



**DEPARTMENT OF CORRECTIONS  
Inspections**



<b>Title:</b>	<b>Criminal &amp; Administrative Evidence Handling</b>	<b>DOC Policy: 70.1.3</b>
<b>Effective:</b>	<b>5/1/14</b>	<b>Supersedes: 7/1/99</b>
<b>Applicability:</b>	<b>All functional units</b>	
<b>Directives Cross-Reference:</b>	<b>Trust Accounts (Inmate) Div 158</b> <b>Prison Rape Elimination Act (PREA) 40.1.13</b> <b>Investigations 70.1.4</b>	
<b>Attachments:</b>	<b>Attachment A – Investigation Assignment by Type</b> <b>Attachment B – Evidence Flow</b>	

**I. PURPOSE**

To establish a uniform method of handling and maintaining the integrity of criminal evidence seized in Department of Corrections (DOC) facilities.

**II. DEFINITIONS**

- A. Contraband: Any article or thing which an inmate/offender is prohibited by statute, rule or order from obtaining, or which the inmate/offender is not specifically authorized to obtain or possess or which the inmate/offender alters without authorization.
- B. Evidence: Any material however microscopic, solid, liquid, or gaseous that may aid in the determination of truth during an investigation.
- C. Controlled Substance: A drug or its immediate precursor classified in Schedules I through V under the Federal Controlled Substance Act, 21 U.S.C. sections 811 to 812 as modified under ORS 475.035.
- D. Functional Unit Manager: Any person within DOC who reports to the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for delivery of program services or the coordination of program operations.
- E. Investigation: A fact finding activity for the specific purpose of addressing complaints or allegations. Investigations may include, but are not limited to interviews, surveillance, review of electronic and paper records, correspondence and other information storage devices of an employee or inmate of DOC or an employee of Oregon Corrections Enterprises (OCE).

**III. POLICY**

**A. General**

Any crime scene and any evidence seized as part of a criminal investigation, for the purpose of criminal prosecution, or for DOC administrative cases will be handled in a uniform and consistent manner by DOC employees to ensure the integrity and security of the evidence. An administrative investigation can turn into a criminal investigation depending on the circumstances. Therefore, all evidence should be treated as criminal evidence. For this reason, all evidence will be treated with the same integrity to preserve the chain of evidence.

## **B. Notification**

1. The Oregon State Police and the Office of Inspector General's Special Investigations Unit (SIU) are the authorized investigators of alleged crimes occurring in or on DOC facilities and/or property. Notification will **immediately** be made to the Oregon State Police **and** SIU by the OIC or designee.
  - a. Oregon State Police notification will be made by DOC staff by calling the Oregon State Police Command center in the area. Each dispatch center will assign an Oregon State Police case number to the incident, and will make notification to either the on-call Oregon State Police staff or they will contact the appropriate Oregon State Police office. DOC staff will affix the Oregon State Police case number to all documents and evidence.
  - b. SIU shall be notified by calling the Inspector General's SIU Administrator or the SIU 24 hour phone.
  - c. An Unusual incident report will be written any time the Oregon State Police have been notified with copies forwarded to Oregon State Police and SIU.

## **C. Crime Scene Preservation, Security and Processing**

Regardless of whether the criminal investigation will be handled by Oregon State Police, SIU, or Institution staff, the crime scene and all evidence will be handled in the same manner to preserve the chain of custody. Prior to collecting any evidence it is imperative that the crime scene, and any potential crime scenes, be secured and photographed and/or videotaped. Removal of evidence will be in a manner consistent with preservation of evidence, ensuring not to destroy fingerprints, blood and other fragment evidence that might be affixed to the item, documenting who seized the item, who maintained custody of the item and in what manner the item was secured.

1. Security of the Scene:
  - a. The first DOC employee on scene not involved in any rescue or first aid efforts will secure the scene and ascertain the identities of all persons who are present. The identification cards of all inmates who are present will be gathered so they can be positively identified for later interviews or possible evidence collection.
  - b. A crime scene includes the area where the crime occurs and the area any involved parties travel to or come from. It may be necessary to move those present at the crime scene to another location to preserve the scene as well as to maintain the security of the institution.
  - c. Until released by the Investigator(s), the area in where bystanders and witnesses are placed is part of the crime scene.
  - d. The affected DOC facility's officer-in-charge (OIC) will authorize entry into the crime scene and designate a DOC employee to maintain the security of the crime scene until released by investigators of the Oregon State Police, SIU or their designee.
  - e. This employee will initiate a Crime Scene Log (CD1201D located on the U drive). All persons entering the crime scene shall complete an entry in the log justifying their reason for entry.
2. Photographing the Scene/Evidence:

- a. Prior to photographing the scene, the photographer will make sure their camera memory has been cleared of other pictures.
  - b. Once the scene has been secured, the entire scene will be photographed starting with overall pictures of the scene showing a wide angle shot to include markers and entry points before moving anything.
  - c. Mid-range photos are then taken closer to the scene. Photographs of each piece of evidence should be taken where the item was found. Each photograph should include a marker, a scale of reference, and be taken from a 90 degree orientation as to not warp the scale of objects. Photographs shall be treated like a piece of evidence and secured as such.
  - d. Videotaping or sketching of the crime scene can also be done when necessary.
3. Assignment of an Evidence Custodian: Nothing within the crime scene area shall be moved or touched by anyone unless the object needs to be removed because it is an immediate and ongoing threat to security, such as a weapon. The designated evidence custodian will be responsible for:
- a. The recovery, packaging, sealing, and securing of all evidence to ensure an intact chain of custody, documenting the date and time of each action. If it is necessary for another staff member to take custody of an item of evidence, entering the chain of evidence, it must be clearly documented by both parties. If staff conducting a search identifies a piece of evidence, they will not touch it until it has been photographed. The evidence will then be recovered by the evidence custodian following the protocol outlined in section III. D & E below.
  - b. All evidence seized involving a crime will be documented on a Property Report Form (CD1440) and placed in an Oregon State Police or SIU evidence locker(s) along with the evidence. There are four copies of the Property Report Form:
    - 1) The top white copy (original) will need to be attached to the Unusual Incident Report and provided to the Oregon State Police or SIU.
    - 2) The three remaining copies (yellow, green, and pink) will be attached to the property before it is placed in the facilities designated Oregon State Police or SIU evidence locker(s).
  - c. A supplemental report or memo detailing the recovery of all evidence, the transfer of any evidence (including the reasons for the transfer), and the date and time the evidence was transferred will also be submitted and attached to the Unusual Incident Report. If an item of evidence is transferred, it will also be recorded on the back of the yellow copy of the Property Report Form (CD1440).

**D. Evidence Packaging and Sealing**

All evidence, whether it relates to an administrative case or a criminal case, should be packaged to meet the standards of evidence outlined below. Evidence submitted for administrative violations will be accepted by the DOC Hearings Unit without being processed to the standards of evidence. Reference the Investigation Assignment by Type chart (Attachment A to this policy) when deciding whether a piece of evidence will be submitted for an administrative hearing or criminal prosecution. When in question, evidence should be packaged according to the standards of evidence.

## Standards of Evidence

After being photographed and/or videotaped all evidence which could relate to a criminal case will be collected in the same manner, ensuring trace evidence, fingerprints, and any biological evidence on an item are retained and the chain of custody documented and complete. The person collecting the evidence must WEAR GLOVES and change regularly as to not cross contaminate trace elements between different pieces of evidence.

1. Each individual item of evidence shall be packaged separately and marked directly on the bag, with an evidence tag, and an attached Property Report Form (CD1440) for identification and to document chain of custody. All evidence containers will be labeled with the following information and must be legible.
  - Date and time seized;
  - DOC employee, contractor, or volunteer who seized the item;
  - Description of item;
  - Victim's name, DOB and SID# if appropriate;
  - Suspect's name, DOB and SID # if appropriate;
  - Brief summary of the crime;
  - Record of the item's chain of custody (each person who had custody of the item); and
  - Oregon State Police Case number, provided by Oregon State Police Command Center if applicable.
2. Evidence that may be finger printed SHALL NOT BE placed into a plastic bag or other air-tight container. Moisture may condensate on the item, disturbing or destroying the oils in which the finger print is contained. This evidence shall be stored in a paper bag by careful handling and minimal contact by staff.
3. Damp or biological evidence SHALL NOT BE placed in plastic bags. Always mark each evidence bag with a biohazard sticker if the item has been contaminated.
  - a. Damp items shall air dry, unaided. Damp items shall not be dried in the sun or with artificial heat as the properties of the evidence may be altered. Ideally the evidence should be hung up or positioned so that air can get to all sides. If hanging is not feasible, the items should be laid on a flat, non-porous surface covered with butcher paper and turned routinely until dry. If more than one item needs to be dried, sufficient space needs to be maintained between the items to prevent cross contamination. The location where the item dries MUST be secure and have access only by the evidence custodian thus maintaining the chain of custody. The location also must have some source of ventilation. A piece of butcher paper should be placed below each hanging item to catch any trace evidence that may fall off while drying.
  - b. After having been dried, each item will be placed into individual paper evidence bags. Once dry, the butcher paper should also be packaged in a separate paper evidence bag clearly marked as to which wet item it correlates to.
  - c. If wet evidence cannot be dried following the above protocol and it is necessary for damp items to be placed in a paper bag, the investigator

involved shall be notified immediately for further instructions or to take immediate custody of the evidence for proper drying.

4. Paper folds/envelopes will be suitable for small amounts of suspected narcotic substances, hair, fibers, etc. The paper fold shall then be placed into an appropriate evidence container.
5. The evidence container will be sealed with evidence tape or fracture tape that will indicate any tampering. The officer seizing the evidence will place his/her initials and date over the evidence tape. Evidence tape will be used on all evidence packages, bags, boxes or tubes, regardless of factory seal.
6. Plastic containers can be used to safely seal and secure sharp objects or liquids.
7. Cardboard boxes can be used to secure weapons or glass. Metal cans may also be used when dealing with arson evidence.

*(Employee's may refer to Evidence Flow chart, Attachment B, for reference and posting in each institutions evidence room.)*

#### **E. Evidence Lockers**

1. There are three types of evidence lockers:
  - a. Oregon State Police Evidence Lockers

Only Oregon State Police will possess the keys to the Oregon State Police evidence lockers. No duplicate keys to the Oregon State Police lockers will be maintained at the facility or possessed by any DOC staff.
  - b. SIU Evidence Lockers

Only SIU will possess keys to the SIU criminal evidence lockers. No duplicate keys to the SIU lockers will be maintained at the facility or possessed by any unauthorized DOC staff.
  - c. Administrative Evidence Lockers

The institution's OIC/Master Control Center will possess keys to the administrative evidence lockers.
2. The location of evidence lockers will afford limited access.
3. All evidence lockers will be constructed and designed to contain various sized items of evidence. The construction of all lockers will be tamper resistant and as follows:
  - a. Locks will be tamper resistant, slam type, or keyed. A small drop box will be provided for any key needed to lock the evidence locker. This small drop box will be constructed so the keys cannot be retrieved. Only the Oregon State Police shall possess a key for their small drop box. Only SIU will possess a key for their small drop box.
  - b. Hinges will have no exposed screws or pins which can be easily removed.
  - c. If a drop box system has been employed, baffles will be installed so items cannot be retrieved through the drop area.
4. Evidence Registers: Three separate evidence registers (CD1675a, CD1675b, CD1675c located on the U drive) will be maintained at the site of the evidence lockers. One register for each set of lockers: Oregon State Police, SIU, and administrative. These evidence registers will contain descriptive information of the

evidence and its disposition. The registers will be maintained on site for a minimum of two years and include the following information:

- a. Date evidence was entered into the locker(s);
- b. Description of the evidence, property or item;
- c. Charge of offense involved (i.e., assault, possession of contraband);
- d. Victim's name, DOB and SID number, if appropriate
- e. Suspect's name, DOB and SID number, if appropriate
- f. Property officer's name making entry in the evidence register;
- g. Disposition of property removed from the evidence locker (include destination, date removed or destroyed, and by whom); and
- h. Oregon State Police case number which was provided by the Oregon State Police Command center.

Evidence that cannot be adequately stored in an evidence locker may be released directly to the Oregon State Police or SIU. A notation should still be made into the evidence register documenting the delivery of evidence directly to the Oregon State Police or SIU.

#### **F. Controlled Substance Evidence**

1. SIU is the primary investigative unit dealing with controlled substance investigations.
2. All recovered controlled substances, whether an investigation is opened or not, shall be properly packaged and placed in an SIU evidence locker for proper disposal.
3. All controlled substances will be tested with a field drug identification kit, photographed, and weighed. This information, along with recovery and chain of custody details will be documented in an SIU report. All controlled substances will be re-sealed and stored in SIU's main evidence room.
4. SIU will follow the SIU Administrative and Criminal Evidence/property procedure 3 for proper disposal of all controlled substances.

#### **G. Statements by Witnesses/Suspects**

1. Once the Oregon State Police have been notified about a crime, and accept the case for investigation, interviews with witnesses/suspects about the crime under investigation, shall be completed only as directed by the Oregon State Police.
2. If the case is being investigated by SIU, SIU Inspectors or their designees shall conduct all interviews with witnesses/suspects.
3. Any comments, actions, or utterances made by suspects or witnesses to DOC staff, concerning criminal conduct, shall be documented in a memo and forwarded to the institution OIC. These reports shall identify the circumstances of the remarks and the person to whom the remarks were made. DOC staff will not engage in questioning the suspect/witness concerning the validity of the crime, but will make note of unsolicited information.

#### **H. Photographs**

1. Photographs that become evidence will not be shown to victims or witnesses by DOC staff unless directed to do so by the Oregon State Police. Regardless of the quality of a picture, all pictures taken of a crime scene are evidence and need to be either attached to the Unusual Incident Report or turned in as evidence.
2. Persons involved in violent person crimes, if cameras are available, shall be photographed prior to removal of clothing. Clothing shall be removed, bagged separately in paper bags following proper evidence handling protocol. The evidence will be held in an evidence locker or released directly to the Oregon State Police. If Oregon State Police cannot take custody of the evidence immediately and there are items that are wet, drying protocol outlined in section D(3)(a) will be followed.

#### **I. Disposition of Found Coin/Currency**

1. Coin/Currency falls into two categories:
  - a. Evidentiary Coin/Currency: Recovered coin/currency used in conjunction with a crime either administrative or criminal. (Counterfeit coin/currency is considered evidence).
  - b. Found Coin/Currency: Any amount of coin/currency found on DOC property by anyone *or* found at an off-site location by a DOC work crew member or staff.

**All coin/currency shall be handled the same until it reaches the disposition phase outlined below.**

2. General Information:
  - a. Gloves should be worn while handling all coin/currency to prevent exposure to possible contaminants.
  - b. When handling coin/currency, there must be two people present for accounting purposes.
  - c. A Currency Worksheet (form CD1673 located on the U drive) will be completed for all currency maintained in an evidence locker.
  - d. Prior to packaging, photocopy or photograph the front and back of all coin/currency.
3. Packaging:
  - a. In general, all coin/currency will be packaged in pre-printed plastic currency bags. If the coin/currency is wet, package in a paper bag or adhere to drying protocol outlined in section D(3) above. If currency has suspected drug residue it should be packaged in plastic.
  - b. If the currency is contaminated – clearly mark the packaging or use a biohazard sticker.
  - c. Ensure that packaging is strong enough to hold the weight of the coin/currency to prevent any loss.
  - d. All currency must be sealed by red tamper proof evidence tape (gum seal by itself is not adequate).
  - e. ALL SEALS ON CURRENCY MUST BE SIGNED BY THE SAME TWO INDIVIDUALS WHO FILLED OUT THE CURRENCY WORKSHEET PRIOR TO SUBMISSION TO THE EVIDENCE LOCKER.

- f. Prior to placing coin/currency in the proper evidence locker, a Currency Worksheet (CD1673 located on the U drive) must also be submitted, signed by the same two individuals signing the seal on the evidence bag.
4. Storage:
- a. All coin/currency, whether found or believed to be evidence, will be placed in SIU evidence lockers. If coin/currency relates to an Oregon State Police case, it shall be placed in an Oregon State Police evidence locker. Please notify either SIU or Oregon State Police once the coin/currency is placed in an evidence locker.
  - b. Once in the custody of SIU, coin/currency can be maintained in general evidence storage. Ideally, currency should be stored in a locker that has additional security. Examples of providing additional or secondary security include using a safe, a file cabinet with a padlock or a locking closet/cabinet within the evidence locker to maintain the evidence.
5. Disposition:
- a. Evidentiary coin/currency used in a Criminal case:  
The evidence technician must receive a court-ordered disposition *or* a signature from the district attorney *or* a signature from the SIU Investigator authorizing release or destruction.
  - b. Evidentiary coin/currency used in an Administrative case:  
Per ORS 421.068(1)(d), coin/currency confiscated in an administrative disciplinary will be deposited into the established DOC account which provides money to enhance inmate activities and programs (Inmate Welfare Account).
    - 1) Counterfeit currency: After obtaining the appropriate disposal authorization, counterfeit currency should be disposed of by releasing to the U.S. Secret Service. Contact the Portland USSS office at (503) 326-2162 for assistance.
    - 2) Contaminated currency: Currency that has been contaminated should be exchanged at a bank. Contact a local bank and make arrangements to exchange the currency. They may have specific procedures to follow. When transporting the currency it is recommended that one SIU staff accompanies the evidence technician or property custodian as a witness. Once the currency has been exchanged, it can be disposed of according to the court order, district attorney, or Oregon State Police or SIU's authorization.
  - c. All Found coin/currency:
    - 1) As inmates are not allowed to possess coin/currency, found coin/currency cannot be the property of an inmate (per OAR 291-117-0080 & 291-117-0090).
    - 2) If the coin/currency is found IN or ON DOC property, SIU will deliver the coin/currency to Central Trust for deposit.
    - 3) If the coin/currency is found outside of DOC property, it will be considered lost and found funds and SIU will deliver the coin/currency to Central Trust for deposit into the Inmate Welfare Account.



- 4) When transporting coin/currency it is recommended that one SIU staff accompanies the evidence technician or property custodian as a witness.
- 5) Documentation of delivery of coin/currency will be documented in a written report and submitted to the SIU/STM Administrator.

**J. Cell Phone Evidence Handling / Preservation of Electronic Evidence:**

As technology is continually changing, whenever electronic evidence needs to be collected, please contact SIU for guidance.

1. Cell Phone Evidence:

- a. Handle the cell phone minimally and WITH gloves
- b. If a cell phone is found already turned on, and you have knowledge of how, turn on airplane mode and turn off the Wi-Fi access. Leave the cell phone ON.
- c. If a cell phone is found already off, leave OFF.
- d. Do NOT remove the battery from the cell phone.
- e. Do NOT attempt to break a password on the phone. This may further lock the phone and inhibit the extraction process.
- f. If you can remove the SIM card without removing the battery, that will also get the phone off the network.
- g. Properly package your evidence and place into the SIU evidence locker and record it in the proper evidence log book.
- h. Submit all reports and memoranda, along with a filled out property report CD1440, in the evidence locker.
- i. Contact SIU immediately so a timely forensic extraction can take place

**III. IMPLEMENTATION**

This policy will be adopted immediately without further modification.

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Approved: \_\_\_\_\_  
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