Policy Title  Evidential Property Management

CCMT Sponsor  ACC Neighbourhood and Partnerships

Department/Area  Neighbourhood Policing and Partnerships

Section/Sector  Headquarters

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1. **Rationale**

1.1. Thames Valley Police take temporary possession of thousands of items of property in the course of investigating crime and conducting other policing and public protection duties. Many, but not all, are items of evidence supporting the prosecution of offenders. The Force is committed to applying certain legal, operational and other standards to the management of all items of evidential property in the possession of police.

2. **Intention**

2.1. This policy describes business rules associated with the procedures for the management of evidential items.

2.2. It is the intention that the Evidence Management Standards shall apply to all aspects of the management of property coming into police possession.

2.3. The Evidence Portal shall provide tactical guidance to officers, staff and volunteers engaged in the property process in order that the Evidence Management Standards shall be met. The evidence management procedures and standards which shall be available only internally, exempted from Freedom of Information Act by virtue of Section 31.1 (a) of the Act.

2.4. This policy shall apply to evidential property management. This is property which is recovered in the course of investigating a crime or is suspected of being material to a crime; irrespective of whether it is used as an evidential exhibit.

2.5. Policy and Procedures pertaining to non evidential property (found), Major Crime, South East Counter Terrorism Unit, South East Regional Organised Crime Unit and seized vehicles shall be published separately.

3. **General Principles**

3.1. As outlined in the Police and Criminal Evidence Act, every consideration shall be given to the photographing and return of property as an alternative to storage consistent with the appropriate legal standards.

3.2. All evidential property once in the possession of Thames Valley Police shall be recorded immediately onto the Global Evidence Management System and placed into a force approved Evidence Management holding store. Evidence must not be stored or held anywhere else without the prior authorisation of the force’s Evidence Manager.

3.3. It is a responsibility when booking in evidential property to ensure reasonable measures are taken in searching relevant force systems.
3.4. Once the original record has been created and saved, only amendments which add detail are permitted, except where the OIC or Occurrence Number requires amendment.

3.5. Established Force disciplinary or poor performance procedures shall be utilised where individuals fail to comply with this policy, standards and procedures outlined in the Evidence Portal.

4. **Responsibility and Performance**

4.1. All personnel engaged in the evidential property process shall comply with the evidence management standards, this policy and the procedures contained within the Evidence Portal.

4.2. It is expected that all personnel shall act only within the confines of their role as documented within this policy or detailed within the Evidence Portal.

4.3. It is the responsibility of immediate supervisors and line managers pro-actively to ensure that all personnel involved in the evidential property process who are under their supervision comply with this policy and the procedures within the Evidence Portal.

4.4. The Officer in Charge of the Case (OIC) has primary responsibility for property relating to an investigation.

4.5. In the absence of an assigned OIC at the point of seizure, the person taking possession of the property on behalf of Thames Valley Police will assume the role of OIC until such time as an OIC is allocated. It is the responsibility of the submitter to update GEMS with the details of the OIC.

4.6. The OIC shall:
   - Ensure the appropriate legal authorities have been exercised in the seizure of the property.
   - Only seize those items that are absolutely necessary to support the successful prosecution of offenders.
   - Ensure that all records are kept updated and fully documented on GEMS.
   - Ensure all property is packaged in accordance with the Evidence Portal and with due care to Health and Safety considerations.
   - Obtain a disclaimer from the owner of that property so that forensic testing can be carried out. Items may become a health hazard as a consequence of chemical treatment used as part of the forensic examination process.
   - Regularly review the retention timescales of property in accordance with any request made by Evidence Management Unit or GEMS.
ensuring the appropriate updates are given within 4 weeks of the request.

- Ensure that regular updates are given to the public regarding the status of their case and the property held as a result.
- Take personal responsibility for ensuring the return of property is carried out in person at the earliest opportunity.
- Where appropriate apply by way of the Crown Prosecution Service (CPS) for court orders to dispose of property.

4.7. It is the duty of all personnel within the Evidence Management Unit to:
- Check all items of property have been fully documented highlighting discrepancies where appropriate.
- Maintain an effective storage system that protects the property temporarily in the care and custody of Thames Valley Police.
- Ensure that only authorised personnel have access to property and storage facilities to maintain the integrity of all property in the possession of Thames Valley Police.
- Ensure all instructions given by the OIC in relation to the release of property are processed as soon as possible.

5. **Performance & Systems Management**

5.1. The Evidence Manager shall have primary responsibility for the strategic development and communication of the Evidential Property Management policy and the evidence management procedures contained within the Evidence Portal.

5.2. The Evidence Manager has business ownership of all systems and processes relating to the evidence management system.

5.3. The Evidence Manager is responsible for maintaining performance regarding the Evidential Property Management policy and procedures which includes the support and allocation of sufficient resources.

5.4. Complaints regarding the failure to meet the evidence management procedures by any individual or corporately shall be directed to the Evidence Manager.

6. **Storage of Property**

6.1. Property subject to Police (Property) Act 1897 may not be accepted into storage if undue costs or inconvenience would be incurred by so doing as defined by the Act.

6.2. Certain types of property as detailed within the Evidence Portal shall be subject to additional corroboration processes to protect the individuals and the organisation.
7. **Release and return principles**

7.1. Unclaimed property shall be disposed of by sale or destruction following the issue of a Torts Interference Act letter and the appropriate timescales have expired.

7.2. Proof of identity and appropriate documented authority shall be required by any person collecting evidential property in person.

7.3. Where the evidential property belongs to or is issued by another organisation, it shall be returned to that organisation or destroyed on the instruction of an authorised person from that organisation.

7.4. The Data Protection Act 1998 places a duty of care on Thames Valley Police to ensure that personal information is not unlawfully disclosed to third parties. Therefore any evidential property capable of containing personal information, whether in text, photographic or any other format, shall not be given to third parties. We are unable to ensure that certain property is free from personal information, and as such passing it on to third parties may amount to a breach of the Act.

7.5. Where the property has been chemically treated throughout the course of the investigation, it shall not be returned in line with current safety guidance.

7.6. The Evidence Manager is the only individual within Thames Valley Police who can authorise the donation of property to a registered charity. This is done on behalf of the Chief Constables Management Team. Applications must be made in writing (including e-mail) and are subject to certain conditions.

7.7. Where appropriate and in line with legislation, the Evidence Manager can authorise (where appropriate) alternative disposal methods, e.g. for Police Operations, training etc as detailed in the Evidence Portal. This is done on behalf of the Chief Constables Management Team. Applications must be made in writing (including e-mail) and are subject to certain conditions.

7.8. All sales of unclaimed property shall be conducted through the Internet by a third party under the approved contractual agreement with Thames Valley Police.

7.9. No property may pass directly into the personal possession of any paid or unpaid servant of Thames Valley Police. They may however purchase property offered for sale in public competition through the internet provided that they have not been involved in, or are not responsible for, the administration of any aspect of the sale of the item(s), and cannot therefore be perceived as having gained unfair advantage through their association with Thames Valley Police.
7.10. Physical inspection, with a view to purchasing items to be processed for sale through an internet auction shall not be permitted.

8. Security & Audit

8.1. The security and audit of evidential property shall be conducted in accordance with the evidence management procedures.

8.2. Property shall be deposited into an approved Evidence Management Unit storage location at the earliest opportunity and be accompanied with the proper documentation.

8.3. Access to main Evidence Management Unit stores shall be limited strictly to those whose normal duties require them to have access and as a consequence carry some accountability for the security of stock held in that location.

8.4. All other persons may only have supervised access to property stores subject to them having valid reason for being there and which shall be documented shall sign in and out.

9. Legality

9.1. The legality of policy and procedures relating to the seizure, retention and disposal of evidential property may be drawn from current legislation as outlined in this policy.

5. Challenges & Representations

Challenges and representation to this policy may be made in writing to:

C/Supt Neighbourhood Policing and Partnerships
Thames Valley Police HQ
Oxford Road
Kidlington, OX5 2NX

6. Communication

6.1 Links to Police National Legal Database Other

None

6.2 Implementation Strategy

This policy shall be available on the Thames Valley Police Force Intranet site and the FOI Internet site.

7. Compliance and Certification

7.1 Human Rights Certification
(i) Legal Basis

The seizure, retention and disposal of property shall be legal and property shall be retained no longer than is operationally prudent and lawful.

For Evidential Property seizure, retention and disposal is set within a legal framework comprising both statute and case law drawn primarily but not exclusively from:

- Police and Criminal Evidence Act 1984
- The Criminal Justice and Police Act 2001
- Proceeds of Crime Act 2002
- Criminal Procedure and Investigations Act 1996.
- Criminal Justice Act 2003
- The Police (Property) Act 1897
- The Police (Property) Act 1997
- The Police (Property) Regulations 1997
- The Powers of Criminal Courts (Sentencing) Act 2000
- Hazardous Waste Regulations 2005
- Common Law

Police involvement in Non-E evidential Property is not prescribed by statute but has developed over time as customary practice.

(ii) Human Rights Articles Engaged

This policy has been drafted and audited in accordance with the Human Rights Act 1998.

Actions as a consequence of this policy, shall be taken in an impartial and fair way having due regard for natural justice, employment law and human rights.

It is acknowledged that this policy has the potential to engage the following articles:

Article 1 of the First Protocol (Protection of Property) – Right to the peaceful enjoyment of possessions

Article 6 (Right to a Fair Trial)

Article 1 of the First Protocol provides that: Every natural or legal person is entitled to the peaceful enjoyment of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provision shall not however, in any way impair the right of the state to enforce such laws as it deems necessary to control use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.
Article 1 of First Protocol – Legitimacy: The legitimate aims for interference of a person’s rights by depriving them of their possessions are that:

The taking must be in the public interest; it must be subject to conditions provided by law; It must be subject to the conditions provided by the general principles of international law.

Article 6.1 provides that: In determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time and by an independent and impartial tribunal established by law.

Article 6.1 – Legitimacy: In the event that an article of the Convention is engaged, then the legitimacy for the engagement is provided for in the text of the Article.

Potential Interference: There is a potential interference of an individual’s rights under these articles if there is inappropriate action taken in:

The period of time crime property is retained: The manner in which property is disposed of; The care taken to preserve the property in the form in which it originally came into police care; The recording of property if it discriminates against a particular group or individual.

(iii) Prohibition of Discrimination

By engaging any of the aforementioned Articles, there is the potential to engage Article 14 of the European Convention. Article 14 states that the enjoyment of the Rights and Freedoms set forth in the European Convention of Human Rights shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Actions taken as a consequence of this policy will be applied fairly and impartially, having due regard for natural justice and human rights.

7.2 Diversity Impact Assessment

This policy has been assessed against the six strands of Diversity and has been rated as “LOW” relevance.

7.3 Diversity (Human Resources)

In the application of this policy, the Force will not discriminate against any persons regardless of their gender, sexual orientation, race or ethnic origin, religion, age or disability.

7.4 Management of Police Information (MoPI) Compliance

Information deemed ‘for a policing purpose’, or any data about an individual that is circulated or received by e-mail; or published/downloaded via the
intranet or internet or circulated in any other format must comply with MoPI guidelines.

7.5 Community Engagement Strategy and Standards

This policy has the potential to engage the Force Community Engagement Standards.

Please use links for further information:
• Community Engagement Strategy
• Standards

7.6 Data Protection

Personal Data gathered in compliance with this policy shall be processed in accordance with the Data Protection Act 1998. It is acknowledged that 'sensitive personal data' (criminal records and their proceedings) shall be processed.

7.7 Freedom of Information Act

This policy is available to the public and may be published under the Freedom of Information Act 2000 Thames Valley Police Publication Scheme. The Property Operating Manual of Procedures shall be exempted from publication under the Act by virtue of Section 31.1 (a) of the Act.

7.8 Protective Markings

This policy has been assessed for its correct level of protective marking and is OFFICIAL MARKED.

7.9 Health & Safety at Work

The safe handling and disposal of property shall be in accordance with the Operating Manual of Procedures Chapter – Health & Safety. Reference should also be made to Force Risk Assessment GRA 2.3

Thames Valley Police commits, so far as is reasonably practicable, to the provision and maintenance of:

• safe and healthy work activities for all Force staff and for anyone else who may be affected by our policing
• resources, information, instruction, training and supervision
• reporting, recording, investigation and monitoring of all safety incidents using the PER 10 system

We shall comply with the requirements of the Health and Safety at Work Act 1974, the Police Health and Safety Act 1997 and relevant statutory provisions.

Further detail on Force structure and arrangements for the management of health and safety can be found in Force Policy for H&S Management
8. Monitoring and Review

A full review will be carried out by the policy author annually and will examine:

- Changes in legislation
- Court rulings – Domestic, European and Human Rights
- Examples of good practice from other Forces or other organisations
- Changes in Home Office Circulars
- Developments with ACPO Policy Unit
- Representations made by individuals and relevant organisations
- Relevant Equality data

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<th>Version</th>
<th>Date Reviewed</th>
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<td>V1</td>
<td>July 2015</td>
<td>Kelly Scully</td>
<td>Change in terminology away from property and more towards ‘evidence’ in line with the department name change and talks through our approach just to evidential property</td>
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