



# Lexington Police Department

Lexington, Kentucky

## GENERAL ORDER

BY THE AUTHORITY OF THE CHIEF OF POLICE

### **G.O. 1991-07F    Collection and Preservation of Evidence**

Rescinds: GO 1991-07E

References: CALEA Chapter(s)

Effective Date: 12/03/16

Distribution:

Sworn Officers, Forensic Services Unit, Central Records Unit,  
Property and Evidence Unit, Technical Services Unit

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## **I. PURPOSE**

The purpose of this policy is to establish guidelines and procedures to be followed in the collection and preservation of evidence.

## **II. POLICY**

It shall be the policy of the Lexington Police Department to maintain a Forensic Services Unit (FSU) for the purposes of collecting and preserving evidence.

## **III. PROCEDURE**

### **A. Primary Responsibilities of the Forensic Services Unit**

1. FSU employees are on duty or available for call out on a 24-hour, 365 days a year basis to process crime scenes and traffic collisions.
2. The first arriving officer has the primary responsibility for protecting any crime scene until the officer is relieved by a supervisor or a FSU employee.
  - a. The first arriving officer is also responsible for documenting, or causing the documenting, of all entries of persons into the scene.
3. The FSU employee has complete evidentiary control of any crime scene, unless relieved of this duty by the supervisor of the Forensic Services Unit.
  - a. It is the duty of the FSU employee to determine what needs to be done at each scene.
4. The FSU employees are specifically trained in the area of crime scene investigation and to assess the evidentiary value of crime scenes or individual articles of potential evidence.
  - a. Areas of training include, but are not limited to:
    1. Lifting and comparing latent fingerprints
    2. Photographing crime scenes

3. Collection and preservation of evidence
4. Detection and interpretation of blood evidence
5. Collecting and processing DNA evidence

5. Requests for FSU assistance:

- a. If, after responding to and assessing an incident scene, the officer believes the assistance of FSU is necessary to process or document the incident, the officer will contact E911 and request that FSU respond to the scene.
- b. The FSU employee notified will either respond as requested or will contact the requesting officer. The FSU employee may also contact the responsible supervisor to discuss the scene. The supervisor has the discretion to cancel the officer's request for a FSU response.
- c. If the FSU employee determines that scene processing is not possible based on weather, higher priority calls waiting or some other reason to not respond to the scene, the FSU employee will notify the FSU supervisor of this determination and the reason(s) for not responding to the scene.
- d. The FSU supervisor will contact either the requesting officer or the requesting officer's supervisor to notify the officer that FSU is unable to respond. The FSU supervisor will also notify E911.
- e. If the requesting officer or supervisor disagrees with FSU's non-response to a scene, then the supervisor shall contact the Patrol Duty Commander, who will determine whether FSU will respond to the scene.

6. Routine larcenies from autos (LFA's) and recovered stolen vehicles are not ordinarily processed by FSU. Circumstances or situations that would potentially result in FSU processing include:

- a. There is reason to believe the vehicle is linked to multiple other LFA's or auto larcenies.
- b. There is reason to believe the LFA or recovered stolen vehicle may be related to another crime of higher priority.
- c. Unique item(s) which were stolen from or with the vehicle, such as guns, badges, police radios, large quantities of controlled substances; or other particular items of evidence indicating that evidence collection should be completed by FSU employees.
- d. There is reason to believe that the vehicle was specifically chosen or targeted because it belongs to or is associated with a particular person, group of people or

organization such as police, elected and/or government officials, or high profile citizens.

e. Other circumstances that elevate the incident to warrant processing by a FSU employee.

7. If a vehicle is to be processed, and a FSU employee determines that it should not be or can not be properly processed at its current location, then the requesting officer will have the vehicle towed by the current contract towing service and placed in a secure location pending processing. Processing shall occur at the current contract towing service facility according to guidelines established in GO series 1979-01 Vehicle Procedures. A hold, approved by a supervisor, must be placed on the vehicle until FSU employees have completed their processing of the vehicle.

a. If reasonably possible, the officer should advise the vehicle's owner that the towing expenses are the owner's responsibility.

b. The FSU employee is responsible to immediately release the vehicle's hold (at the contract towing facility and in Central Records) following completion of processing, unless circumstances dictate that the vehicle must continue to be held.

1. In cases where the vehicle will continue to be held, it should be moved to the police impound lot after processing is completed. FSU will notify the assigned officer and the officer's supervisor, via e-mail, that FSU has completed the processing.

8. A supplement to the electronic case report will be completed by a FSU employee who processed the scene, and for any requested fingerprint comparison or forensic processing of evidence done in the office pursuant to a criminal investigation. When FSU assists an outside agency with a criminal investigation, copies of FSU reports will be forwarded to the agency.

## B. Responsibilities of Forensic Services Unit Employees

1. The primary duty of the Forensic Services Unit is to assist in ongoing criminal investigations by locating and collecting crime scene evidence and to accurately document crime scenes for investigative reconstruction and court presentation.

2. The number of employees who handle an item of evidence must be kept to a minimum. When FSU is called to a crime scene for photographs or forensic processing, the requesting officer is responsible for the collection and booking of any evidence found there absent an articulable need to have the FSU employee handle the evidence. Examples of special needs or circumstances include homicide scenes, investigations of suspicious deaths and suicides, serious assaults likely to result in death, officer involved shootings, evidence contaminated with biohazard materials to such a level that it would require specialized training and equipment to collect, and any other matter as directed by the FSU supervisor or BOI Investigative Support Section lieutenant. FSU employees will assist with the proper submission of evidence collected for laboratory analysis and court presentation. Officers who

will submit collected evidence to an outside entity for examination may request procedural assistance from a FSU employee.

3. **Forensic Processing of Evidence:** Officers, prosecutors, and members of other government agencies may request that FSU process evidence for latent fingerprints. These requests shall be made directly to the FSU supervisor. The assigned FSU employee will determine the type of examination or chemical process to be used on the evidence, or if the testing should be handled by another facility (such as the KSP Lab or FBI). A written report of the results of the processing will be completed by the assigned FSU employee, who will send copies to the party requesting the examination, the applicable department case file, should one exist, and to the FSU supervisor.

4. **Fingerprint Comparison:** Officers, prosecutors, and members of other government agencies may request that FSU compare latent fingerprints, inked, and live scanned fingerprint images to a known subject. These requests shall be made directly to the FSU supervisor. These requests need to include the full name of the known subject to whom the comparison is to be made, the subject's date of birth and social security number, if known, and the Kentucky state identification number (a.k.a. SID number or KYA number). A written report of the results of the comparison will be completed by the assigned FSU employee who will send copies to the party requesting the examination, the applicable department case file, should one exist, and to the FSU supervisor.

5. **Image or Video Processing Services:** Officers, prosecutors, and members of other government agencies may request that FSU prepare photographs or video in matters pursuant to criminal investigations. These requests shall be made directly to the FSU supervisor. Completed work must be picked up and signed for in the FSU offices. Photographic evidence prepared for persons outside of the local area may be sent through the mail to the requesting party, if requested.

6. **Collision Scene Photography:** The Forensic Services Unit is responsible for photographing collision scenes investigated by the Collision Reconstruction Unit (CRU). CRU responds to and investigates collisions as outlined in GO series 1992-03 Traffic Collision Investigation. Photographs at collision scenes shall include but not be limited to, landmarks, skid marks, points of impact, vehicle license numbers, vehicle damage, property damage, and evidence of violations and others that may be requested by the investigating officer.

7. **Fingerprinting and Fingerprinting Services:** FSU has the capability of preparing inked 10 print image cards. Fingerprinting by FSU is limited to persons involved in an ongoing criminal investigation or of newly hired police department employees. All persons fingerprinted by FSU will also have their palm impressions taken. Palm impression cards are filed within the FSU offices. Additionally, FSU employees will obtain, if possible, a full ten print record of all victims at autopsies they attend. Adult records will be retained in a file in the FSU office. In the event juvenile prints are collected, the fingerprint card will be stored in the juvenile's case file.

### C. Biohazard Evidence Handling

1. When handling biohazard material or any articles contaminated with biohazard material,

FSU employees, Property and Evidence Unit employees and officers shall utilize all appropriate personal protective equipment (PPE). PPE replacement items can be obtained from a supervisor, from Central Records (after normal working hours and on weekends and holidays), or from the Technical Services Unit.

2. Protective suits, gloves, masks and booties contaminated with biohazard material, and any evidence similarly contaminated and authorized for disposal, shall be placed in marked containers found in the biohazard bay area at headquarters. Contaminated PPE may also be disposed of, with permission, by using an EC unit or hospital ER bio-disposal container or the bio-disposal container at Fayette County Community Corrections.

3. Evidence collected by FSU employees that is contaminated with biohazard material is normally processed in the biohazard bay, or within the evidence packaging room (B-105) of the FSU offices. If an officer must process contaminated evidence at the reports desk booking area, the packaging must be marked indicating "biohazard" before it is stored in the Property Annex room. All contaminated evidence to be stored in the property and evidence facility will have biohazard warning indicators placed on the packaging.

#### D. Basic Duties of the Forensic Services Unit Employees

1. Overall evaluation of the crime scene: Attempt to determine what took place and formulate a plan of action relative to the priority of tasks to be performed. Take notes of observations upon arrival at the scene.

2. Photograph the entire crime scene: Include all evidence that is located. Interior and exterior photos shall be included. All evidence located is to be photographed. A second photograph of the evidence will be taken with a scale, when determined applicable by the FSU employee.

3. Collection of fingerprints: The entire crime scene shall be reviewed for sources of possible fingerprints, and then fingerprinted as appropriate. The cards will be identified by recording the date, time, location, and the initials of the employee making the lift. All latent lifts retained for filing will be sequentially numbered and the total number of lifts recorded on the outside of the filing envelope. These prints will be maintained by FSU in these envelopes in a filing system using a latent investigation number for reference. When latent prints cannot be lifted for any reason, the print may be photographed. Whether brush and powder, chemical, or other available methods of processing are used, prints done at crime scenes are done at the discretion of the FSU employee.

4. Crime scene sketch: A sketch will be prepared at all homicide scenes and all other major cases as deemed necessary. The sketch will include detailed measurements so that all items at the scene can be placed at their exact location on the sketch. The crime scene sketch shall be drawn to scale, and the scale should be no smaller than  $\frac{1}{4}$  inch = 1 foot. The FSU supervisor may authorize a smaller scale, if necessary, to better capture the scene (for instance if it is a very large scene).

5. Collect, mark and package physical evidence: Evidence from a scene must be packaged and marked in a manner that it can be later identified from the witness stand in a court of law.

The importance of proper packaging and marking cannot be overemphasized. At the time of collection, items will be marked with the case number, location, date, time, and the officer's initials. The FSU employee will number the items collected and all other units shall contact FSU in order to number all items of evidence sequentially. The evidence shall be placed in proper containers. All evidence shall be marked and packaged in accordance with the Kentucky State Police Laboratory Evidence Manual. Should the occasion arise that previously sealed evidence has to be reopened for inspection, the container will not be opened at the original seal. Open the container at a new spot and reseal. On the new seal, place the time, date and initials of the officer who reopened the package. Blood-soaked or wet items will be allowed to air dry before packaging. They will be placed in a paper container and never in plastic. Blood and liquid evidence will be kept in a liquid state and packaged in glass or plastic containers. A weapons investigation report will be filled out on all weapons found at crime scenes. Weapons should be handled carefully in order not to damage any possible fingerprints.

6. Prepare evidence and paperwork necessary for crime laboratory examinations: Evidence from crime scenes has to be separated from those not being sent to the lab when packaging is being performed. The outside of each package of evidence must contain a description of its contents, the evidence number and an item number. A property and evidence record will be completed listing all items of evidence and the location where found. Officers who are submitting collected evidence to an outside entity for examination may consult with a FSU employee for assistance on the types of laboratory analysis necessary. When a determination is made, a laboratory request form will be completed by the investigating officer for those items to be sent. Requests are then submitted to the Property and Evidence Unit supervisor, who is responsible for timely submission of the items to the forensic laboratory. In special or exigent circumstances, the submitting officer, with the prior approval from their immediate supervisor, may personally take evidence to the forensic lab for examination.

#### E. DNA Collection and Submission Procedures

1. Due to the fragile nature of DNA evidence, its collection, handling, and preservation must be performed with proper care and caution. Officers need to recognize crime scenes where DNA evidence may become crucial to the solving of the case, to the identification of the perpetrator and to successful prosecution.
2. Officers must be mindful, when entering any crime scene, to avoid contaminating possible evidence. This is especially true of DNA evidence.
3. Officers shall:
  - a. Recognize possible sources of DNA evidence
  - b. Protect evidence or possible locations as much as possible
  - c. Record persons who are known to have entered the scene for possible collection of DNA elimination samples
  - d. Take steps to preserve items that may be discarded by emergency medical

personnel or the victim

e. Avoid contamination by:

1. Wearing PPE in accordance with III C above and changing into new PPE as needed to avoid cross contamination
2. Avoid touching the area(s) where it is believed DNA may exist
3. Avoid eating, talking, sneezing and coughing over evidence

f. Do not allow witnesses or possible suspects of the incident, nor law enforcement or other personnel who have been in close physical contact with these persons, back into the crime scene until evidence collection is completed.

4. Collection, transportation and storage of DNA evidence:

- a. All FSU employees shall receive specific training in the collection, transportation and storage of DNA evidence to ensure established and recognized procedures will be followed when dealing with all evidence which may contain DNA evidence.
- b. Only employees who have been trained in such collection should collect DNA evidence.
- c. The FSU will establish procedures in accordance with established and recognized procedures to specifically address collection, transportation and storage of DNA evidence.
- d. Any evidence which is known to, or may possibly contain, biological fluids will be treated as a biological hazard item and labeled with an appropriate "Biohazard" label or sticker.
- e. Any elimination samples collected from individuals for elimination purposes shall be collected following the same standards of care as criminal evidence.
- f. To collect DNA evidence from a person who is not legally compelled to submit DNA evidence by a court order, subpoena or otherwise by law, the person will be required to read and sign Form #223 Consent to Search prior to the collection of the DNA.

#### F. DNA Evidence Booking

1. It is the booking officer's responsibility to notify a Property and Evidence Room employee when booking possible suspect DNA evidence from a Capital offense, Class A felony, Class B felony, or Class C felony; or Class D felony under KRS Chapter 510 [Sexual Offenses].

- a. The evidence shall be properly marked to avoid unauthorized disposal.

## G. DNA Evidence Special Procedures

KRS 524.140 Disposal of evidence that may be subjected to DNA testing -- Motion to destroy -- Liability for destruction -- Penalty -- Retention of biological material. [Excerpts]

- (1) As used in this section:
  - (a) “Defendant” means a person charged with a:
    1. Capital offense, Class A felony, Class B felony, or Class C felony; or
    2. Class D felony under KRS Chapter 510 [Sexual Offenses]; and
  - (b) “Following trial” means after:
    1. The first appeal authorized by the Constitution of Kentucky in a criminal case has been decided; or
    2. The time for the first appeal authorized by the Constitution of Kentucky in a criminal case has lapsed without an appeal having been filed.

[Effective April 8, 2016]

1. Retention of biological evidence shall be in accordance with KRS 524.140.
2. After Kentucky State Police forensic laboratory testing has been completed, remaining biological evidence, including department submitted sexual assault evidence collection kits (SAECKS) and associated evidence, shall be transferred back to the department’s Property and Evidence Unit.
3. Destruction Prior to a Trial:
  - a. Biological evidence, including sexual assault evidence, in any Class A, B, and C felony, or Class D felony under KRS Chapter 510, shall not be destroyed prior to a trial unless:
    1. It has been in custody for fifty (50) years; or
    2. It has been in custody for at least ten (10) years; and
      - a. The prosecution has determined the defendant will not be tried; and
      - b. The prosecution has made a motion before the court to destroy the evidence.
4. Destruction Following a Trial:
  - a. Biological evidence, including sexual assault evidence, in any Class A, B, and C



felony, or Class D felony under KRS Chapter 510, shall not be destroyed following a trial unless:

1. The evidence was DNA tested and presented at trial and the suspect was found guilty, pled guilty, or entered an Alford plea; or
2. The evidence was presented at trial but DNA testing was not completed and the suspect was found guilty, pled guilty, or entered an Alford plea and the court has ordered the destruction of the evidence; or
3. The court has ordered the destruction of the evidence, regardless of whether it was tested or presented at trial; or
4. The trial resulted in the defendant being found not guilty or the charges were dismissed with jeopardy attached and the trial court ordered the destruction of the evidence; or

b. When the trial results in a dismissal of charges against the defendant, subject to retrial, the evidence shall be retained until after the retrial, subject to the provisions of G. 3 a above.

c. In the absence of a destruction order by the court, the evidence shall be retained for the period of time that any person remains incarcerated in connection with that criminal case.

1. The department shall retain the evidence, per currently approved department evidence storage and retention procedures, and shall ensure that the evidence is retained in a condition suitable for DNA testing and analysis.