



EVIDENCE AND CHAIN OF CUSTODY

Date:

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By Direction Of:

Lucas M. Miller, State Inspector General

A. Purpose & Scope.

To establish the Office of State Inspector General’s (OSIG) policy and procedures for the receipt, retention, secure storage and authorized access to evidence obtained during an official OSIG investigation.

All OSIG sworn law enforcement and legal staff must comply with the procedures set forth in this policy. Failure to abide by this policy may result in discipline up to and including termination.

B. Policy.

OSIG sworn law enforcement staff will maintain and document continuous control of all evidence received/seized during an official investigation. OSIG Evidence Chain of Custody form (OSIG 3/3b) will be used to document continuous control. All evidence will be secured as soon as reasonably possible.

All documentary evidence (e.g. paper records or downloaded electronic DHS records) received/seized during an investigation will be secured in a locked cabinet or desk drawer. This includes sworn law enforcement staff assigned to County Assistance Offices (CAOs). The CAO assigned sworn law enforcement staff will store any collected documentary evidence in a designated secure evidence area.

All physical evidence (e.g., computer disks, DVDs (including surveillance tapes), cell phones, laptop computers, EBT cards, etc.) will be secured in an evidence room located in the regional offices. The evidence rooms will be located in the Central (Harrisburg), Northeast (Wilkes-Barre) and Western (Pittsburgh) Regional Offices. All sworn law enforcement staff will store such physical evidence in the evidence room in their assigned regional office. Sworn law enforcement staff assigned to the Southeast (Philadelphia) Regional Office will store such physical evidence in the Central (Harrisburg) Regional Office evidence room.

OSIG sworn law enforcement staff must immediately turn over any illegal drugs obtained during the course of an official investigation to state or local law enforcement.

C. Chain of Custody Form.

Bureau of Fraud Prevention and Prosecution (BFPP) Investigations

Non-DHS documentary evidence obtained through subpoena or search warrant must be logged on both the investigative report and the Evidence Chain of Custody Form ([OSIG 3](#)). Non-DHS documentary evidence obtained through other means only needs to be logged in the investigative report.

Documentary evidence obtained through DHS does not have to be logged on the [OSIG 3](#) but must be logged on the investigative report.

All physical evidence (e.g., computer disks, DVDs (including surveillance tapes), cell phones, laptop computers, EBT cards, etc.) obtained during an investigation will be logged on both the investigative report and the [OSIG 3](#).

Bureau of Special Investigations (BSI) and Bureau of Law Enforcement Oversight (BLEO) Investigations

Documentary evidence obtained from state agencies will not be logged on the [OSIG 3](#) but must be maintained as part of the investigative case file in Case Management Tracking System (CMTS).

All physical evidence (e.g., computer disks, DVDs (including surveillance tapes), cell phones, laptop computers, EBT cards, etc.) obtained during an investigation will be logged on both the investigative report and the [OSIG 3](#).

All Investigations

All sections of the [OSIG 3](#) should be completed. The original [OSIG 3](#) must be kept with the evidence at all times. A copy of the [OSIG 3](#) will be made part of the investigative file.

The transfer and/or removal of any evidence from the evidence room or evidence cabinet will be authorized only in accordance with the performance of official duties, at which time the transfer will be documented in an official OSIG investigative report and on the [OSIG 3](#).

D. Evidence Custodians – Duties and Responsibilities.

An evidence custodian and an alternate evidence custodian will be selected for each regional office. Each Regional Manager will have access to the evidence room. At least one of the evidence custodians for each regional office will be a Special Investigator assigned to the Bureau of Special Investigations (BSI). One Special Investigator assigned to the Bureau of Law Enforcement Oversight (BLEO) will be assigned as an evidence custodian for the Central (Harrisburg) Regional Office.

OSIG sworn law enforcement staff will act as the evidence custodian for the documentary evidence they obtain and maintain secured in their assigned evidence area.

The evidence custodian and alternate evidence custodian will be responsible for securing and controlling access to the evidence room. All evidence rooms and evidence cabinets will be considered restricted access areas. Only authorized personnel in the performance of official duties will be permitted access, and then only in the company of the evidence custodian or his/her alternate.

Any reassignment of regional evidence custodian or alternate evidence custodian duties shall be handled with a complete review and accountability of the evidence currently stored in the evidence room.

Regional office evidence custodians and all other OSIG sworn law enforcement staff will keep accurate records of all physical evidence stored in their respective evidence rooms or evidence cabinets on the OSIG Evidence Room Log ([OSIG 4](#)).

E. Evidence Rooms.

Each regional office evidence room must be kept securely locked by the evidence custodian at all times when not in use.

The original [OSIG 3](#) forms shall not be removed from the regional office evidence rooms except by court order, upon order of the State Inspector General or the First Deputy State Inspector General, or when the evidence is transferred from the evidence room for official case related reasons. A copy of the [OSIG 3](#) will be made part of the investigative file.

F. Procedures.

The Investigations Manager shall ensure that all evidence is secured and maintained in compliance with the policy and procedures outlined in this directive. The Investigations Manager will select the regional evidence custodian and alternate evidence custodian in consultation with and authorization by the respective Bureau Deputy State Inspector General.

The OSIG sworn law enforcement staff who initially acquires custody of physical evidence will maintain custody of the item(s) until he/she relinquishes the item(s) to the regional evidence custodian or alternate evidence custodian. This transfer should occur as soon as reasonably possible after the initial acquisition. Evidence shall not be maintained in vehicles or at a Special Agent's (SA) or Special Investigator's residence, except in unusual or exigent situations, and then for only short periods of time.

All transfers of physical evidence in or out of an evidence room for any reason will be recorded on the Evidence Chain of Custody Tracking Form ([OSIG 3b](#)). This documentation will include

the date and time of transfer, the reason for the transfer and to whom the evidence was transferred. The transfer will also be documented in an official OSIG investigative report.

The chain of custody for all evidence shall be strictly maintained. The number of persons who handle or have access to evidence from the time it is acquired through final disposition shall be documented and kept to a minimum.

All physical evidence must be packaged, marked and/or labeled prior to being placed into an evidence room. Whenever practical, evidence envelopes/bags shall be utilized. Evidence tags will be used to identify items which will not fit into an evidence envelope. The following information must, if appropriate, be entered on the evidence envelope/bag or tag: case number, item number, name of owner, date, time and location of recovery, description of evidence and name of sworn law enforcement staff and/or witness.

G. Annual Inventory.

The OSIG Internal Affairs Unit in conjunction with the designated evidence custodian and alternate evidence custodian, shall conduct an annual, item-by-item inventory of all physical evidence stored in all regional office evidence rooms during the month of June. The inventory will be conducted through the comparison of stored items with the original [OSIG 3s](#) and [OSIG 4s](#). The inventory shall determine the status of all evidence checked out of the evidence room through a review of appropriate [OSIG 3s](#) and [OSIG 4s](#). During the inventory, properly sealed evidence envelopes shall not be opened.

The results of the inventory will be documented in a memorandum and forwarded through the chain of command to the First Deputy State Inspector General by June 30th each year. Any discrepancy in the inventory shall be included in the memorandum. The First Deputy State Inspector General will immediately take whatever action is deemed appropriate to investigate and rectify any discrepancy.

H. Destruction/Disposition of Evidence.

Evidence obtained as part of an investigation and secured in an evidence room or evidence cabinet shall be properly disposed of once the case has been officially closed. This can be accomplished several ways depending upon the type and use of the evidence and how the case was handled. Examples follow:

1. Evidence Used at Trial – Upon final disposition of a case, the OSIG sworn law enforcement staff will attempt to obtain a written court order from the court of record for the destruction and/or other disposition (return) of all evidence introduced and subsequently entered into the court's record. A verbal court order may be sufficient in some counties. In such an instance, the verbal order shall be thoroughly documented in an investigative report.

Any evidence obtained for an investigation that proceeds to trial, whether entered into evidence at trial or not, shall not be destroyed or otherwise disposed of until the appeal period has lapsed (for those cases in which there was a finding of guilt). At this point, the case SA will contact the prosecuting attorney to ensure that no appeal has been filed, or is pending, prior to final disposition of the evidence.

2. Evidence Not Used at Trial – There will be times when evidence is obtained for an investigation; however, the case is officially closed without the filing of criminal charges. In such instances, the assigned sworn law enforcement staff shall put forth in memorandum form, through his/her chain of command, a request to properly dispose of the evidence. If the request is granted, the SA shall proceed with the proper destruction/disposition of the evidence.

The return of evidence to the owner or person from which the evidence was obtained is the preferred method of disposition in most cases. Attempts to return the evidence can be made via certified mail, telephone calls, emails, or personal visits. All such attempts will be documented in an investigative report. If contact cannot be made with the owner and all known methods of contact have failed, including the return of certified mail, the assigned sworn law enforcement staff can proceed with destroying the evidence.

The original [OSIG 3b](#) shall be used to document the destruction or other disposition of the evidence. The destruction or disposition of evidence should be thoroughly documented in an investigative report. The original [OSIG 3/3b](#) shall be retained in accordance with applicable OSIG retention cycles. Under no circumstances shall the form be destroyed until all evidence listed on the form has been properly disposed. All Evidence Room Logs (OSIG 4) shall be retained.

I. Prohibited Storage of Suspected Contaminated Substances and Containers.

All personnel are prohibited from storing in any evidence room, evidence cabinet, or office area any substance, container, glassware, etc. that is suspected to be contaminated and/or hazardous to the health and safety of the occupants of the office.

J. Evidence that is Perishable

Photographic documentation must be made of all potentially perishable evidence, such as food and beverages prior to disposal or destruction. If applicable, OSIG must follow all Food and Nutrition Services guidelines regarding disposal or destruction.

K. Additional Information.

Any questions regarding this policy should be directed to your immediate supervisor.