

City of Fayetteville Staff Review Form

2020-1047

Legistar File ID

12/15/2020

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Mike Reynolds, Chief of Police

11/24/2020

POLICE (200)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Council approves a resolution adopting Fayetteville Police Policies 44.1.1, Juvenile Operations and 84.1.1, Property Management: Acquired and In-Custody.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	NA	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF DECEMBER 15, 2020

TO: Mayor and City Council

A handwritten signature in blue ink that reads "Mike Reynolds".

FROM: Mike Reynolds, Chief of Police

DATE: November 24, 2020

SUBJECT: Police Department Policy

RECOMMENDATION:

Council approves a resolution adopting Fayetteville Police Policies 44.1.1., Juvenile Operations and 84.1.1; Property Management: Acquired and In-Custody.

BACKGROUND:

The Fayetteville Police Department is currently in the process of reviewing policies and updating as necessary to make changes as recommended to meet accreditation standards and address new Property and Evidence Division protocols.

DISCUSSION:

Fayetteville Police Policy 44.1.1., Juvenile Operations, is an existing policy that contains changes to meet new accreditation standards. Fayetteville Police Policy 84.1.1; Property Management: Acquired and In-Custody, is an existing policy that contains changes to reflect recommendations for new department protocols.

BUDGET/STAFF IMPACT:

These policies will not have any impact on budget or staff at this time.

Attachments:

Fayetteville Police Policy 44.1.1., Juvenile Operations
Fayetteville Police Policy 84.1.1; Property Management: Acquired and In-Custody

POLICIES, PROCEDURES, AND RULES

Subject: 44.1.1 Juvenile Operations	Effective Date:
Reference: 44.2.4	Version: 5
CALEA: 44.1.1, 44.2.2, 44.2.1, 1.2.5, 41.2.6, 44.2.3	No. Pages: 5

I. PURPOSE

The purpose of this directive is to establish policies concerning the department's juvenile programs and the processing of juvenile offenders and victims [CALEA 44.1.1].

II. DEFINITIONS

- A. Interrogation refers to express questioning, normally associated with detention, arrest and custody, that an officer should know are reasonably likely to elicit an incriminating response.
- B. Non-custodial interview is a voluntary encounter with an officer to obtain statements from complainants, witnesses, and suspects. For the purpose of this policy, a parent or guardian does not have to be present during a non-custodial interview of a juvenile.

III. POLICY

- A. ORGANIZATION AND ADMINISTRATION - The Fayetteville Police Department (FPD) is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency and victimization.
 - 1. The Fayetteville Police Department shall maintain an investigative division with specializations associated with juvenile matters, this division will fall under the command of the Criminal Investigation Division (CID).
 - 2. The responsibility of juvenile operations and delinquency prevention efforts is to be shared by all agency personnel and not just limited to the responsibility of CID. In particular, all patrol officers should familiarize themselves in proper handling of juvenile problems, both criminal and non-criminal.
 - 3. The Fayetteville Police Department will strive to maintain a working relationship with other elements of the juvenile justice system, namely the Washington County Juvenile Court and the Washington County Prosecutor's Office.
 - 4. An additional resources for regarding juvenile operations are the school resource officers in the Special Operations Division (reference can be made to FPD 44.2.4).

B. OPERATIONS

1. Encountering Abuse and Neglect:

- a. Any time an officer encounters a juvenile who has been exposed to neglect or abuse, the officer shall report the neglect and or abuse to the Arkansas State Police Hot Line. Contacting the local **Department of Human Services** (DHS) office or a local DHS employee does not fulfill the obligation of reporting to the hot line.

2. Taking Juvenile Into Custody - When encountering juveniles, personnel of the Fayetteville Police Department shall ensure the constitutional rights of juveniles are protected in all types of situations [CALEA 44.2.2 c.]. Personnel will follow the following procedures for taking a juvenile into custody. Protecting a juvenile in immediate danger is of the utmost importance. A juvenile may be taken into custody without a warrant for the following:

- a. Pursuant to an order of the court under Arkansas Code § 9-27-301 (Act 273 of 1989); or
- b. By a law enforcement officer without a warrant under circumstances as set forth in Arkansas Rules of Criminal Procedure 4.1 (also see Policy 1.2.1); or
- c. By a law enforcement officer or by a duly authorized representative of the **Department of Human Services** DHS if there are clear, reasonable grounds to conclude that the juvenile is in immediate danger and that removal is necessary to prevent serious harm from **his/her** surroundings or from illness or injury and if parents, guardians, or others with authority to act are unavailable or have not taken action necessary to protect the juvenile from the danger and there is not time to petition for and obtain an order of the court prior to taking the juvenile into custody. Evidence that the juvenile has already been harmed should be another factor in determining custody [CALEA 44.2.2 b.].
- d. When determining to take a child into protective custody, officers will follow the legal guidelines of Arkansas law. When necessary, officers may seek guidance from a supervisor [CALEA 44.2.2 b.].
- e. When taking a juvenile into custody for protection, the officer is required to report the protective custody situation to the Arkansas State Police Hotline. The officer must arrange for the transfer of custody to the **Department of Human Services** during the hotline call and may also need to coordinate with additional correspondence with the **Department of Human Services** **DHS** [CALEA 44.2.2 b., d.].
- f. When a juvenile is taken into custody, the officer should always attempt to make contact with the parent(s) or legal guardian and advise them of the situation [CALEA 44.2.2 e.].

3. Alternatives to Arrests of Juveniles for Delinquent Acts – When encountering juvenile offenders, officers shall use the least coercive among reasonable alternatives. Officers making contact with a juvenile who has committed a delinquent act which does not involve a victim, (such as loitering, etc.) or an act whose victim does not wish to press charges may use alternatives to arrest [CALEA 44.2.1 a.].

- a. For minor violations that do not include a victim, officers have the discretion to make an outright release with no further enforcement action [CALEA 44.2.1 a.].
 - b. Alternatives to arrest include: verbal warning, referral to a school resource officer or other juvenile services options office, conference with the juvenile's parent(s) or guardian, report and referral to Washington County Prosecutor's Office Juvenile Division, or report and referral to Washington County Juvenile Court [CALEA 44.2.1 e d.].
 - c. If alternatives to arrest are employed or referral to another agency for service or diversion is made, it is not necessary to contact any officials with the juvenile court system [CALEA 44.2.1 c.].
4. When encountering juveniles, officers shall determine if a juvenile has engaged in a non-criminal misbehavior status offense. If the offense is non-criminal, officers should employ one of the following non-arrest options [CALEA 44.2.2 a.]:
- a. Advice to the juvenile on the situation;
 - b. Verbal warning;
 - c. Determination to make a later referral to a school resource officer or juvenile court; or
 - d. ~~Or~~ A conference with the juvenile's parent or guardian.

5. Investigation of Juvenile Offender- Non-Custodial Interview [CALEA 44.2.3]

- a. An officer can conduct a non-custodial interview with a juvenile without a parent or guardian present and without giving Miranda warnings if the officer does not have probable cause to believe the juvenile committed the criminal offense, he/she is being questioned about and the juvenile is not being detained.
- b. Non-custodial interviews may include, but are not limited to:
 - 1) victim interviews,
 - 2) witness interviews, and
 - 3) field interviews.
- c. If the officer develops probable cause to believe the juvenile committed the offense in question or the officer detains the juvenile, the officer shall immediately follow the protocols outlined in this policy on the detention or interrogation of a juvenile.
- d. Officers shall consider the juvenile's age, mental state, or other factors or influences experienced by the juvenile in all non-custodial interviews.

Detention of a Juvenile

- a. Officers do not need to notify the parent or guardian of a juvenile if he/she is being detained and being warned or ticketed at the scene of a traffic collision or a traffic stop. If the juvenile is arrested, officers shall follow the protocol for taking a juvenile into custody.
- b. Whenever a law enforcement officer has reasonable cause to believe that any juvenile found at or near the scene of a felony is a potential witness to a

criminal offense, he/she may stop that juvenile. The detention shall in all cases be reasonable and shall not exceed fifteen minutes. In these instances, the officer shall do the following:

- 1) Identify yourself as an officer;
 - 2) Explain the reason for the stop;
 - 3) Request the juvenile's name and address; and
 - 4) Request information regarding the offense;
- c. An officer may temporarily detain a juvenile during an investigative stop if the officer has reasonable suspicion that criminal activity has occurred, is occurring or is about to occur, and the person stopped is involved or is a witness. Officers can question juveniles without a parent or guardian present during an investigative stop to determine if a crime has been committed (See FPD 1.2.2 Warrantless Detention, Search and Seizure).

6. Taking a Juvenile into Custody - With or Without a Warrant

- a. No juvenile shall be incarcerated in the Washington County Jail. An exception to this is afforded to prosecutors under state law, when charging juveniles as adults [CALEA 44.2.2 c.].
- b. The officer should always attempt to make contact with the parent(s) or legal guardian of any juvenile taken into custody and advise them of the situation [CALEA 44.2.2 e.].
- c. When a juvenile is arrested and taken into custody the officer should contact the juvenile intake officer of the Washington County Juvenile Court to discuss terms and conditions of release or detention. Officers will follow the direction of the juvenile intake officer of the Washington County Juvenile Court who will decide if the juvenile is to be released to a parent/guardian or is to be taken to the Washington County Juvenile Detention Center. If the intake officer directs the juvenile to the detention center, the officer will take the juvenile to the detention center without delay, unless the juvenile is in need of emergency medical treatment. If the juvenile is in need of emergency medical treatment, officers will follow FPD 71.1.1. At that point, the juvenile's medical care will receive priority. The intake officer of Washington County Juvenile Court should be notified of the juvenile's condition and assist in determining how the juvenile is to remain in custody during medical treatment or make additional release determinations [CALEA 44.2.2 d.].
- d. Juvenile requirements are set forth in Arkansas 9-27-320, and requires when a juvenile is arrested for any offense that if committed by an adult would constitute a Class Y, Class A or Class B felony, the juvenile shall be photographed and fingerprinted by the law enforcement agency. These processes will commonly be completed during booking at the Washington County Detention Center [CALEA 1.2.5 b., e.].
- e. An alternative to taking a juvenile into custody is release of the juvenile through the use of a uniform traffic ticket/citation or an Arkansas Criminal Citation [CALEA 44.2.1 b.]. If the juvenile is to be released on a traffic violation that would go through Fayetteville District Court, it is not necessary to obtain the authorization of the Washington County Juvenile Court Intake Officer. However, if the juvenile is to be released on a criminal violation that

would go through Washington County Juvenile Court, the intake officer should be contacted.

- f. Traffic Offenses - If a juvenile is taken into custody for a warrant on a traffic offense from another jurisdiction, the jurisdiction which issued the warrant should immediately be contacted to determine conditions for release. If the juvenile cannot be immediately released, the juvenile detention center should be contacted [CALEA 44.2.2 d.].

7. Taking a Juvenile into Custody - Protective Reasons

- a. An officer may take into custody any "Dependent-neglected juvenile". "Dependent-neglected juvenile" means any juvenile who as a result of abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness is at substantial risk of serious harm. When determining to take a child into protective custody, officers will follow the legal guidelines of Arkansas law under Title 12-12-516. When necessary, officers may seek guidance from a supervisor [CALEA 44.2.2 b., 41.2.6].
- b. Any officer taking a juvenile into custody as a "Dependent-neglected juvenile" should immediately contact the Washington County Department of Human Services. Custody of the juvenile will then be transferred to the Washington County Department of Human Services.
- c. Any officer shall take possession of a child who is thirty days old or younger if the child is left with or voluntarily delivered to the Fayetteville Police Department by the child's parent(s) who does not express an intent to return for the child. The law enforcement officer shall take the child into protective custody for seventy-two hours under the Arkansas Child Maltreatment Act. The law enforcement officer shall immediately notify the Division of Children and Family Services of the Department of Human Services.

8. Investigation of Juvenile Offender- Interrogation [CALEA 44.2.3]

- a. Officers of the Fayetteville Police Department must understand that just like adults, juveniles must be afforded certain constitutional rights in respect to Miranda rights. When a juvenile is taken into custody for a delinquent act or criminal offense, a juvenile may invoke his or her right to speak to a parent or guardian in addition to standard Miranda. An officer shall not question a juvenile who has been taken into custody for a delinquent act or criminal offense if the juvenile indicates in any manner that he or she does not wish to be questioned [CALEA 44.2.3 a.].
- b. During an interrogation, the juvenile's parent or guardian must be present in the building; the parent or guardian must be aware the juvenile waived his/her rights; the parent or guardian must have had the chance to speak with the juvenile about the waiver and the parent or guardian should sign the waiver before an investigator questions a juvenile in custody. Officers should ensure that both the juvenile and the parent or guardian understand the consequences of the waiver or right to counsel. The juvenile and the parent or guardian must be informed of the alleged delinquent act [CALEA 44.2.3 b.].
- c. When questioning a juvenile in custody for a delinquent act or criminal offense, officers shall provide the juvenile his/her rights using the Juvenile

Waiver of Right to Counsel form and answer any questions that may ensure the juvenile understands his/her rights. Officers should refer to Arkansas Statute 9-27-317 that governs Questioning of a Juvenile. If the juvenile wishes to consult counsel before submitting to any questioning, an officer shall not question a juvenile unless counsel is provided and present [CALEA 44.2.3 a].

- d. No waiver of the right to counsel shall be accepted in any case in which the parent, guardian, or custodian has filed a petition against the juvenile, initiated the filing of a petition against the juvenile, or requested the removal of the juvenile from the home.
- e. The duration of interrogation officers or detectives conduct will be reasonable in length. Officers and detectives must understand that the voluntariness of the juvenile's statement will be judged by the totality of the circumstances which may involve a review of several factors: Officers should take into consideration the age, intelligence, educational background, psychological state of the juvenile, mental capacity, including whether the defendant is nervous, physical condition and if an officer with training in youth matters is available or present. Officers should consider the juvenile's prior experience in the criminal system, whether the juvenile is suffering from any injury or pain at the time the statement is given, the time of day, any length of confinement, and whether the juvenile is tired and is desirous of sleep.
- f. During the interrogation, the juvenile should not normally be handcuffed unless they are a danger to themselves or others. Juveniles should not be threatened with bodily harm or made promises of leniency for cooperation.
- g. During interrogation of the juvenile at the Fayetteville Police Department, officers shall not enter the interview room with their firearms but may retain possession of other less-lethal weapons. Firearms shall be locked in departmental provided lock boxes. During the interrogation, there shall be no more than one suspect and two investigators in the interview room. An exception to this rule is that suspects are afforded legal representation, or accompanied by a parent, guardian, or other representative.
- h. Officers/detectives conducting interrogations should ensure that the juvenile is afforded adequate access to restrooms, water, and breaks.
- i. Officers/detectives should ensure the juvenile is familiar with English prior to conducting the interrogation. If the juvenile is not familiar with English and speaks another language, officers/detectives should make arrangements for an interpreter or arrange for an officer to conduct the interrogation in the juvenile's language.
- j. Juveniles who are in the custody of the Department of Human Services, including the Division of Youth Services of the ~~Department of Human Services~~ DHS, must be represented by their attorney ad litem before they can be questioned by police.

POLICIES, PROCEDURES, AND RULES

Subject: 84.1.1 Property Management; Acquired & In-Custody	Effective Date:
Reference: FPD 83.1	Version: 5
CALEA: 84.1.1, 84.1.2, 84.1.3, 84.1.5, 84.1.6, 84.1.7 (NT), 84.1.8 (NT)	No. Pages: 11

I. PURPOSE

The purpose of this directive is to establish a property management system for property acquired by and in the custody of the Fayetteville Police Department (FPD).

II. DEFINITIONS

- A. Found Property is defined as all recovered items without a known owner, or recovered property where an owner has been identified, but has not been contacted. If found property is not claimed within a period of six months, it will be disposed of through a court order. [CALEA 84.1.7 NT]
- B. Safekeeping is defined as all recovered property with a known owner, and the owner is aware the property is located at the Fayetteville Police Department. If safekeeping property is not claimed within a period of six months, it will be disposed of through a court order.
- C. Evidentiary Property is defined as all property seized in connection or related to a crime or investigation.

III. POLICY

The Fayetteville Police Department FPD will establish and maintain a property management system that will ensure continuity and consistency in the control and accountability of all evidence, lost and found property, and seized property, as well as all items retained for safekeeping or investigations in its custody.

This policy sets forth strict measures for the handling, security, and disposition of all such property in department custody.

A. Accessibility to Secured Evidence Storage Facilities [CALEA 84.1.1. h.]

- 1. Access to secured evidence storage facilities shall be limited to Property and Evidence Division personnel.

- a. The Chief of Police and Deputy Chief of Police have joint access to the secured evidence storage facilities. ~~The Chief of Police~~ **One** shall have possession of the alarm code, and the ~~Deputy Chief of Police~~ **other** shall have possession of the key/fob. Both the Chief of Police and the Deputy Chief of Police must be present to gain access to the secured facilities.
 - b. Employees can gain access to the secured evidence storage facilities when accompanied by Property and Evidence Division personnel, and the employee must sign the Property Room Access Log.
2. When accessing any off-site storage facilities, authorized personnel shall be accompanied by at least one (1) additional FPD employee, and all persons entering the off-site storage facility shall sign the facility access log.
 3. The destruction item storage area shall be secured by a dual locking system and will only be accessed when two (2) authorized personnel are present and in possession of their issued key.

B. Control of Property

1. Control: The **department** Property and Evidence Division shall maintain exclusive control and accountability of all found, recovered, and seized property, items kept for safekeeping, and evidentiary property.
 - a. In no event will employees store found, safekeeping or evidentiary property in their personal lockers or desks.
 - b. All employees coming in possession of found, recovered, and or seized property, items for safekeeping, or evidentiary property shall record such property by completing a Property and Evidence Submission Form or receipt form before going off duty [CALEA 84.1.1 a., c.]. In addition, if the property is not returned to the owner, all employees shall deliver the property to Property and Evidence Division personnel as defined within this policy before going off duty [CALEA 84.1.1 b.]. When taking property other than contraband from a person, employees must complete a receipt. When collecting evidentiary property, employees are required to complete an incident report in all cases.
 - (1) An exception to this policy is when evidence is being processed prior to submission to the evidence room. The evidence shall be documented by a Property and Evidence Submission Form and routed to the Property and Evidence Division. With supervisor approval, evidence can be processed for investigative purposes in the secured lab in the Criminal Investigation Division (**CID**).
 - c. The department recognizes exceptional circumstances may be present during which property might not be submitted to the Property and Evidence Division **personnel** before an employee goes off duty. In such circumstances, in order to preserve the proper chain of custody, the employee shall notify their supervisor, who will ensure another employee maintains the property in question until such time it can be presented to Property and Evidence **Division personnel** [CALEA 84.1.1 b.].
 - d. Mailing evidence: On rare occasions, it becomes necessary for an employee to mail property and/or evidence directly to a forensic laboratory and/or to

another source. When that occurs, the employee shall adhere to the following procedure:

- (1) A supervisor must authorize the direct mailing of property/evidence.
- (2) The employee shall complete a Property and Evidence Submission Form and submit it to Property and Evidence **Division** personnel.
- (3) The employee shall properly package and seal the property/evidence before taking the property/evidence to a postal facility.
- (4) The employee shall mail the property/evidence by certified mail, with a return receipt requested. The employee shall complete a US Postal Service PS Form 3811 (green Domestic Return Receipt card) and ensure the Article Number from the associated PS Form 3800 (white and green Certified Mail Receipt) is recorded on the card. The employee shall write his/her name and badge/employee number, as well as the corresponding case number, on the card.
- (5) The employee shall complete the Certified Mail Receipt and ensure the postal employee date stamps the receipt for the associated case file.
- (6) When the signed Domestic Return Receipt card is returned to the police department, the employee shall secure the card with the associated case file or evidence submission sheet. [CALEA 83.3.2]

2. Submission of Evidence: **Fayetteville Police Department FPD** personnel, with regard to all evidence, lost and found property, seized property, and items retained for safekeeping or investigations will follow these guidelines [CALEA 84.1.1 d.]:
 - a. Properly package each item;
 - b. **Each item of evidence should be placed in its own appropriate container;**
 - (1) **When it becomes necessary for Property and Evidence Division personnel to repackage, or consolidate multiple items of evidence into one package, a new seal shall be applied and initialed.**
 - c. Items with blood and/or other bodily fluids shall be air dried to prevent cross contamination before being properly packaged;
 - d. **Similar items may be packaged together;**
 - e. Certain types of items require additional security measures while stored in evidence. For that reason, the following items shall be packaged separately [CALEA 84.1.1 e.]:
 - (1) Narcotics/drugs;
 - (2) Firearms;
 - (3) Money; and
 - (4) Jewelry.
 - f. Narcotic and dangerous drug evidence (capsules, pills, etc.) shall be counted **and or** weighed by the submitting employee. The substance will then be sealed in a tamper-proof protective packaging and initialed by the employee on the seal. All drug evidence handled by the Fourth Judicial District Drug Task Force **and FPD employees that needs a drug analysis** shall have a Property and Evidence Submission Form completed prior to submission to the forensics laboratory. This form must be submitted to Property and Evidence Division personnel for entry into the record management system.
 - g. Money: Any time money is inventoried or seized, it should be counted in front of the person(s) from whom it is being taken, and the “two **manperson**” rule shall apply. In other words, a minimum of two employees will count the

money and sign both the receipt and the tally sheet. The money shall be packaged separately from other evidence items. The amount and denomination of the currency shall be recorded on a tally sheet. The tally sheet shall be completed prior to removing it from the point of seizure unless there are articulable circumstances which make it practical to complete the tally sheet at another location. The tally sheet shall then be attached to a Property/Evidence Submission Form.

- h. Non-evidentiary perishable items, such as dairy products, fresh produce, meat, etc. shall not be submitted to the Property and Evidence Division. Officers shall consult with the property owner for alternative arrangements for the property, but if that is not possible, officers shall photograph and dispose of the property. Officers shall document any disposed of non-evidentiary perishable items in a police report.
 - i. Properly label/identify each item on a Fayetteville Police Department Property and Evidence Submission Form;
 - j. If submission occurs at a time when Property and Evidence Division personnel are not present, employees will secure the evidence in an evidence locker [CALEA 84.1.3]:
 - (1) Over-sized property shall be secured in the department's large property/evidence lockers.
 - (2) If submission of biological and deoxyribonucleic acid (DNA) related evidence requires refrigeration, employees will secure the evidence in the refrigerated evidence locker [CALEA 84.1.3].
 - k. In the event that Property and Evidence Division personnel are not present, and all of the above listed secure areas are in use, or items are too large for the secure areas, personnel are required to contact the on-call Property and Evidence Division employee. Personnel must wait for authorized Property and Evidence Division personnel to respond and secure the property. An exception to this is in arranging for another employee to take chain of custody by notification of a supervisor as previously stated in this policy.
3. Accountability: The utilization of property logs, property and evidence submission forms, inventories and other documents, shall ensure all records provide an up-to-date and correct accountability of found, recovered, items held for investigation, safekeeping and evidentiary property. The following information shall be either placed on a Fayetteville Police Department Property and Evidence Submission Form or recorded in the system by way of a receipt form or incident report for each item of evidence [CALEA 84.1.5]:
- a. Location of property within the department;
 - b. Date and time property was received and subsequently released;
 - c. Description, type and amount of property on hand;
 - d. Chain of custody from the time property was received until final disposition shall be maintained by a Property and Evidence Submission Form, receipt form or incident report. There may be circumstances in which an item of property is not turned over to Property and Evidence Division personnel. These circumstances shall be documented in the incident report and the proper receipt form, for example:
 - (1) Items returned immediately at the scene of collection;

- (2) Items sent to the forensics laboratory before it was entered as evidence (Property and Evidence Submission Form required); and
- (3) Items going to the Criminal Investigation Division and returned to owner.
- e. The date and results of all inspections, inventories, and audits of record.
- f. **On certain occasions, it may be necessary for someone other than Property and Evidence Division personnel to transport items back from the Arkansas State Crime Lab. On these occasions, the following protocols shall be followed:**

- (1) **The items along with the Arkansas State Crime Lab Evidence Return Transaction Receipt, should be delivered to Property and Evidence Division personnel.**
- (2) **Property and Evidence Division personnel will verify all items are present and will update the records management system.**
- (3) **In the event it is not possible to deliver those items directly to Property and Evidence Division personnel (items going directly to court etc.), the person transporting shall:**
 - a. **Make the Property and Evidence Division personnel aware of the items being picked up, and their current location; and**
 - b. **Provide Property and Evidence Division personnel with a copy of the Arkansas State Crime Lab Evidence Return Transaction Receipt; and**
 - c. **Provide Property and Evidence Division personnel with receipt or documentation for any items not returned.**
- (4) **Property and Evidence Division personnel will update the chain of custody and storage location information in the records management system.**

4. Property and Evidence **Division** Manager for Found, Recovered and Evidentiary Property: The Property and Evidence **Division** manager shall be designated as **the** property custodian, and **he / she shall be** held accountable for all property accepted by and stored in the department's property storage areas.
5. Receipt of Package Deliveries: Property and Evidence Division personnel are responsible for receiving all deliveries from forensic laboratories. An entry shall be made in the evidence tracking system indicating the receipt of the number of received packages.
6. **Inspection and** Right of Refusal: Property and Evidence Division personnel will **inspect submissions to ensure items are properly packaged and submitted, and** have the right to refuse acceptance of any item submitted improperly. Property and Evidence Division personnel will notify the appropriate supervisor and make arrangements for the submitting officer to make **the** necessary corrections.

C. Appointment of New **Property and Evidence Division Manager** - In the event a new Property and Evidence **Division** manager is appointed, a joint inventory with the new manager, a designee of the Chief of Police and the outgoing property manager, when possible and appropriate, shall be held to ensure proper documentation and accountability [CALEA 84.1.6 b.].

1. The purpose of such an inventory shall be to guarantee the continuity of custody and ensure the system's integrity and property accountability.
2. The incoming Property and Evidence **Division** manager shall ensure all records are up-to-date and properly annotated.
3. All discrepancies shall be documented prior to the transfer of property accountability to the incoming Property and Evidence **Division** manager.

D. Inspection and Inventory –

1. The Chief of Police shall require the Property and Evidence **Division** manager to conduct a semi-annual inspection of recovered and evidentiary property to ensure adherence to procedure [CALEA 84.1.6 a.]. This inspection shall verify the following:
 - a. Department orders and directives concerning property management are being followed;
 - b. Property is stored in such a manner as to protect it from damage and deterioration;
 - c. Proper accountability procedures are being maintained; and
 - d. Property having no further evidentiary value is being disposed of promptly.
2. The Chief of Police shall require an annual inventory of **all** property and evidence held by the police department. This inventory will be conducted by the Chief of Police or a designee not routinely or directly connected with control of the Property and Evidence Division [CALEA 84.1.6 c.]. This inventory may be conducted with the assistance of **the** Property and Evidence Division personnel.
3. **The Criminal Investigation Division Captain shall complete a monthly review of access to the off-site evidence storage facility by comparing the alarm system activity log to the facility access logbook.**
4. Unannounced inspections of the property storage areas are conducted when the Chief of Police so directs, at least once a year [CALEA 84.1.6 d.]:
 - a. The Chief of Police shall appoint an individual and a time period to conduct spot inspections.
 - b. Property accountability and security procedures shall receive primary attention during spot inspections.
 - c. The majority of the spot inspection shall consist of a random comparison of records with actual property items, **and shall include at least one item from the following categories:**
 - 1) **Items considered “high risk” (firearms, jewelry, cash, and narcotics);**
 - 2) **Items stored in off-site locations;**
 - 3) **Items destroyed or marked for destruction;**
 - 4) **Documentation of items currently located at the Arkansas State Crime Lab;**
 - 5) **Documentation of items sold at public auction; and,**
 - 6) **Documentation of items released to owner.**

5. The Property and Evidence **Division** manager shall conduct an inventory whenever a change in Property and Evidence Division personnel occurs.
6. All personnel assigned to the Property and Evidence Division will be subject to quarterly random drug screening, as well as voice stress testing, polygraph testing, and/or drug screening for cause.

E. Disposition of Found, Recovered, Seized, Safekeeping and Evidentiary Property [CALEA 84.1.1 g.]

1. Employees should attempt to identify the owners of found property and attempts shall be made to return found and recovered stolen property to its rightful owner(s) [CALEA 84.1.1 f.]. Attempts to contact the owners of found and safekeeping property prior to destruction will be documented by Property and Evidence Division personnel.
2. Evidentiary property may be returned to the owner prior to the court case with written permission from the prosecutor, lead investigator, or judge.
3. Recovered or evidentiary property returned should be photographed when possible. This photograph should include the person receiving the item, or the item with a valid driver's license or government issued identification of the person receiving the item.
4. If the property in question cannot be returned to the owner, the Property and Evidence **Division** manager will obtain a court order to have property converted to departmental use, sold at auction or destroyed. [CALEA 84.1.7 NT]
5. The disposition of all property acquired through civil action or asset forfeiture shall be managed pursuant to legal authority [CALEA 84.1.8 NT].
6. Evidentiary property may be checked out to employees for court purposes. A record of chain of custody will be maintained by the Property and Evidence **Division** manager. Employees are required to maintain the proper chain of custody with the evidence, return it to the Property and Evidence Division after court, and provide the Property and Evidence **Division** manager with written correspondence to account for any items taken by the court as exhibits [CALEA 84.1.1 g.].
7. Evidentiary property may be checked out to employees for purposes of examination. A record of chain of custody will be maintained by the Property and Evidence **Division** manager. Employees are required to maintain the proper chain of custody with the evidence and return it to the Property and Evidence Division after examination. Employees may temporarily lock property in approved lockers/cabinets within the secured lab in the Criminal Investigation Division but must maintain sole control of the respective key [CALEA 84.1.1 g.].

F. Property / Evidence Disposition Forms

1. Employees will receive an **Evidence Review Notification email** ~~Property / Evidence Disposition Form~~ on items seized for evidentiary purposes and for found and safekeeping property.
2. Employees are required to research and **update the disposition of the property and evidence** ~~complete Property / Evidence Disposition Form(s)~~. ~~The document(s) should be returned to Property / Evidence personnel~~ within twenty-one (21) days.
3. Employees will utilize the Washington County Circuit Clerk and Probate Court's website to check the disposition of the case if the item is seized in connection with a case assigned to the Washington County Circuit Courts.
4. Employees will utilize Virtual Justice software to gain access to the Fayetteville District Court's computer system to check the disposition of the case if the item is seized in connection with a case assigned to the Fayetteville District Court.

G. Incineration Disposal Procedures

1. Items scheduled for final disposal by incineration will be stored in the destruction items storage area.
2. The Property and Evidence Division Manager will obtain a court order for disposal of those items.
3. Items will remain active in the records management system until final disposal scan.
4. Upon final disposal scan, the items for incineration will be consolidated into large containers, sealed, and initialed.
5. If the sealed and initialed containers cannot be immediately transported to the incineration facility, the Property and Evidence Division Manager shall secure the containers inside of the destruction items storage area until transportation to the incineration facility.
6. Final disposition scan shall be conducted no more than one (1) day prior to transport.
7. Items for incineration shall be transported by at least two (2) FPD employees authorized by the Chief of Police or his/her designee.

H. Evidence Not to Be Destroyed:

1. Felony evidence listed below shall not be disposed of:
 - a. Homicide (solved or unsolved), unless there is an order from the court that is signed by the judge authorizing the disposal of evidence;
 - b. When a suspect is incarcerated, and an appeal is possible;
 - c. When there is no suspect, and the statute of limitations has not yet run;
 - d. When the evidence is part of a suspected serial crime; or
 - e. When directed to retain the evidence by a department supervisor, prosecutor, or court order.
2. Misdemeanor evidence listed below shall not be disposed of:

- a. Property that has not yet been held past the 30-day appeal period after the final disposition has been entered; or
- b. The statute of limitations has not yet run.

I. Training Aids [CALEA 84.1.4] - Narcotic detection training for police canines is vital to ensure the success of the canine program. The following procedures will be adhered to in order to ensure strict and correct accountability of narcotic training aids.

1. Each canine handler or trainer will check out narcotic training aids from the Property and Evidence Division as needed. The Property and Evidence **Division** manager will maintain records of these transactions as detailed below:
2. Training aids shall be packaged and prepared by Property and Evidence **Division** personnel in the following manner:
 - a. The substance will be weighed and contained in a double heat-sealed plastic package;
 - b. The package will contain a clearly visible label identifying the substance, its weight, the date and time of packaging and the signature of the Property and Evidence manager and witness; and
 - c. The label will have a specific training aid number unique to each training aid package.
3. Property and Evidence **Division** personnel will issue narcotics for use as canine training aids.
 - a. Property and Evidence **Division** personnel will use seized narcotics that have been adjudicated by the court and will obtain a court order for the conversion of the seized narcotics for the department use as a canine training aid; or
 - b. The narcotics will be obtained through the Drug Enforcement Administration.
4. The narcotic training aids should be removed from use in training and replaced as needed.
5. A logbook will be created by the Property and Evidence **Division** manager and will be utilized to maintain a record of the training aid packages:
 - a. It shall be the canine handler or trainer's responsibility to provide narcotics training aids for inspection to Property and Evidence **Division** personnel at least once every 30 days. Each package will be detailed in the logbook indicating the substance, training aid number and handler to whom the item is checked out.
 - b. Each package logged out to the canine handler or trainer will be checked against the logbook entry and for any apparent tampering or damage.
 - c. Property and Evidence **Division** personnel will sign and note the date and time of the inspection for each entry in the logbook.
 - d. Property and Evidence **Division** personnel will fully inspect the training aid packages to ensure their integrity. If any questions arise in reference to this inspection, the training aids will be logged into evidence and the canine supervisor will be notified.
 - e. If Property and Evidence **Division** personnel suspect the training aids to have been tampered with or if they are missing, the patrol captain will be notified

immediately and will cause a complaint to be filed with the Office of Professional Standards.

- f. If the packaging appears to have minor damage but the integrity is intact, Property and Evidence **Division** personnel will repackage the training aid and notify the patrol captain.

J. Issuance of Controlled Substances for Investigative Purposes [CALEA 84.1.4] –

There exists occasions where the Fayetteville Police Department Property and Evidence Division is called upon to issue controlled substances to officers for investigative purposes. The following procedures will be adhered to in order to ensure strict and correct accountability.

1. Prior to the request of issuance of controlled substances, the requesting parties are to have reviewed and processed adjudicated cases in order to locate suitable controlled substances:
 - a. A court order shall be obtained authorizing the conversion for investigative purposes.
 - b. The court order must be presented to **Property and Evidence Division** personnel.
2. **Property and Evidence Division** personnel will abide by the following upon issuance of controlled substances:
 - a. **Property and Evidence Division** personnel must review and accept the governing court order.
 - b. **Property and Evidence Division** personnel will release controlled substances to requesting officers by way of a receipt and must detail types of substances, number of packages, and their weights and/or quantity and specific pill count.
 - c. **Property and Evidence Division** personnel will oversee and govern any required repackaging of the original evidence.
 - d. **Property and Evidence Division** personnel must complete a chain of possession in the department's computer operating system under the original entry and make notation in documents detailing the information on the receipt.
 - e. **Property and Evidence Division** personnel will place a copy of the respective court order and receipt with the original submission form.
3. **Property and Evidence Division** personnel will abide by the following upon return of controlled substances when investigative purposes are completed:
 - a. **Property and Evidence Division** personnel will inspect the returned controlled substances by sight, weight, and count and conduct a comparison to issuance records.
 - b. **Property and Evidence Division** personnel will report any discrepancies involving issuance and returned items to their supervising captain.
 - c. **Property and Evidence Division** personnel will make notation of returned items under the original entry documenting case information.
 - d. **Property and Evidence Division** personnel will enter controlled substances into corresponding new case numbers created by the investigations for future tracking purposes.

K. Storage of Property, Found, Recovered, Seized, Safekeeping, Investigations and Evidentiary Property [CALEA 84.1.1 e.]

1. Storage: All property stored by the department shall be held in designated secure areas [CALEA 84.1.2]. Items of in-custody property that, by their very nature, require extra security shall be stored in separate and locked locations within the evidence room, i.e. narcotic and dangerous drugs, firearms, money and distinguishably expensive jewelry [CALEA 84.1.1 e.].
2. Currency for Deposit: The Property and Evidence **Division** manager or **his/her** designee has the authority to deposit currency. The original package of currency must be opened and the amount verified with a tally sheet initialed by two members of Property and Evidence. A member of **the** Property and Evidence **Division** shall take the tally sheet and currency to the City of Fayetteville Business Office for deposit and receipt. The receipt and ledger must be maintained by Property and Evidence **Division** personnel [CALEA 84.1.1 e.].
3. Access: Access to all recovered and evidentiary property storage areas will be strictly limited to authorized personnel to prevent the alteration, unauthorized removal, theft, or other compromise of property stored by the department [CALEA 84.1.2].
4. Perishable Items: All perishable items of evidence, such as blood or urine specimens, shall be stored in a secure refrigerator in the evidence room whenever possible so their properties will be as unchanged as possible before they are examined in a laboratory or presented in court.
5. Vehicles or Other Large Items: All vehicles or other large items seized as evidence in drug investigations or other felony crimes shall have a Property and Evidence Submission Form completed and turned in to Property and Evidence **Division** personnel. Property and Evidence **Division** personnel will arrange to have the vehicle or other large items secured in the department authorized off-site facility.
6. The lieutenant in the Criminal Investigation Division is required to conduct an **annual** audit of all untested sexual assault collection kits and any associated evidence stored at the police department. The lieutenant shall report the information to the Arkansas State Crime Laboratory before December 31 of each year.
7. **The FPD will not store explosives or incendiary devices in the Property and Evidence Division. Officers must contact their supervisor in incidents where explosive material or incendiary device(s) are located. Refer to FPD 47.1.13 (Bomb Threats and Explosive Devices [CALEA 84.1.2]).**