

- approximate aggregate value in excess of \$200.00); and  
3. there exists no immediate threat of theft.

B. Property exceeding the above limitations must be inventoried.

C. Property not secured in the victim's vehicle will be handled as outlined in M.O.P. Chapter 18.

D. For vehicles involved in accidents that are towed to the Auto Pound, refer to M.O.P. Chapter 2 for the handling of personal property.

## **5.0 PREPARATION AND HANDLING OF ACCIDENT REPORTS**

### **5.1 POLICY**

It is the policy of the Buffalo Police Department to prepare all accident reports completely and accurately and that Accident Report Form MV104A will be prepared in accordance with the directions set forth by the NYS Department of Motor Vehicles.

### **5.2 SUPERVISORS TO EXAMINE AND APPROVE**

District supervisors shall examine each accident report for completeness, accuracy and sufficiency before (s)he signs it. Reports not meeting the supervisor's approval shall be returned to the investigating Officer(s) to be corrected and the corrected report shall be re-submitted before the end of the Officers' shift.

### **5.3 FORWARDING REPORTS**

A. Accident reports, whether complete or incomplete, shall not be retained in any command for longer than a twenty-four (24) hour period after Police first received the report of the accident.

B. Additional information received for incomplete accident reports shall be placed on either an MV-104A or P-202, as the case dictates, and forwarded to CCB, using the same district accident report number and event number.

### **5.4 USE OF REPORTS IN COURT**

Officers requiring accident reports for use in Court shall obtain a photo static copy from the District Station file, or if unavailable in the District, a request for the copy shall be made to City Court Booking.

## **6.0 VEHICLE TOWING AND STORAGE**

### **6.1 POLICY**

It is the policy of the Buffalo Police Department to have a vehicle towed whenever it comes under the control of the Department and it is necessary to safeguard the vehicle and its contents from damage or theft; or when the vehicle is evidence or an instrumentality of a crime; or when a vehicle presents a hazard or inconvenience to the public.

6.2 CITY TOW TRUCK

The City tow truck is operated by the Department of Parking. Members of the Police Department requiring the use of a tow truck for an official function shall contact the City tow truck through the Police Radio Dispatcher.

6.3 WHEN VEHICLES MAY BE TOWED

A. Damaged, broken down, or illegally parked vehicles may be towed when:

1. the vehicle is obstructing traffic or creating a hazardous traffic condition
2. the vehicle is blocking a driveway;
3. the vehicle is illegally parked in a handicapped zone;
4. the vehicle has been abandoned or the vehicle has no license plates affixed;
5. the vehicle is obstructing street repairs, snowplowing, or other necessary work in the roadway; it is parked on a snow emergency route during a snow emergency, or towing is necessary to facilitate a special event (e.g. parade, street festival, etc.).

B. Recovered stolen vehicles shall be towed to the Auto Pound. (Refer to M.O.P. Chapter 2 - Private Tow trucks).

C. Vehicles will be towed to the Seneca Street Police Garage when:

1. There was a fatality or serious physical injury motor vehicle accident
2. It is impounded by the officers for further investigation (e.g. equipment check, criminal investigation);

D. Vehicles will be towed to the Auto Pound when;

1. It is not drivable and the owner is unable to make arrangements for immediate private towing;
2. The vehicle is unable to be secured and there is a threat that the vehicle may be stolen or further damaged.
3. Vehicles shall be towed if they are an integral piece of evidence that needs to be preserved for a successful prosecution of the charges. Vehicles shall not be routinely towed incident to arrest.
4. Vehicles seized pursuant to VTL 511-b shall be towed;
5. Vehicles used in a criminal transaction rendering them eligible for forfeiture, shall be towed.
6. Vehicles which are parked illegally and are scofflaws, shall be towed.

E. Vehicles may not be impounded for the following reasons:

1. Solely for an expired Driver's License
2. Solely for an expired Registration
3. Solely for an expired Inspection Sticker

6.4 NYS STATE CLEAR ROAD POLICY ON NYS THOROUGHFARES

The Kensington Expressway, the Scajaguada Expressway, Route 198 and the Skyway complex are thoroughfares in the City that are maintained by New York State. The Police Department adheres to the NYS Clear Road Policy.

- A. Disabled vehicles in a lane or in a location which may interfere with traffic, or that constitutes an immediate hazard, shall be towed.
- B. Disabled vehicles that are located off the roadway or in a location that is not interfering with traffic or pose no immediate hazard shall be handled as follows:
  - 1. Personal Repairs  
Personal repairs are allowed provided the necessary equipment is available at the scene, or repairs to the vehicle can be made at the scene within a 24 hour period. Vehicles left more than 24 hours shall be towed.
  - 2. Abandoned Vehicles  
Any motor vehicle with no license plates affixed shall be considered abandoned and shall be towed.
  - 3. Recovered UUV  
Recovered UUV's shall be towed.

6.5 GENERAL TOWING PROCEDURES

In each instance in which a vehicle is to be towed, the member of the Department shall:

- A. determine if the vehicle is stolen or wanted;
- B. request that the Dispatcher send a tow truck and provide the dispatcher with the year, make, color, plate number and location;
- C. gather all necessary information and fully complete a "*Vehicle Tow Report*" (P-31, distribution is on the form);
- D. notify the vehicle's owner, if possible.
- E. The "*Buffalo Police Department Vehicle Inventory*" form (P-1373) MUST be completed if vehicle is open or accessible.

6.6 TOWING PROCEDURES IN SPECIFIC CASES

In addition to complying with the procedures outlined in Chapter 2, Section 6.12, officers must also comply with the following procedures in specific circumstances.

- A. Illegally parked vehicles  
When an illegally parked vehicle is to be towed, the officer shall:

- 1. issue a PVB summons;

B. Vehicles held for a safety check

When a vehicle is impounded to determine if the vehicle's equipment meets the requirements mandated by the Vehicle and Traffic Law, the officer impounding the vehicle must:

1. safeguard the vehicle until the tow truck arrives;
2. direct the tow truck operator to tow the vehicle to the Seneca Street Police Garage;
3. specify on the P-31 the type of equipment violation suspected (e.g.. brakes, steering, etc.);
4. the vehicle shall not be released until after the desired safety check has been completed.
5. Garage personnel are to notify Officer and the owner of the vehicle once completed.

C. Vehicles held for evidence processing

When a vehicle is impounded because it may contain evidence associated with a crime (e.g. fingerprints, hair fibers, DNA, etc.), the officer impounding the vehicle shall:

1. safeguard the vehicle until the tow truck arrives;
2. direct the tow truck operator to tow the vehicle to the Seneca Street Police Garage and secure it in the evidence bay, if available;
3. follow the Tow Truck to the garage in order to retain the chain of custody;
4. make an application for a search warrant with the help of a Detective, if necessary;
5. prepare form P-274A (Hold For Investigation) and attach it to the vehicle's windshield;
6. prepare form P-77-C (Request for Fingerprint) specifying the type of evidence suspected, and fax the P-77 to the Evidence Collection Unit;
7. indicate on the P-31 that the vehicle is being held for evidence processing;
8. do not authorize release of the vehicle until after all testing has been completed and the District Attorney's Office has approved.

D. Vehicles held as evidence

When a vehicle is impounded because it was used in the commission of a crime or is the instrumentality of a crime (e.g. hit and run, vehicular manslaughter, vehicular assault, etc.), the impounding officer shall;

1. safeguard the vehicle until the arrival of the tow truck;
2. direct the tow truck operator to tow the vehicle to the Seneca Street Police Garage and to secure the vehicle inside;
3. follow the Tow Truck to the garage in order to secure chain of custody;
4. prepare form P-274A (Hold for Investigation) and attach it to the windshield;
5. indicate on the P-31 that the vehicle is being held as evidence;
6. if the vehicle is to be examined for fingerprints, Form 77C shall be faxed to the Evidence Collection Unit;
7. do not authorize release of the vehicle until approved by the District

Attorney's Office.

E. VTL 511-2 and 511-3

In circumstances in which vehicles are held in conjunction with charging the operator with the crime of aggravated unlicensed operation of a motor vehicle in the first or second degree (VTL 511-2 or 511-3) the Officer impounding the vehicle shall:

1. comply with the requirements of VTL 511-b;
2. direct the tow truck operator to tow the vehicle to the Auto Pound;
3. indicate on the P-31 that VTL 511-b was the reason for the tow;
4. do not authorize release of the vehicle without the approval of the District Attorney's Office or Officer in charge of the case.

F. Forfeitures

When a vehicle suspected of being subject to state or federal asset forfeiture laws is seized, the officer seizing the vehicle shall:

1. safeguard the vehicle until the tow truck's arrival;
2. direct the tow truck operator to tow the vehicle to the Seneca St Garage;
3. prepare the Record/Receipt Of A Seized Asset and forward it to the Chief of Detectives office;
4. indicate on the P-31 that the vehicle is being held for asset forfeiture;
5. the member of the Detective Division assigned to the handling of seized assets shall then be responsible for the disposition of the property to the appropriate state or federal agency.

G. Parking Violations and Mini-Tows (refer to Training Bulletin 2006-03)

1. When a Police Officer finds an illegally parked vehicle that requires mini-tow, (s)he will:
  - a. Issue a Parking Violation Summons.
  - b. Immediately call radio dispatch that a mini-tow is required.
  - c. Provide dispatch with the make, plate number and location of vehicle.
  - d. Then writes in comment section on the PVB summons the time of call to dispatch and make, plate number and location of vehicle.
  - e. Leave the PVB summons on the vehicle windshield.
  - f. Leave the box in the middle of the PVB Summons ticket empty that states **MINI-TOW: IF BOX IS CHECKED ADD \$40 TO FINE AMOUNT.**
  - g. Leave the scene and proceed back in service to attend to other duties.
2. The Tow Truck Operator who is an employee of the Police Department is advised by radio dispatch to go to location of vehicle:
  - a. Tow Truck Operator arrives at scene where dispatch advised him of location of vehicle.
  - b. (S)he then puts an X in the Mini-Tow box on the PVB summons indicating that a Mini- Tow has occurred and fills out the tow log that

indicates vehicle make, license plate, where the vehicle was located and moved to and the ticket number. The tow truck driver will also put his/her initials next to the appropriate area on the PVB summons box.

- c. If the vehicle matching description is there, he/she calls radio dispatch and verifies with dispatch make and plate number.
- d. (S)he moves vehicle from illegally parked location.
- e. (S)he confirms this in writing in his/her **TOW LOG** that is submitted to his/her supervisor at the Seneca Street Police Garage at the end of his/her shift. After this form is submitted to his/her supervisor, the supervisor submits this form to the Division of Parking Enforcement on the next business day.
- f. If by the time the tow truck operator arrives the citizen has removed the vehicle, the tow truck operator notifies dispatch that the subject vehicle is gone on arrival and **MINI-TOW NOT PERFORMED**.
- g. Because the vehicle is already gone, the box indicating a fine for the mini-tow remains unchecked.

### 3. Division of Parking Enforcement

- a. Parking enforcement receives the tow log on the first business day following mini-tow. They serve as an additional check – but in theory the citizen may pay ticket before weekly verification occurred.
- b. The tow log will be attached to the office copy of the PVB summons, thus validating the mini-tow.
- c. Parking Violations Bureau will enter the summons information, along with the corresponding mini-tow.

## 6.7 PERSONAL PROPERTY IN A TOWED VEHICLE

Whenever a vehicle is to be towed, the officer requesting the tow shall:

- A. inspect the vehicle for obvious damage;
- B. if the vehicle is unlocked, conduct a thorough and complete inventory of all the contents of the vehicle, including an inspection of the glove compartment and trunk, if they are unlocked, and the opening and inspection of any unlocked and unsealed containers;
- C. complete the Vehicle Inventory form while conducting the inventory, noting the disposition of each item of inventory (i.e. left in the car, delivered to Property Office or returned to owner or other person);
- D. secure the property in the vehicle unless:
  1. any single item of property has an approximate value in excess of \$50.00, in which case it shall be seized for safekeeping, or the property has an approximate aggregate value in excess of \$200.00; or,
  2. there exists a reasonable threat that if left in the vehicle, the property will be lost or stolen; or,

3. the property constitutes contraband or evidence.
4. if the property is not secured in the vehicle, and it is not contraband or evidence, hold it for safekeeping (refer to M.O.P. Chapter 18) and process the property as specified in M.O.P. Chapter 18.

## 6.8 PRIVATE TOW TRUCKS

### A. Prohibition on Calling

Employees of this Department shall not recommend nor summon any private tow truck directly. The employee shall request same from the Dispatchers.

### B. Recovered stolen vehicles

When a member of the Department recovers a vehicle that has been reported stolen, and the arrival of the tow truck will be delayed in excess of thirty (30) minutes, the Radio Dispatcher may call for the services of a private towing service. The Radio Dispatcher shall maintain a written log of all instances in which a private tow truck has been called to tow a recovered vehicle. The log shall include a description of the vehicle, the name of the towing company and the date and time of contact. The log shall be forwarded to the First Deputy Commissioner's Office weekly.

### C. Accidents on the Skyway, Route 33 or Route 198

When there is an accident on the Skyway, Route 33 or Route 198, the Radio Dispatcher or the 911 Lieutenant is authorized to contact a private towing company if the City Tow Truck is unable to respond within 20 minutes. The Dispatcher will contact the towing company next on the list that has been provided by parking enforcement. If the company next on the list is unavailable that fact will be noted on the log.

### D. Non-requested appearance on the scene

Under circumstances in which a tow truck appears at the scene of an incident, and the tow truck has not been summoned by the owner or operator of any of the vehicles, officers shall advise the owner or operator that (s)he is free to select the service of his/her choice and that (s)he is not obligated or mandated, to accept the non-requested service.

### E. Rendering Assistance

When the operator or owner of a damaged vehicle is present and able to arrange for towing, (s)he shall be allowed to arrange for the towing service of his/her choice.

## 6.9 RESPONSIBILITIES AFTER TOWING

Once a vehicle is towed, the Parking Violations Bureau is responsible for the overall care and custody of that vehicle. Only a member of the Parking Violations Bureau can release a vehicle to its owner.

### A. Exception

Those vehicles having evidentiary value or having been used in the commission of a crime or being held for a safety check (refer to M.O.P. Chapter 2), shall remain in the custody of the Police Department:

1. until the safety check has been completed, in the case of a safety check as specified in M.O.P. Chapter 2;
2. until the District Attorney's Officer authorizes the release of the vehicle, in the case of evidence
3. as specified in M.O.P. Chapter 2.

## 7.0 NON-VEHICULAR ACCIDENTS

### 7.1 POLICY

It is the policy of the Buffalo Police Department to attempt to eradicate circumstances and conditions, coming to any employee's attention, which could potentially result in non-vehicular accidents.

### 7.2 NON-VEHICULAR ACCIDENT DEFINED

A non-vehicular accident is any unintended happening or mishap, resulting in physical injury or property damage, not involving a motor vehicle in motion.

### 7.3 RESPONSIBILITY

Sworn members of the Department becoming aware of circumstances or conditions that could potentially cause physical injury or property damage; shall attempt to eradicate such circumstances or conditions. Attempts to eradicate circumstances or conditions that threaten physical injury or property damage shall include, but not be limited to, alerting property owners or their agents, and notifying appropriate governmental or quasi-governmental agencies.

### 7.4 INVESTIGATION

- A. Members shall thoroughly investigate and report all incidents in which the City may become liable, or which involves City property in any way, (e.g. falling trees or branches, holes in street, raised curbing, fire hydrants, etc.).
- B. When the City is not involved, members shall prepare a P-73 through your chain of command to keep at the station-house, of any non-vehicular accident that involves injury to persons or damage to property.
- C. Fire Hydrants - Any member of the Department who receives a report of a damaged fire hydrant, or notices that a fire hydrant is damaged, shall, in addition to subdivision "A" above, also cause the Water Division to be notified.
- D. Bicycle Accident - Any non-motor vehicle bicycle accident on a public road that results in death or serious physical injury shall be investigated.

### 7.5 REPORTS

A. Contents. All reports of non-vehicular accidents shall contain:

1. Incident number;
2. Date and time of incident;

specific cases. These reports are handled in a confidential manner, are not included in the Court file and are forwarded each day to the District Attorney's Office in a sealed envelope.

3. In the event that the arresting officer has highly sensitive information concerning the defendant that (s)he deems would be inappropriate to reveal on the P-32, the officer may request under Section "H" that the District Attorney personally contact him/her.

E. It shall be the responsibility of City Court Booking to prepare a cover folder containing all required documents.

#### 8.15 FINGERPRINTING AND PHOTOGRAPHING PRISONERS

Prisoners requiring post-arrest fingerprinting and photographing shall be done as follows:

- A. Persons arrested and issued Appearance Tickets other than at the City Court Lock-up need not be photographed or fingerprinted before being released, but must return to City Court Booking for this purpose, after their arraignment. City Court Booking shall notify the command responsible for the persons arrest and that command shall send a representative to City Court Booking to assist in the process.
- B. Children arrested as juvenile delinquents shall be photographed and fingerprinted only in accordance with the current sections of appropriate NYS and/or federal law (see Chapter 4).

#### 8.16 PRISONERS CHARGED BY THE BUFFALO POLICE WHO ARE ALSO WANTED BY AN OUTSIDE AGENCY

In addition to all the normally required arrest documentation, City Court Booking shall place in the court folder, the appropriate copy of the "Apprehension for Outside Agency" form. The form shall contain the name of the individual arrested, the Buffalo Police Department file number (AFN), the name of the wanting agency, and the authority under which the person is wanted (i.e. warrant number, detainer, hold for immigration, etc.).

#### 8.17 BOOKING PRISONERS ARRESTED BY A PRIVATE PERSON

Article 140 of the Criminal Procedure Law dictates those circumstances in which a private person may make an arrest. (Refer CPL140.30 and 35). Prisoners arrested by a private person shall be booked at the City Court Lock-up.

#### 8.18 ARREST MADE WHILE ENGAGED IN OUTSIDE EMPLOYMENT

Refer to M.O.P. Chapter 6.

### 9.0 PRISONER'S PROPERTY

#### 9.1 POLICY

All property seized by the BPD, other than evidence, contraband, or instrumentalities of a crime, shall be relinquished to the prisoner upon his/her release from custody. Property seized during arrest procedures and received by the City Court Lock-up shall be governed by their respective rules and regulations.

## 9.2 PROCESSING PRISONER'S PROPERTY

- A. Prisoner's property not otherwise disposed of, shall be taken daily to the Property Office on the first floor of Police Headquarters. A receipt for the prisoner's property shall be obtained by the member delivering it.

When the Property Office is closed

## 9.3 RETURNING PRISONER'S PROPERTY

- A. As a general rule, prisoner property is held at the City Court Lock-up. Arresting officers shall bring the yellow copy of the City Court Lock-up Property Receipt; form F-8-3150 City Court Lock-up to City Court Booking along with the P-163 Arrest Data Sheet. Property held at the City Court Lock-up shall be released at their discretion in accordance with their existing procedures.
- B. A prisoner who has been released from custody and appears at the Property Office to claim his/her large or bulky property being held there shall be required to establish their identity as determined by the Property Office personnel. A copy of the identification presented shall be stapled to the Property Office copy of the P-10cbb(2).
- C. If the prisoner's property has already been forwarded to the Property Office, the person shall be referred to the Property Office window located at the Church Street entrance of Headquarters to reclaim the property.

## 9.4 DISCREPANCY CLAIMS AND MISSING PRISONER'S PROPERTY

If a prisoner claims a mistake or discrepancy in the property returned, or prisoner's property is missing, and the property had not yet been forwarded to the Property Office, the Officer in charge of CCB shall thoroughly investigate the claim and make a complete report of the incident in writing to his/her Commanding Officer. The Commanding Officer shall review the report and make recommendations before forwarding it to the Commissioner's Office through the chain of command. Any disputes over property being taken by City Court Lock-up personnel shall be referred to the Buffalo Police Department.

## 9.5 PRISONER'S VEHICLES

- A. If a prisoner has been arrested while in a vehicle, the vehicle will not ordinarily be towed unless:
1. the vehicle or its contents are evidence;
  2. the vehicle is the instrumentality of a crime (e.g., hit and run accidents);
  3. the vehicle was used in a criminal transaction rendering it eligible for forfeiture;

4. the vehicle is seized pursuant to VTL 511-b;
  5. the seizing officer determines the vehicle is likely to be damaged or stolen.
- B. Refer to M.O.P. Chapter 2 for instructions, if the vehicle is to be towed.
- C. If the vehicle is not to be towed, the arresting Officers, prior to transporting the prisoner for booking, shall:
1. secure the property in the vehicle unless:
    - a. any single item of property has an approximate value in excess of \$50.00, or the property has an approximate aggregate value in excess of \$200.00, in which case it shall be seized for safekeeping; or,
    - b. there exists a reasonable threat that if left in the vehicle, the property will be lost or stolen; or,
    - c. the property constitutes contraband or evidence;
  2. if the property is not secured in the vehicle, and it is not evidence or contraband, it shall be held for safekeeping (refer to M.O.P. Chapter 18), and it shall be processed as specified in M.O.P. Chapter 18.
  3. notify the district in which the arrest occurred of the vehicle's description and location, the date and time of arrest, the prisoner's name, the vehicle's condition and the arresting officers' names. District personnel shall periodically check on the vehicle.
- D. If the vehicle of the prisoner is a commercial truck and it contains perishables, the arresting Officer shall:
1. if locally owned or operated, promptly notify the owner or other person who can take custody of the vehicle;
  2. if not locally owned or operated and there is no local contact person, the Senior on-duty Commanding Officer of the unit making the arrest shall be notified and (s)he shall attempt to make contact with responsible parties to dispose of the property.

## **12.0 ARRESTS FOR DWI / DWAI**

### **12.1 POLICY**

It is the policy of the Buffalo Police Department to rigorously enforce laws that prohibit the operation of a motor vehicle while the driver is under the influence of alcohol or drugs. Special arrest procedures have been devised to meet the requirements necessary for successfully prosecuting this category of offender.

### **12.2 CONDUCTING FIELD SOBRIETY TESTS**

Members of the Department suspecting that an operator of a motor vehicle is under the influence of alcohol or drugs may conduct a field sobriety test. If used, these tests must be conducted in an area and under conditions that assure the safety of the motorist and that result in an accurate assessment of the operator's coordination and motor skills. Tests

- C. Prisoners shall be able to consult with their attorneys in a manner that guarantees the confidentiality of such conversation.
- D. In addition to telephone calls made on behalf of prisoners by City Court Booking personnel, prisoners shall have access to the telephones in the City Court Lock-up.
- E. Prisoners are entitled to meals as specified above. Meals shall be served three times daily.

## 12.0 PRISONER'S PROPERTY

### 12.1 POLICY

All property seized by the BPD, other than evidence, contraband, or instrumentalities of a crime, shall be relinquished to the prisoner upon his/her release from custody.

### 12.2 RETURNING PRISONER'S PROPERTY

A prisoner who has been released from custody and appears at the City Court Booking to claim his/her property being held there shall be required to establish their identity as determined by the City Court Booking personnel. A copy of the identification presented shall be stapled to the Property Office copy of the P-10cbb(2). Prisoners must sign the P-10cbb acknowledging that their personal property has been returned to them. Property held in excess of 24 hours shall be delivered to Room 104 (Property Office) at 74 Franklin Street, where the prisoner(s) can pick-up there Monday through Friday (excluding holidays) during normal business hours.

## 13.0 INSPECTING CELLS AND CELLBLOCK AREAS

### 13.1 POLICY

It is the policy of the Buffalo Police Department to regularly inspect cells and cellblock areas and to maintain compliance with the requirements of the NYS Commission of Correction.

### 13.2 INSPECTION IMMEDIATELY BEFORE AND AFTER A CELL IS USED

- A. The member of the Department assigned to the cellblock who places a prisoner in a cell shall be responsible for inspecting the cell for weapons and contraband and any other deficiencies before the prisoner is placed inside.
- B. The member of the Department assigned to the cellblock who takes a prisoner out of a cell shall be responsible for inspecting the cell for weapons and contraband and any other deficiencies when the prisoner(s) is removed from the cell.
- C. Discovered weapons and contraband or any other deficiencies shall be immediately reported to the on-duty Lieutenant by the attendant making the discovery.
- D. Cells and cellblock corridors shall not be used to store any items or articles.

### 13.3 DAILY INSPECTION

█ the on-duty Lieutenant shall make a visual inspection of the entire cellblock.

be packaged in a separate container. Evidence bags may be obtained from the 911 Lieutenant. Refer to M.O.P. Chapter 5 for investigating Officer's responsibility for collecting evidence.

**B. Liquids, Fragile Items and Unusual Items of Evidence**

Some items of evidence need special packaging.

1. Liquids shall be sent in glass or plastic containers and the containers shall be carefully wrapped.
2. Items of evidence that may lose some of its properties through exposure to air shall be sealed in its container with tape or sealing wax.

**2.8 MAKING A RECORD OF EVIDENTIARY ITEMS**

**A. Recovered Property Report**

Whenever items of evidence are seized, except for drugs and DWI kits, the member of the Department collecting the evidence shall prepare a Recovered Property Report (Form P-10) or a Property Report (Firearms) (Form P-10A) if the evidence is a firearm.. The recovered Property Report shall include a complete description of the item including the make, model and serial number, if any. It shall also include the exact location from where the item was collected or the name of the person from whom the item was obtained. A separate P-10 must be completed for each different event number.

**B. Evidence Control Report**

In the event that the custody of evidence is to be transferred from one Department employee to another, other than when being directly submitted to the Property Office or the CPS Lab, the employee originally having custody shall prepare an Evidence Control Report (Form P-127) for each item of evidence to be transferred. The appropriate entries shall be recorded on the form for each subsequent transfer of custody. The Evidence Control Report shall be attached to the P-10.

**2.9 MEMORANDA OF OBSERVATIONS**

A. It is of utmost importance that investigating Officers make complete and detailed notes of everything observed at a crime scene. Mental impressions are often forgotten and details confused. A memorandum may serve to refresh the recollection of the Officer. In the event that the notes do not refresh the Officer's recollection, the notes themselves might be introduced as evidence. Minimally, the memorandum should contain:

- date and time of arrival at the scene;
- location of the crime;
- name of the victim, if known;
- name of the suspect, if known;
- action taken at the scene;
- whether other units of the Department were called to assist in the investigation

E. Drug Evidence Retained by the Court or the District Attorney's Office

As with all other evidence left in the custody of the District Attorney's Office, the member must obtain a completed Property Transfer Receipt (P-10-Supp.-1) signed by the Assistant District Attorney prosecuting the case. This must be immediately delivered to the CPS Lab as proof of transfer.

8.0 CASH

8.1 POLICY

It is the policy of the Buffalo Police Department to process all money seized as evidence and to do so in a manner that preserves the integrity of the evidence and ensures that members of the Department are insulated from accusations of tampering or other misconduct.

8.2 SEIZING CASH AS EVIDENCE

All money seized as evidence shall be counted in the presence of the owner and another witnessing Officer. The second Officer will recount the money in the presence of the owner to verify the amount. Both Officers will sign the P-10 and the owner will be requested to do so. If the owner refuses, the P-10 shall include a notation to that effect.

8.3 PACKAGING AND DELIVERY OF CASH TO THE PROPERTY OFFICE

A. During normal business hours (Mon-Fri 0800-1200 hrs. and 1300-1600 hrs., closed on holidays) all cash seized as evidence must be delivered to the Property Office Room 104, prior to the expiration of the submitting Officer's tour of duty along with the proper paperwork. Cash must be recorded on a Recovered Property Report (P-10). The quantity of each denomination must be listed along with the total for that denomination. The total amount for all denominations combined, must also be reflected on the P-10. Under "Remarks" the P-10 must also reflect the reason why the cash is being held as evidence. An Evidence Control Report (P-127) must be prepared in those instances specified in M.O.P. Chapter 5.

B. During non-business hours all cash seized as evidence shall be packaged in a self-sealing, tamper evident, numbered clear plastic bag separate from all other property. The number of the bag must be entered on the P-10. The Officer submitting the cash shall place his/her initials, badge number, and the date across the seal of the evidence bag. Foreign currency, U.S. currency, and counterfeit money must all be submitted in separate evidence bags but listed on one P-10. When the Property Office is closed, the submitting Officer shall contact the City Court Booking Lieutenant. The City Court Booking Lieutenant, while in the presence of the submitting Officer, will secure the cash and the accompanying P-10 in the safe located in the City Court Booking facility.

The deposit of cash will be noted on the PROPERTY DROP SAFE DEPOSIT/REMOVAL LOG by the submitting Officer and initialed by the City Court Booking Lieutenant. The secured cash and the accompanying documentation will be forwarded to the Property Office by the City Court Lieutenant or the Captain of C.I.R. on the next regular business day.

#### 8.4 TRANSFERRING CASH

Refer M.O.P. Chapter 5.

#### 8.5 TRANSFERRING CASH EVIDENCE TO COURT

A. Officers needing to present cash as evidence in court must present a subpoena to the Property Office specifically requesting that the cash evidence be made available. The Property Office will retain a copy of the subpoena until such time as the cash is returned.

##### B. No Subpoena

If the Officer has been given a short notice concerning an impending court case and a subpoena for cash evidence has not been obtained, the Property Office Supervisor or the Police Officer assigned to the Property Office must contact the District Attorney's Office to verify that the cash is necessary for presentation in court.

C. All other procedures for transferring cash evidence to and from court shall be the same as any other evidence except that cash must be counted by the withdrawing officer and the Property Office personnel turning over the cash, both before the cash is released for court and then again when it is returned from court.

#### 8.6 CASH SEIZED AS FORFEITURE ASSETS

##### A. Seizing Cash

When a member of the Department **reasonably suspects** that money is related to illicit drug activity, the member may seize the money for potential forfeiture purposes.

##### B. Reports

When money is seized from a suspect for forfeiture purposes, the submitting Officer must complete a Record/Receipt of Seized Asset form, in addition to preparing a P-10 (refer M.O.P. Chapter 5). A copy of the Record/Receipt of Seized Asset shall be forwarded to the Narcotics Section.

##### C. Delivery of the Cash to the Property Office During Non-Business Hours

Refer M.O.P. Chapter 5.

#### 9.0 SPECIAL PROCEDURES FOR PARTICULAR ITEMS OF EVIDENCE

##### 9.1 POLICY

It is the policy of the Buffalo Police Department to process evidence so that the integrity of the evidence is assured and that members of the Department are insulated from accusations of tampering and misconduct.

##### 9.2 BLOOD, SEMEN AND OTHER BODY FLUIDS

A. Whenever there is blood, semen, or other body fluids present that may have some evidentiary value, the Crime Scene Unit shall be called to collect that evidence. Improper removal may destroy the evidence and could prove perilous to the member.

left in the overnight room. The Officer who signed it out has to sign it back in.

C. Cash

1. Whenever cash is found or is seized for safekeeping, the employee gaining custody shall count the money in the presence of the person who is turning it over to the Department and (s)he shall have that person sign the P-10. If the money is found by a Department employee it shall be counted in the presence of a second Department employee in order to ensure accuracy and to guard against claims of unlawful appropriation. If the amount exceeds \$5,000.00 the employees' superior will also count the money and verify its accuracy by signing the P-10.
2. All cash will be separated from all other evidence or property. Foreign currency, food stamps, etc., must each be separately packaged with separate P-10's, using the same event number if all the property was recovered at the same time.
3. Employees submitting cash must list the quantity of each denomination, the total value of each denomination, and the total amount of cash being submitted.
4. Cash shall not be stored at the employee's command but must be delivered immediately to the Property Office. Refer M.O.P. Chapter 18. During non-business hours, the 911 Communications Lieutenant, while in the presence of the employee submitting the cash, shall place it in a locker in Room 101. The deposit of cash will be noted on the PROPERTY DROP SAFE DEPOSIT/REMOVAL LOG by the submitting employee and initialed by the 911 Communications Lieutenant.
5. If cash in excess of \$5,000.00 is seized during normal business hours, the Superior Officer in charge of the Property Office as well as a second member of the Property Office shall, together, count the money to verify the amount.
6. If cash in excess of \$5,000.00 is seized during non - business hours, the 911 Communications Lieutenant shall call in the Property Office supervisor or the Property Office supervisor's designee, who shall assume control of the property. The money should be counted in front of the person turning it in or the 911 Lieutenant.
7. All cash that is to be retained in the Property Office after processing shall be kept in the Property Office safe.

#### D. Drugs

1. Whenever prescription drugs or over the counter medications are turned over to the Department as found property, the employee receiving such drugs shall prepare a P-10 specifically listing the quantity (i.e. number of pills, tablets, etc.). The person turning in the drugs shall sign the P-10.
  - a. The employee receiving such drugs shall attempt to return the drugs to their rightful owner. Failing this they shall be submitted to the Property Office by the end of his/her shift. Refer to M.O.P. Chapter 18.
  - b. The Property Office shall attempt to return the drugs to their owner and if such cannot be accomplished within a reasonable time, they shall be forwarded to the CPS Lab for destruction.
2. Whenever illicit drugs are found or turned over to an employee of the Department, a P-10 shall be prepared and it must clearly state that the drugs have been submitted for destruction. Form DCPS-1-L shall also be prepared requesting that the drugs be destroyed.
  - a. During normal business hours the drugs shall be submitted directly to the CPS Lab.
  - b. During non-business hours the drugs shall be deposited in the evidence depository at the CPS Lab, 45 Elm Street together with the related paperwork.
  - c. If large quantities of illicit drugs are found, Narcotics and Vice Enforcement shall be notified by the employee taking them into his/her custody.

#### E. Fireworks and Explosives

1. Small quantities of fireworks may be submitted to the Property Office. The 911 Communications Lieutenant shall contact the Erie County Sheriff Department's Bomb Squad when large quantities of fireworks come into the Department's possession.
2. Home made fireworks, explosives or suspected explosive devices shall not be stored in the Property Office unless they have been defused and rendered safe.

#### F. Guns and Ammunition

For purposes of this section guns include all firearms, rifles and shotguns.

1. Guns that are found, turned in to the Department, or that are seized for safekeeping will only be handled by sworn members of the Department. The member must first ensure that the gun is unloaded

and that it does not pose a danger to the safety of any person. Officers that are not familiar with the safe handling and clearing of a particular weapon shall allow some one more familiar with the weapon to clear it. All weapons must be unloaded and rendered safe prior to delivery to the Property Office.

2. The member of the Department taking custody of the weapon or ammunition shall deliver it to the Property Office prior to the expiration of his/her tour of duty. During non-business hours, the 911 Communications Lieutenant shall be notified and the item will be deposited in an evidence locker in Room 101(refer M.O.P. Chapter 18). If no evidence locker is available the 911 Communications Lieutenant shall retain custody of the weapon in a secure place until it is deposited in the Property Office.
3. For firearms, rifles and shotguns, a P-10a shall be prepared in lieu of a P- 10. In any incident in which a firearm is seized from a premise for safekeeping, the Officer shall prepare a Premise Hazard File Entry Request (form P-295).
4. When firearms, rifles or shotguns are secured in the Property Office or CPS Lab, no members, other than members of the Property Office or the CPS Lab, shall be allowed to examine the item without the express written consent of the Property Office Commanding Officer and Commissioner of Police.
5. The Property Office will forward a monthly gun count to the Commissioner's Office. Copies of P-10a's are forward to ATF, where they will verify or determine ownership of the weapon through NCIC, or, in the case of a handgun, by transmitting a letter to the New York State Police Pistol Permit Section. A hard copy of all NCIC checks will be sent to the Property Office and attached to the corresponding P-10a. P10a's of all weapons turned into the CPS Lab are faxed daily to the Officer in the Property Office to be stamped with a property number.
6. Before a firearm, rifle or shotgun can be returned to the owner, the Property Office shall:
  - a. if the P-10a lists the owner as being unknown, it must verify ownership of the weapon;
  - b. check to determine if the owner has been convicted of a felony or serious offense and if so, return of the weapon must be denied;
  - c. examine the circumstances under which the Department assumed custody of the weapon to

determine if it can be classified as a nuisance under Penal Law Section 400.05-1 (weapons so classified must be destroyed);

- d. if the weapon was taken into custody for safekeeping, the owner must get a letter from the submitting officer indicating his/her approval of the gun's release;
- e. if a Premise Hazard File Entry (Form P-295) was attached to the P-10a, the Property Office must contact the submitting officer to determine whether release of the weapon contributes to the listed hazard;

G. Jewelry

- 1. Costume jewelry shall be handled just as any other property and requires no special handling.
- 2. When dealing with real jewelry the P-10 must describe the jewelry with sufficient specificity to enable the Property Office staff to readily identify the item. It should also give the Property Office staff an estimate of the value of the item.

H. Knives, Razors and Sharp Objects

Knives with closed blades may be packaged in envelopes. Knives with open blades must have the blades covered (with cardboard and heavy tape) or packaged in a box with the word "KNIFE" clearly written on the top and side of the box. Razors and other sharp objects must be packaged in a box with the word "SHARPS" clearly written on the top and side of the box.

I. Perishable Property

Perishables shall not be accepted by the Property Office. Department employees must attempt to locate the owner and if the owner cannot be located or if (s)he is unable to make arrangements to retrieve the property. When property is disposed of, the P-10 must indicate such.

J. Syringes

Syringes not needed as evidence shall be deposited in an infectious waste "SHARPS" container. A P-10 need not be prepared for found syringes.

7.12 NOTIFYING OWNERS AFTER SUBMISSION TO THE PROPERTY OFFICE

- A. When found property or property being held for safekeeping is turned into the Property Office, the member of the Property Office receiving it shall attempt to contact the owner. If telephone contact is not made during the member's shift, (s)he shall send a letter to the owner notifying him/her to retrieve the property.
- B. The P-10 will be stamped and dated and shall be marked "Letter Sent," and a

copy of the P-10 and the notification letter should be filed in the Monthly Folder according to the month under which the property is to be held.

7.13 RETURN BY THE PROPERTY OFFICE OF LOST/FOUND PROPERTY AND PROPERTY HELD FOR SAFEKEEPING

A. Return of Property Generally

1. The owner must also sign and date the numerical log book;
2. If the P-10 has been stamped "Letter Sent," the copy of the P-10 and the notification letter contained in the Monthly Folder must be removed and discarded;
3. The P-10 must be stamped Final Disposition and placed in the Inactive file.

B. Identification Required

When found property and property seized for safekeeping is to be returned to the owner, the owner shall be required to furnish proper identification. The identification will be photocopied and attached to the P-10 retained by the Property Office. For property that is being retrieved by a person other than the owner thereof, that person must have the written notarized authorization of the owner as well as proper identification.

C. Shipment of Property

1. The item is to be packaged, labeled and shipped by UPS and must be prepaid by the owner by the Carrier of their choice.

D. Cash

1. Cash can be released directly to the owner if the money has not yet been deposited. The Property Clerk shall check the P-10 and verify the amount and the owner's name, address and identification prior to release with written release from the DA's Office, Police Officer or Court Order.
2. Amounts already deposited may be released only by check. The Property Clerk will check the P-10 to verify the amount, the owner's name and address, and (s)he shall inform the owner that a check will be sent in the mail.
  - a. A check request is sent to the City Hall Treasury Department.
  - b. No check can be issued unless the cash has been deposited in the T&A Account.
  - c. The City Audit Department issues the check and is

mailed from them.

E. Guns

Refer to M.O.P. Chapter 18.

7.14 CONFLICTING CLAIMS FOR PROPERTY

When conflicting claims are made to property that is being held by the Property Office, the Commanding Officer of that unit shall retain the property and advise the claimants to submit their dispute to a court of competent jurisdiction. The Commanding Officer of the Property Office shall comply with all court orders concerning the disputed property and shall solicit the assistance of the Corporation Counsel if needed.

7.15 UNCLAIMED PROPERTY

- A. If the owner of property, other than guns, is unknown or cannot be located; or, has failed to retrieve the property after proper notification; or, the finder of the property has not claimed it; or, the finder is the City of Buffalo; the property shall be disposed of according to the following schedule:

<u>Amount</u>	<u>Retention Time</u>
Under \$100.00	3 months and 10 days
\$100.00 - \$499.00	6 months and 10 days
\$500.00 - \$4999.00	1 year and 10 days
Over \$5,000.00	3 years and 10 days

When cash has cleared the above time schedule it will be converted according to law.

- B. Property that remains unclaimed for the required length of time shall be inspected by the Property Office staff and a determination will be made as to the appropriate disposition. If the value of the property is less than \$10.00 it shall be discarded. If it has auction value it will be retained until sale at the next auction.
- C. Unclaimed property, other than cash and guns, that is eligible to be disposed of shall be sold at public auction. Notice of the time and place of the auction must be published in an official publication or a publication designated by the Common Council. The proceeds of the auction shall be paid to the City Treasurer, accompanied by a certificate stating the sale price and the reasonable expense incurred by the Department in the seizure and preservation of the property and the conduct of the audit.

## 7.16 UNCLAIMED OR UNCLAIMABLE GUNS

### A. Conversion to Department Use

1. In cases when it is determined that a gun that is set for destruction can serve the interests of the Department, the officer requesting conversion must submit an Intra-Department memoranda through the chain of command to the Supervisor of the Property Office. Only members of SWAT or the Firearms Unit may request such a conversion. The memoranda must state the purpose of the conversion and to whom it will be assigned. The Supervisor of the Property Office will forward the request through his/her chain of command to the Commissioner. All Commanding Officers in the chain of command must approve the request. Final approval for such conversion must be given by the Police Commissioner.
2. If the conversion is approved by the Commissioner, the commanding officer of the unit that is to receive the weapon must sign for it and take physical possession.
3. A complete list of all firearms converted for Department use shall be maintained in the Firearms Unit and the Property Office. The P-10a will be marked "Conversion for BPD Use" and the date, time and the signature of the commanding officer taking possession will be marked thereon. The P-10a will then be filed in the Inactive File.

### B. Destruction of Firearms

1. All firearms not otherwise disposed of will be kept for a minimum period of 2 years. At the specific request of the District Attorney's Office, a firearm that is part of an active case will be retained until that office authorizes release or destruction. At the end of the two year period these firearms will be destroyed.
2. Prior to the destruction of a firearm, the Property Office will request that City Court Booking run a final NCIC check. Any "hits" for stolen firearms will be immediately reported to the Property Office.
3. A list of weapons to be destroyed will be compiled and sent to Albany in conformance with state law.
4. The Property Room Supervisor will approve, witness, and supervise the destruction of all firearms in conjunction with the CPS Lab. After a firearm's destruction, the P-10a will be marked "Destroyed" and it will be placed in the Inactive File according to the year of disposition.
5. Pellet guns, air guns, etc., are disposed of according to the guidelines