F. Camera Use
- G. The Photo/Identification Detective shall maintain digital photographs and digital "negatives" of crime scenes and/or evidence. Photos should be downloaded into a photo file folder on the H drive.
- H. Officers taking crime scene photographs shall be further guided by Department adopted manuals listed in Section 3A-C of this Chapter

13. EVIDENCE/ PROPERTY RECORDS: [83.2.6]

A. EVIDENCE REPORT:

Officers recovering evidence shall complete a report. A copy shall be submitted with the evidence.

B. CRIME/ACCIDENT SCENE REPORT:

Officers who process a crime or accident scene shall submit a report that includes, but is not limited to, the following information:

- 1. Date and time of arrival

2. Location of crime
3. Name of victim, if known
4. Name of suspect, if known
5. Action taken at the scene, including number of photographs taken, measurements taken (yes or no), and a listing of physical evidence recovered, as well as any transfer of evidence in the field (**83.2.1**)
6. Incident number

C. PHOTOGRAPHIC/VIDEO LOG:

Whenever evidentiary photographs or videotapes are taken at a crime or accident scene, the Officer taking the photos shall complete a "Photographic/Video Log" (Form 83-1) in its entirety.

D. EVIDENCE CONTROL LOG:

The Property/Evidence Officer shall note all transfers of custody of physical evidence in the "Evidence Control Log." [**83.3.2d**]

14. MARKING AND/OR LABELING OF PHYSICAL EVIDENCE: [83.3.2b**]**

For physical evidence to be accepted by the court at the time of trial, it is essential that the chain of evidence be maintained. The initial step in this process is marking or labeling physical evidence at the time that it first comes into custody. Officers shall comply with the procedures in the Department adopted manuals listed in Section 3A-C of this Chapter as to how an item of evidence is to be marked or labeled.

15. RESULTS OF LABORATORY ANALYSIS:

The results of all laboratory analysis shall be in writing, signed by the analyst, and notarized when possible. [**83.3.2e**]

16. TRAINING:

A. RECRUIT TRAINING:

All officers shall receive training in crime scene search techniques and accident scene processing during their basic recruit academy training. The standards for training are established by the Massachusetts Criminal Justice Training Council.

B. SPECIALIZED TRAINING:

Shall be provided to develop expertise by certain members of the Department in the following areas:

1. Recovery of latent fingerprints and palm prints. [83.2.4a]
2. Recovery of foot, tool, and tire impressions.
3. Photographing crime and accident scenes. [83.2.4b]
4. Preparing crime scene sketches. [83.2.4c]
5. Preparing accident scene sketches. [83.2.4c]
6. Identifying, collecting, preserving, and transmitting physical evidence, including perishable and/or biological materials. [83.2.4d]

C. REFRESHER TRAINING/UPDATED TRAINING:

Because the state of the art in crime scene processing is constantly changing, officers involved in the process shall be provided with in-service training as needed to maintain their skills at the highest possible level. This training shall consist of "in-house training" and training provided by the Massachusetts Criminal Justice Training Council, or other appropriate agency.

17. COORDINATION WITH COURTS:

It will be the responsibility of the Police Prosecutor to ensure that the Judges of the Court are informed of the latest information concerning the abilities of the Department and crime laboratories to develop evidence for prosecution. It will be the responsibility of the Police Prosecutor to report to the Detective Division Commander or his designee all investigative and procedural concerns of the District Attorney's Office and the courts.

18. CUSTODY OF VIDEO TAPES FOR OPERATING UNDER INFLUENCE:

The department shall video the booking process of all operating under influence arrests.
DVD recording took effect in early 2009

- A. All Arrest will be recorded on a DVD. The booking officer will make a copy of the original DVD and will turn one into Planning & Research for proper logging and storage and one to the Prosecutor for defendants file.
- B. All DVD's shall be clearly labeled with the labels provided. These labels will contain the following information:
 1. Date of incident

2. Time of incident
 3. Booking Incident Number
 4. Defendant's Name
- C. The Police Prosecution Unit shall be responsible for obtaining the DVD for presentation in court on the trial date.
- D. **ONLY ONE OPERATING UNDER INFLUENCE CASE WILL BE RECORDED ON A DVD.**
- E. The Planning and Research Unit will maintain custody of the DVD's as evidence and, when approved by the prosecutors or the Assistant District Attorney, arrange for the viewing by defense attorneys, defendants, and other approved parties during normal business hours.
- G. **STORAGE AND ACQUISITION OF BLANK DVD's:**
1. Blank DVD's will be stored under the counter in the Prisoner Holding Facility.
 2. After completion of the video session, the labeled DVD will be submitted as mentioned in Chapter 83, Sec. 18.
 3. The Planning and Research Unit will replenish the supply of DVD's as needed and place in designated area.
- H. **DISPOSITION AND DESTRUCTION OF DVD:** No DVD will be erased or disposed of by the Evidence Officer until receipt of a case disposition notice has been received from the prosecutors. That DVD will be stored and erased sixty (60) days after the disposition date in order to maintain the video DVD during the period of appeal, which is 60 days from disposition of case.

Waltham Police Department

PROPERTY MANAGEMENT AND EVIDENCE CONTROL

CHAPTER 84

General Order Number: GO-01 2009

Effective Date: 01/09,5/12, 4/13; 12/2015; 5/1/17

Accred Standards #: 84.1.1,84.1.4,84.1.6

POLICY:

It is the policy of the Waltham Police Department to ensure that evidence and property in its custody can be properly secured, stored, readily retrieved, and that any changes in its custody have been properly and fully documented.

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

DEFINITIONS: For the purpose of this directive, the following definitions apply:

CHAIN OF CUSTODY: The continuity of possession of material and items collected as physical evidence. The connotation, under the law, is that the item or material introduced into evidence must be proven to be the same as that obtained initially and delivered to the laboratory for examination, or for presentation in court.

CONFISCATED PROPERTY: Any item of property seized in compliance with law by an officer that does not meet the criteria above for evidence or found property.

EVIDENCE LOCKER: Any secured designated repository used to temporarily store evidence, including a one-way drop box and a refrigerator, which is pad locked.

PROPERTY/EVIDENCE OFFICER: A Waltham Police Officer accountable for control and maintenance of all evidence/property accepted by or stored in the department's evidence room.

EVIDENCE ROOM: Secured facilities or storage containers utilized by the Waltham Police Department to store evidence or found property.

FOUND PROPERTY: Any lawful item of property, the control of which is taken into custody for safekeeping for the purpose of returning the property to its rightful owner.

IMPOUNDING OFFICER: Any law enforcement officer who initially receives the evidence/property and initiates the chain of custody.

PHYSICAL EVIDENCE: Any substance or material found or recovered in connection with a criminal investigation.

PROCEDURES:

1. **COMMAND:** The Chief of Police shall assign one or more officers as Property/Evidence Officers. These officers shall be assigned to and work under the direction of the Commanding Officer - Administration Division. Their duties and responsibilities are specified in the Waltham Police Department Regulations.

2. **SECURITY GENERAL:**

A. Only members of the Waltham Police Department authorized by the Chief of Police or his designee may enter the evidence room.

B. A log shall be kept by the evidence officer, which identifies each authorized member entering the evidence room. The log will indicate the date, name, time in, and time out.

C. No other person may enter or remain in the evidence room unless the evidence officer is present. The purpose of entering the evidence area shall be specifically related to the evidence function or building maintenance.

D. The evidence room shall be kept locked at all times during the absence of the evidence officer.

F. In case of emergency, the Deputy Chief or his designee will have a code to the lockbox which enable him access to the key to one of two locks on the Evidence Room door and the Property Room Supervisor or his designee will hold a key to the other lock on the Evidence Room door, however, they will not have the alarm code and the alarm will sound upon entry.

3. **PACKAGING/LABELING:** In cases where physical evidence is to be turned over to the property/evidence officer for processing and safekeeping, the following procedures will be followed: [84.1.1d]

A. **SUPERVISION:** The Commanding Officer-Platoon on Duty, the Operations Supervisor, or a detective of the rank of Sergeant or greater shall oversee that all procedures for packaging and labeling of all evidence/property have been adhered to.

Packaging bags, boxes, containers and labels are provided by the Evidence Officer and are located in the Guard Room with Massachusetts State Police Lab Packaging Guidelines posted on the wall.

B. CONTROLLED SUBSTANCES:

1. All controlled substances shall be placed in tamper-resistant bags of appropriate size. A supply of bags is kept in the guard room supply area and in the Investigations Division supply area. All controlled substances will be placed in the evidence lockers or turned over directly to the evidence officer.
2. Capsules, pills, marijuana joints, small packets, and all countable items shall be counted before being placed in the tamper-proof bags.
3. Paraphernalia related to the controlled substance seizure shall be placed in a different evidence bag than the drugs themselves unless the drugs are contained within or adhering to such paraphernalia. Hypodermic needles will be placed in needle tube containers and such containers shall be labeled.
4. Different substances shall be placed in separate bags.
5. Controlled substances seized from different people or from different locations shall be packaged separately.
6. All controlled substances and related evidence shall be tagged or labeled. The officer submitting drugs for lab analysis will complete the drug submission form.

C. FIREARMS: Firearms shall be labeled and placed in an evidence locker. All firearms shall be unloaded and cleared prior to being placed in a locker. If submitting officer is unfamiliar with the weapon, a firearms instructor shall clear the weapon. If, for evidentiary purposes or other reason, a firearm cannot be unloaded, a warning label shall be affixed to the outside of the locker and to the firearm. **[84.1.1e]**

D. BICYCLES: Bicycles being submitted as found property or evidence will be tagged. A copy of the incident report will be affixed to the bicycle, and the bicycle will be secured by means of a lock and chain in the rear garage. The officer will place an evidence tag on the bicycle when the bicycle is found property. **[84.1.1e]** A key to the bicycle chain lock will be kept with the Building and Maintenance Officer, in the booking drawer, and with the Evidence Officer.

4. SUBMISSION:

- A.** All property/evidence shall be submitted as soon as possible before the officer ends his tour of duty. **[84.1.1a]**
- B.** All evidence seized shall be submitted to the evidence officer in hand if he is available and shall be accompanied by a report. The report shall contain the circumstances by which the property came into the officer's possession and shall describe each item of property/evidence submitted. Also noted in the report will be the evidence locker number utilized, if applicable. If evidence cannot be secured or

placed in a secured location, due to size or other reasons, the evidence officer shall be called to secure the property. Exceptions to this would include bicycles, wheel chairs, or other large items which are to be tagged and stored in the Sally Port with a report submitted to evidence. [84.1.1e] All evidence will be submitted in accordance with Chap. 84 of the Waltham Police Department Manual. [84.1.1b,c]

- C. The department maintains evidence lockers in the basement outside the entrance to the evidence room. If the evidence officer is not available, officers shall place all evidence and the appropriate documentation in an open evidence locker. The officer shall then secure the locker by closing and making sure it is locked. In the area of the evidence room there is also a refrigerated evidence locker, provided for perishable items blood, other bodily fluid and sexual assault kits. The refrigerator is pad locked after placing an item in the refrigerator. If another item needs to be placed in the refrigerator, the Evidence Officer or his back up would be called in to move the perishable items from the refrigerator to the second refrigerator inside Evidence. [84.1.1e]
- D. Officers shall take reasonable precautions in the handling of physiological specimens, items contaminated with physiological fluids, chemicals, contaminants, and hazardous materials to avoid contaminating themselves or others with infectious or harmful agents. The use of protective gloves, laboratory coats or jumpsuits, filtering masks, and safety goggles should be used when appropriate. Hands should be washed frequently. Work surfaces shall be cleaned after each case. The provisions of Chapter 94, Infectious Diseases, should be observed.

5. **IMPOUNDING EVIDENCE:**

- A. The evidence officer shall be responsible for receiving, storing, maintaining, releasing, and accounting for all evidence in compliance with established departmental policy and all laws.
- B. All monies shall be counted by the impounding officer and verified by a second officer. Monies will then be placed in a tamper-resistant bag and placed in the evidence room or locker.
- C. The evidence officer shall remove all evidence from the evidence lockers at the beginning of his tour of duty. All items shall be inspected to ensure that the items are properly packaged and that no tampering has occurred. The accompanying documentation shall be examined to ensure accuracy, completeness, and the proper chain of custody.
- D. The Property Officer shall immediately report any indication of evidence tampering. He shall report any improper documentation or packaging to a supervisor. The Property Officer may also refuse any improperly packaged property and report it to a supervisor.

E. All evidence and property received by the evidence officer will be entered into the computerized evidence record system as soon as possible. These records will reflect the status of all property held. The status will be reflected as follows:

- 1. CASE STATUS:** This reflects the status of the entire case, regardless of the number of defendants and/or number of pieces of evidence or property:
 - a. Active:** All cases will be identified as **Active**, as long as **any** pieces of evidence or property related to the case are still physically being maintained in the custody of the Waltham Police Department Property/Evidence Room.
 - b. Inactive:** All cases will be classified as **Inactive**, as soon as all pieces of evidence or property related to the case are no longer being maintained in the custody of the Waltham Police Department Property/Evidence Room. When a case is termed Inactive, the individual item/piece disposition field will reflect the FINAL DISPOSITION of the item.
- 2. EVIDENCE/PROPERTY - INDIVIDUAL ITEM STATUS:** Each individual piece of evidence or property that is other than **Active** will be identified as one of the following status indicators:
 - a. Auction Website:-**PropertyRoom.com is used to sell items lawfully deemed available for auction.
 - b. Destroyed:** Items that have been destroyed by other agencies (i.e., State Police - Firearms, Knives, Ammunition, etc.; Food and Drug Administration - Drugs and Paraphernalia; State Fire Marshall - Fireworks and other Hazardous Material; and others). These items will be termed as **Destroyed**, and date and method of destruction indicated.
 - c. Disposed:** Items that have been disposed of, such as paper, books, clothes turned over to Social Service Agencies, items that are usable (tools) to the City. These items will be termed as **Disposed**, and date and method of disposition indicated.
 - d. Hold:** Items that are in custody and are being held for a designated length of time. These items will be identified as **Hold**, with the expiration date indicated. (Example: Driving under influence video, case is over, tape is held for sixty days for appeal.)
 - e. Pending:** Items that are still physically being held but are pending the next phase of their disposition (Drug Destruct, State Police Destruction, Auction, etc.). These items will be termed as **PendAuct, PendDest, PendState, PendOther**, and date of expected disposition indicated.

- Evidence will be photographed and returned to the owner whenever possible, with permission from Judge, A.D.A, Supervisor, or case Officer.

A. All in-custody property/evidence shall be stored in the evidence room. The Evidence Officer shall assign a storage location to each item of evidence and record this information on the evidence tag or label and the computerized evidence records system.

B. Evidence requiring added security, including money, precious metals, jewelry, gemstones, firearms, and controlled substances, shall be stored in separate secured areas/containers. These areas include but are not limited to: gun lockers, drug lockers, and money lockers, all of which are located within the evidence/property room with additional locking mechanisms. Controlled substances pending destruction will be secured in separate location from open case controlled substances. Hazardous material shall be stored in a locked container located in the main garage area of the department. **[84.1.1e], [84.1.4]**

- C. A Drug Kit containing narcotics is maintained by the Department (Evidence) for the purposes of presentations for school classes, citizen academies or groups, or any other demonstrations. This kit shall be kept in the same location as all other narcotic evidence, locked in the rolling drug file in the back room of the evidence room, and shall be signed out for in the same manner as any other evidence. An inventory of all items in the drug kit shall be logged into the notations box in the QED Evidence system. It shall also be printed out on the receipt form that the officer signs for. Upon return of the drug kit, the Evidence Officer shall ensure all items are accounted for before logging the kit back into evidence. **[84.1.4]**
- D. Perishable items shall be stored in a locking refrigerator, located in an area of the evidence room (blood, bodily fluid) **[84.1.1e]**
- E. Unopened containers of alcoholic beverage will not usually be analyzed for alcoholic content. The label will act as sufficient proof of contents. Opened containers of alcohol may be submitted for analysis when such analysis becomes necessary to the case. They should be packaged in such a manner as to prevent spillage and evaporation. Alcohol submitted for some minor offences, as approved by an Administration Division Supervisor, shall be photographed by the Evidence Officer who will attach the picture to the report. Alcohol shall then be disposed of..
- E. Under no circumstances will evidence be stored in personal lockers, desks, or other areas, unless such is designated as an evidence locker.
- F. Vehicles that are impounded are usually kept in the garage bays until processed or brought to the tow yard for safekeeping. They are not stored on Department property. **[84.1.1e]**

7. INSPECTION, INVENTORY, AND AUDIT OF THE EVIDENCE ROOM: **[84.1.6]**

- A. Whenever a new Evidence Officer is designated, an inventory and audit of evidence shall be conducted. The newly designated evidence officer and the outgoing Evidence Officer under the supervision of the Commanding Officer - Administration Division, shall conduct this inventory jointly. All records shall be reviewed relative to proper documentation and accountability. Any discrepancies shall be reduced to writing and submitted to the Chief of Police for review. An additional independent audit shall be done by an agency outside this department.
- B. The supervisor of Evidence shall inspect the evidence storage facilities at least quarterly to ensure adherence to appropriate policies and procedures. A full yearly inventory shall be conducted by property room personnel to account for all items.
- C. An annual audit and inventory of property held by the department shall be conducted by a superior officer not routinely or directly connected with the control of evidence. The Chief of Police shall select this officer.
- D. The Chief of Police shall assign a superior officer, not routinely or directly connected with the control of evidence, to conduct unannounced semi-annual staff

inspections of the evidence area. These inspections shall verify that property accountability and security procedures are being followed. This inspection shall consist primarily of random/spot checks matching evidence and records.

Inspection Form #84.1.6 will be used for all inspections and can be located in WPD Forms.

- E. Completed Inspection Forms are turned into and kept with the Accreditation Manager's records. A copy is kept with the Evidence Officer. [84.1.6]

8. TRANSFERS OF CUSTODY: [84.1.1 g]

- A. The Evidence Officer shall document all changes in custody of physical evidence. The documentation shall identify the individuals or organizations maintaining custody of all evidence transferred to them.
- B. A receipt shall be prepared for all transferred evidence.
- C. Officers are responsible for the security, storage, maintenance, and accessibility of evidence in their custody.
- D. Officers will obtain their evidence (evidentiary, seized, recovered, and impounded) on the day it is to be presented in court. Form 84-8, an "Evidence Status Form," will accompany the evidence. This form is to be utilized in cases where destruction or forfeiture of evidence is directed by the court. When applicable, it is to be signed by the judge and returned to the evidence officer by the custodial officer.[84.1.1g]
- E. Sealed bags of evidence are not to be opened unless ordered by the court. If a sealed evidence bag is opened, the custodial officer shall submit a report explaining the circumstances. Bags will be then be resealed by the custodial officer and initialed.
- F. Upon completion of the case, the officer will return the evidence and all pertinent forms to the evidence officer.
- G. All evidence is to be returned on the same day that it is picked up unless the court has assumed custody of it. The officer shall submit a report to the Evidence Officer indicating the status and location of evidence in court custody. A report shall accompany returned evidence advising the evidence officer of the disposition.\
- H. Found property, abandoned property, seized property, impounded property, or evidentiary property is all handled in the same manner. For example, found property returned to its owner or finder (according to Massachusetts Law guidelines) shall be documented in the computer system. [84.1.1g]

9. DISPOSAL OF EVIDENCE:

- A. Final disposition of found, recovered, and evidentiary property shall be accomplished within six months after legal requirements have been satisfied. When

no longer needed, evidence shall be returned to its lawful owner or disposed of according to law by the evidence officer. If property is returned to the owner, the evidence officer will obtain a property receipt. Anytime cash or other valuable property is returned, a second Waltham Police Department employee shall witness the transaction and sign the property receipt.

- B.** Authorizes the destruction of drugs with the Massachusetts State Police or the DEA.
- C.** Any destruction of controlled substances shall be in accordance with the applicable laws and the procedures of the State Laboratory Institute. Such destruction shall occur approximately every two years [84.1.1g]
- D.** All drug destruction will be witnessed by the Evidence Officer and one other officer.
- E.** After the completion of any destruction process, the evidence officer shall submit a report to the Commanding Officer - Administration Division. The report will include the date, time, and location of the destruction. It will also include an inventory of the items destroyed and a list of those present at the destruction.[84.1.1g]
- F.** Firearms and weapons that are to be destroyed shall be transported to the appropriate State Police facility for destruction.

10. FOUND PROPERTY: [84.1.1e,g]

Collection, packaging, preservation, and storage of found property will follow the same procedures as enumerated in the procedures for evidence, with the following exceptions:

- A. PRELIMINARY INVESTIGATIONS:** In incidents of found property, the reporting officer will make every attempt to identify the owner and return the property. If the property is returned, the officer shall obtain a receipt and submit a report regarding his actions. The receipt and a copy of the report shall be submitted to the evidence officer.
- B. FOLLOW-UP INVESTIGATIONS:** If the preliminary investigation fails to determine the owner, the Evidence Officer will conduct a follow-up investigation to ascertain the identity of the owner. If property is returned to the owner, the Evidence Officer will obtain a property receipt. Anytime cash or other valuable property is returned, a second Waltham Police Department employee shall witness the transaction and sign the property receipt.
- C. PACKAGING:** Found property shall be labeled but not be sealed.
- D. DISPOSAL:** If an item cannot be returned to the rightful owner, it will be disposed of in compliance with Mass. Gen. Law, Chap. 135, Sec. 8, 9, and 10 as follows:
 - 1.** Hold for one year with finder. With no owner or finder items may be disposed of after 30 days in accordance with MGLMGL Chapter 135.

2. Return to the finder after one year.
 3. If currency, deposit with the City Treasurer into an account set up for this purpose.
 4. Sell at auction.
- E. PROPERTY/BICYCLES:** Property, including bicycles, will be stored in accordance with Mass. Gen. Law, Chap. 134 and Chap. 135.
- F. PRISONER PROPERTY:** not accepted by the court system will be held in the secured locker in the booking area. The property will be held for 30 days, in accordance with MGL Chapter 135. After the 30 day holding period, the property will be disposed of as posted at the booking counter.

11. RETURN OF PROPERTY:

Property which is seized, taken for safe keeping, or found, shall be returned to the owner by appointment with the Property Room Officer only. Department personnel shall advise any individual making a request of this.