

Rules and Procedures

Rule 309

November 8, 1982

Rule 309 - PROCEDURES FOR HANDLING PHYSICAL EVIDENCE AND OTHER PROPERTY COMING INTO POLICE CUSTODY

This rule is issued to establish guidelines for the collection, handling and preservation of physical evidence; and for the handling and preservation of other property coming into police custody. Its provisions are effective immediately, replacing written directives concerning these subjects.

General Considerations: The importance of properly handling physical evidence cannot be overemphasized. Police Officers of every rank and assignment must be very careful to quickly recognize articles of evidentiary value and to collect, protect and preserve these articles in such a manner as to ensure that their value as evidence is not compromised.

The continuity of possession of evidence must be maintained and documented so that it will be possible to establish the security of the evidence from the time it was collected until it is presented in court.

Sec. 1 Crime Scene Protection: When it appears that a serious crime has been committed, it shall be the responsibility of the first officer arriving at the location to isolate and protect the scene until appropriate search may be conducted, or the situation has been analyzed by a Patrol Supervisor. Once the Patrol Officer (first on the scene), has attended to whatever emergencies exist, it shall be that officer's responsibility to identify and protect the immediate crime scene and all articles that appear to pertain to the crime.

Pending a search, the officer charged with protecting the crime scene shall not allow any unauthorized person to enter, including Police Officers, or to move or tamper with any article, whether of obvious evidential value or not. He shall preserve the scene until the arrival of an investigative unit, unless otherwise directed by a Superior Officer. He shall record the name of every Police Officer who responds to the scene.

Sec. 2 Evidence Technician to be Summoned: When the seriousness of the crime so justifies, the Patrol Supervisor or the Officer in Charge at the scene shall request, through his Duty Supervisor, that an evidence technician be sent to the scene. The evidence technician assigned shall be responsible for collecting, tagging and/or bagging and preserving the relevant physical evidence found (as directed in the "Collection and Identification" section of this Rule).

Sec. 3 When Evidence Technician Is Unavailable: In the absence of an Evidence Technician at the scene of a less serious crime, the Superior Officer in charge of the case, while making the

preliminary investigation, shall conduct an appropriate search for articles of physical evidence and shall collect and submit such articles as directed in the following section.

Sec. 4 Collection and Identification: Whenever any item of evidence is found, seized, recovered or otherwise collected, it shall be:

A. Noted as to position and location by diagramming, on an appropriate Form (1.1 or 1.1.1) by the officer who collects such evidence.

B. Photographed in the position found (if practicable).

C. Collected, packaged and tagged in such a manner as to prevent damage or contamination with other materials.

It is necessary also to show that evidence, particularly liquids and other substances easily altered has not been contaminated by careless handling. This is important, not only for court presentation but also to ensure that analysis is not hampered or invalidated.

Wet, damp or blood-soaked clothing, or other items of evidence, shall never be placed in plastic bags or other containers until they have been thoroughly air-dried in order to prevent contact, contamination or putrefaction.

Clothing of one individual must be kept separate from other individuals' clothing or other materials and never combined with other clothing or materials in the same bag or container.

D. All collected evidence shall be tagged or bagged by the collecting officer who shall record on each tag or bag his name, I.D. number, Area, the date, time and the location where the evidence was found, and all other pertinent data that may be of consequence. In addition he shall ensure that all such information is recorded on the Department Incident Report.

E. Collected evidence shall be forwarded to the appropriate examining unit as soon as is practicable, together with a copy of the Incident Report and a Request for Examination Form.

A Property Tag must be attached to all property which comes into the custody of the Department in the categories of evidence, confiscated property and recovered property.

When feasible, an Evidence Envelope shall be used for all property which comes into the custody of the Department except for firearms and ammunition.

Evidence such as bullets, hairs and fibers shall not be tagged but shall be placed in suitable individual containers.

Sec. 5 Custody: Once it has been properly identified, tagged and or bagged, evidence which requires examination or analysis shall be hand delivered to the proper Departmental Unit;

firearms and ammunition to the Firearms Analysis Unit, (Rule No. 311); evidence requiring chemical analysis to the Crime Lab, (Rule No. 312); latent prints to the Identification Unit, (Rule No. 313); alcoholic beverages and controlled substances to the State laboratory Institute, (Rule No. 310) by the officer whom the Commanding Officer shall assign to do so.

Sec. 6 Area Evidence Record: Each Area and Unit which assumes custody of physical evidence shall maintain an Area Evidence Record on the approved Department Form. The Duty Supervisor shall enter into the Area Evidence Record an itemized list of all evidence which comes into police custody of his area or unit during his tour of duty. He shall ensure that such evidence is tagged with a red tag, properly filled out, before the property is secured.

On the property tag shall be recorded the C.C. number of the incident; the date of occurrence; warrant number; if any, the name and I.D. number of the officer who seized the property; and the page number of the Area Evidence Record where the property has been recorded. All relevant information shall be recorded in the Area Record also. The reverse side of the page shall be used to record each time that the evidence is removed and returned to the Area Property Room, with the date such movement was made.

Before any evidence is transferred from an Area Property Room the Commanding Officer or the Property Officer shall note the removal of the evidence on the reverse side of the appropriate page of the Area Evidence Record. The officer recording the removal and the officer assuming control of the evidence shall both sign the Record. In addition, a receipt for the evidence shall be completed and stapled into the Area Receipt Book.

When evidence is returned to the Property Room the officer surrendering custody and the Commanding Officer or the property Officer recording the return shall both sign the Record.

This procedure shall apply to all changes in the custody of evidence whether for safekeeping, scientific analysis, further investigation or court presentation.

Sec. 7 Area Property Room: Each Commanding Officer of an Area or Unit which assumes custody of evidence or property shall designate a room, capable of being secured, as the Area/Unit Property Room.

Sec. 8 Area Property Room Control: Only the Commanding Officer and his designated Property Officer shall have keys to the Area Property Room and they are the only persons authorized to put property into that room or to remove it.

The Commander may temporarily designate this authority to other officers because of absences from duty.

When evidence or other property is brought into the area or unit and the property room cannot be utilized, it shall be the responsibility of the Duty Supervisor to ensure the security of the property until it can be placed in the property room.

Whenever the owner of evidence or other property in police custody is notified that the property will be released, such notification shall also include the hours when an authorized officer will be available to release the evidence or property.

Sec. 9 Prisoner's Personal Property to be Held as Evidence: When any property is taken from a prisoner at the time of arrest or booking which is to be held as evidence, the procedures set forth in Rule No. 318 (Prisoners, Section 9), shall be complied with.

Sec. 10 Safeguarding Non-evidence Property: All property that is not evidence which comes into police custody shall be safeguarded by compliance with the following procedures:

Each area and unit whose personnel collect property, not classified as evidence, shall maintain two Area Property Books, numbered "ONE", Department Form #2075, and "TWO", Department Form #2074, in which shall be recorded all lost, stolen or abandoned property which is taken into police custody by personnel of the area or unit. Bureau of Special Operations personnel shall deliver property in their custody to the Station House of the area where they assumed custody of the property.

Sec. 11 Recording Property in Custody: The Duty Supervisor shall enter into the appropriate Property Book an itemized account of the property which comes into police custody during his tour of duty. He shall ensure that such property is tagged with a white property tag, properly filled out, before the property is secured.

Sec. 12 Area Property Book "ONE": Shall be utilized to maintain a permanent record of small items which can be returned to the owner without entailing long storage by the Department. Items such as wallets, handbags, books and papers, the owners of which can be readily ascertained, shall be recorded in Property Book One.

The white property tag shall contain a notation indicating the page and line numbers where the property is recorded in the Area Property Book One.

Property Book One shall be notated to record when a property owner was notified of the whereabouts of his property and when the said property was delivered or mailed to the owner. When property is delivered to the owner, he shall sign for the receipt of the property in the Property Book.

Sec. 13 Area Property Book "TWO": Shall be utilized to record all property that is not evidence and which is not recorded in Property Book One. Each entry shall be recorded on a separate page with the C.C. number of the Incident. Each page shall be numbered in sequence. A white property tag shall be attached to each item and the tag shall contain the incident C.C. number and the page number of the Property Book Two where the property has been recorded.

Sec. 14 Area Unit Property Officer: Shall maintain the Area Property Room in an orderly condition and ensure that all evidence is tagged with red tags and all other property tagged

with white tags. He shall secure no property until after ascertaining that it is tagged, that the tag is properly made out with a C.C. number and Property Book reference indicating where the property is recorded.

The Area Property Officer shall at least once a month, take an inventory of the contents of the Property Room and shall notify the Department Property Clerk of all property which has been in custody for more than 60 days.

The Area Property Officer shall notify the Department Property Clerk whenever perishable or worthless property is taken into custody so that it may be disposed of.

Sec. 15 The Department Property Clerk: Or his designee, is alone empowered to dispose of perishable or worthless property. When such disposition is made, the Department Property Clerk or his designee, shall sign the appropriate page(s) of the Area Property Book where such property is recorded, signifying that such disposition was authorized and shall record the date of the authorization.

Sec. 16 Gasoline Powered Vehicles and Equipment: Which come into the custody of the Police Department as lost, stolen or abandoned property, shall not be stored in an Area Station House until the gasoline has been drained from the vehicle or the equipment.

Sec. 17 Release of Recovered Stolen Property: If stolen property is recovered and it is evidence essential to the prosecution of the case involved which needs processing or other analysis, it shall be collected and held as evidence until the person in charge of the prosecution, or the court, determines that it can be returned to the owner.

However, when the following conditions occur, the investigating officers shall be guided by the instructions of their Commanding Officer who may determine that all or part of the property may be returned to the owner after it has been identified, photographed and processed at the scene.

A. Property which is perishable.

B. Property which would be impractical for the police to move or which would create a storage problem.

When such property is released to the owner or victim at the scene or elsewhere, it shall be the responsibility of the investigating officer(s) to obtain a signed receipt for all property returned. The receipt from the owner shall be stapled to the current page of the Area Receipt Book. The Incident Reports of the case shall mention the disposition of all property so released.

Sec. 18 Release of Property in Police Custody: By virtue of their office, Commanding Officers may deliver lost, stolen or abandoned property in their custody to the owner. They shall

procure a receipt from the person to whom they deliver the property and the receipt shall be stapled into the Area Receipt Book.

If the property has been listed in an Area Evidence or Property Book the recipient of the property shall sign that book.

Sec. 19 Valuable Property Transferred to the Chief Clerk of the Department: Money or other valuable property, especially evidence in a criminal proceeding, may be delivered to the office of the Chief Clerk of the Department, pending final disposition of the case or until a stipulation has been agreed upon by the prosecution and defense counsel as to the disposition of the property.

Sec. 20 Delivery of Property in Custody to the Department Property Clerk: Each Area/Unit Property Officer shall inform the Department Property Clerk, at least once a month, of lost, abandoned or unclaimed stolen property which has been in his custody for sixty days. The property Officer shall indicate which property is stolen and not held as evidence, for the information of the Department Property Clerk, on Department Form #99.

The Property Officer shall ensure that all transfers of property from the Property Room are recorded in the Area Property Books.

Sec. 21 Disposition of Property by the Department Property Clerk: The Department Property Clerk shall be guided by the provisions of the General Laws, Chapters No. 134 and 135, when disposing of property in his possession.

All officers should be aware that pursuant to Chapter 134 of the G.L., certain found property may be claimed by the finder after one year if the owner has not claimed it.

Sec. 22 Doubtful Ownership of Property: Whenever any property in the custody of any member of the Department, by virtue of his office, becomes the subject of controversy or doubts as to the rightful ownership, such property shall not be delivered to any person until the Department Legal Advisor has reviewed the matter and rendered his opinion, and the Police Commissioner has ordered such delivery, in writing; or by order of a court.

Sec. 23 Inspection of Property Rooms and Property Books: Officers of the Staff Inspection Division shall make periodic inspections of all Department Property Rooms and of Evidence and Property Record Books to ensure that all of the provisions of the Department Rule are being complied with.

NOTE: Rule No. 309, promulgated November 6, 1979, was amended in August, 1982. The Rule was rewritten and extensive changes made in the procedure for handling property. Also, the use of Area Evidence Records, Department Form #2080 and Area Lost and Found Property Records, Forms #2073 and #2074, was instituted.

Addendum 1

Boston Police Evidence Control Unit Standard Operating Procedure (See attachment).

Appendix B State Lab Sample Submission Procedure (See attachment).

Notes:

- Amended by SO 08-002, issued January 4, 2008, adding Addendum 1.
- Amended by SO 08-034, issued 09/12/2008, all references to the “Ballistics” or “Ballistics Unit” shall be amended to Firearms Analysis Unit. All references to the “Ballistician” or the “Department Ballistician” shall be amended to the Firearms Examiner. Section 5.