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Colchester Police Department
Evidence Audit and Policy Assessment
November 12-November 17, 2014

On November 12, 2014 I was assigned to assist in the review of the evidence policy and procedures of the Colchester Police Department. Also assigned to this task was Lt. Lance Burnham of the Vermont State Police and Agent Jennie Emmons of the Federal Bureau of Investigation, Burlington office. In addition to reviewing the current evidence policy and procedure, Lt. Burnham, Agent Emmons and I were also tasked with conducting a complete inventory of the Colchester police department's evidence. This document will address the evidence policy only, please see additional reports documenting the evidence inventory.

On November 12, 2014 Lt. Burnham and I met with the Chief of the Colchester Police Department, Jennifer Morrison, at which time she provided us with a copy of the current policy, General Order 45 Property and Evidence Management, dated July 26, 2013. The policy had been approved by Lieutenant Douglas Allen of the Colchester Police Department, as indicated on the first page of the policy. We were also informed that approximately mid-September an evidence audit of 51 cases had been conducted due to the scheduled change of Evidence Custodian Supervisor. It was at that time that Sergeant Charlie Cole was transferring out of the BCI Sergeant position, which included supervision of the evidence custodian, and into the position of Administrative Sergeant.

Overall the policy addresses general provisions for all evidence, identifying under what circumstances items may be seized, security of seized items, inventory of items of value, records and documentation both paper documentation and electronic documentation in the Valcour system, laboratory analysis, packaging, property disposal, disposition, and inspections and audits.

In addition to the evidence policy, Chief Morrison made available to us Colchester police Lieutenant Jeff Barton and Sergeant Charlie Cole to answer questions we had relative to the actual practice taken by department members and the evidence custodian when handling and processing evidence.

As a result of the review of the Property and Evidence Management policy and learning of the actual practices of the department relative to evidence procedures, the following recommendations are made:

1. Eliminate the Drug Take Back Program

The Colchester Police department (CPD) has a secure container housed in the police department lobby intended for citizens to use as a drop off of unused narcotics. The container is a refurbished postal mail box that is locked and secured and has been placed in clear visual sight of the dispatch center window. The dispatch center is staffed 24/7.

This program is not addressed in the policy, although Section VI - Controlled Substance Disposal covers all controlled substances, there is no procedure outlined relative to

accountability for what is deposited into the container and eventually disposed of by the CPD evidence custodian.

It was learned that the practice has been for the evidence custodian to periodically remove any controlled substances from the drop box and put them in the permanent evidence room where they were collected in a large cardboard box. There was no documentation of when and how often the contents of the drop box was brought to the evidence room, and no documentation of what substances were deposited in the larger cardboard holding box in the evidence room. At the time of our observation there was an uncountable amount of a variety of pill bottles and narcotics in the holding box, none of which was documented or otherwise accounted for.

The practice has been for the evidence custodian to seal the holding box and transport the narcotics to a DEA sponsored Drug Take Back Day periodically offered in the community, and deliver the narcotics to the Drug Take Back sight. No chain of custody, paperwork or documentation was completed for this procedure.

Although the permanent evidence room is secure and access is limited to the evidence custodian and his/her supervisory, the lack of accountability for the narcotics taken in and held allows for a margin of liability. Additionally the current practice is not in compliance with the policy related to controlled substances.

The overall recommendation is that the drug take back program be eliminated completely.

2. Establish a Time Frame for Evidence Submission

Section III of the policy addresses the seizure of evidence and the process by which evidence is tagged and identified (whether being stored at the police department or transferred to the Vermont Forensic Laboratory for analysis). Additionally it addresses how evidentiary items are to be documented in the Valcour system and the process for securing items temporarily until transferred to permanent evidence or transferred to the forensic lab. Within section III there is no time frame identified relative to how soon after seizure evidence must be submitted to temporary holding.

The recommendation is for a time frame to be established as to when evidence must be admitted to temporary secure holding. This time frame can allow for flexibility under extenuating circumstances. A reasonable time frame to consider might be that all evidence be properly tagged and logged and submitted to temporary evidence by the end of the investigating officer's shift.

3. Field Testing of Suspected Drugs

The field testing of suspected drugs is not addressed in the CPD policy. *It is recommended that all suspect items seized or otherwise taken into custody with the potential for charges to be brought, be field tested using a NIK test or other similar immediate testing system. The field test should be witnessed by a second officer and documented in the investigating officer's report and/or affidavit.*

4. Accountability for Controlled Substances and Money

Section IV addresses the processing of controlled substances. *It is recommended that parameters be set as to under what circumstances an additional officer shall be summoned as a witness to the counting and processing of cash and controlled substances. The recommendation is that the policy specify that there be a witnessing officer, that the witnessing officer be identified on the evidence processing paperwork and that s/he be present when cash/currency is counted and processed as well as when controlled substances are field tested (see 3 above), weighed and processed into evidence.*

5. Controlled Substance Disposal

Section VI addresses the disposal of controlled substances and references in subsection (e) that the destruction will be carried out by the Property/Evidence Room Manager in the presence of a supervisor of the rank of Sergeant or higher. There is no indication that this policy was being followed.

Subsection (f) identifies a Controlled Substance Destruction Sheet that is to be prepared by the Property/Evidence Manager on a quarterly basis, initialed by the officer who ultimately destroys the controlled substance as well as by the outside witness to the destruction. The policy as it reads is sound, however there is no such Controlled Substance Destruction Sheet in existence, and no indication that destruction was being witnessed as the policy dictates.

The recommendation is that a Controlled Substance Destruction Sheet be developed and implemented and that the policy be followed as written. This would ensure a level of accountability for the destruction process. It is also recommended that the policy specify by what means controlled substances are to be destroyed (incinerated, turned over to DEA for destruction, or other method) and identify a checks and balances system by way of a witness to the destruction, chain of custody documentation, and implementation of the Controlled Substance Destruction Sheet in order to provide complete and thorough documentation of the process.

Relative to the outside witness, the policy should define what an outside witness is. A reasonable definition might be another Vermont certified law enforcement officer.

6. Additional Security for High Risk Property/Evidence

Certain items are generally considered to be of a higher value or otherwise in need of additional security. Those items include money, jewelry, precious metals, guns and drugs. *Arrangements should be made to house these items within in an additional secure area inside the permanent evidence holding room. An example of how this could be accomplished would be to partition off a section of the permanent evidence holding room with a cage that can be secured and locked to hold the above listed items within that secured cage. Cash should be held for a limited amount of time and should be secured in a safe within the permanent evidence holding room.*

7. Adherence to Evidence Room Procedures and Documentation

Evidence room procedures should be followed consistently when property is admitted. *As referenced in this assessment, high risk items (guns, drugs, cash, jewelry and precious metals) should be stored within an extra level of security in the permanent evidence room and this process should remain consistent at all times. It was noted that in some instances some guns were stored in a corner area of the evidence room that appeared to be the "gun storage area" while others*

were located in storage bins among other types of evidence. The same was found for drug evidence and jewelry. It was unclear why some guns were kept in one part of the evidence room while others were stored in the evidence bins.

In terms of documentation, it is recommended that all evidentiary items be documented consistently using the currently approved Evidence/Property Receipt. There were many cases in which the Evidence/Property Receipts were not signed by the evidence custodian when evidence was moved from temporary holding and placed into permanent evidence storage, and instances when property was returned but there was no documentation on the Evidence/Property Receipt. There were also many cases in which the description of the property was very vague and serial numbers were lacking for items such as electronics and guns.

It is also recommended that a log book be kept for the permanent evidence storage room. Each time a person enters the permanent evidence storage room, s/he should write their name in the log book, the date of entry, the time of entry, the purpose of entry and also log the time s/he exits the room.

8. Conduct Inspections and Audits

Section X of the general order outlines Inspections and Audits and when these are to be carried out. As noted previously, an evidence audit of 51 cases was conducted in mid-September due to the change in BCI Supervisor within the department, however, *it is recommended that Inspections and Audits be defined in terms of when they are conducted, who shall conduct them, what sampling or amount of evidence shall be checked for each as well as what documentation shall be used.*

For example:

Audit: Conducted annually and when there is a change in evidence custodian, conducted by a department Supervisor designated by the Chief and not connected with the evidence function. Number of items to be audited shall be based on a percentage of Critical Evidence (guns, drugs, cash, jewels, precious metals) held by the department. The department may want to consider making the audit a check of 100% of evidence held.

Inspection: Conducted semi-annually by the Criminal Division Commander witnessed by the evidence supervisor. A defined number of items should be determined for evidence inspections, for example 10 randomly selected cases.

Unannounced Inspections: Conducted at least once per year by the Chief of police. A defined number of items should be determined for unannounced inspections, for example 10 randomly selected cases.

Each of these audits and/or inspections should be documented. A simple standard form could be developed by the department to capture the findings. The form should identify any discrepancies found such as packaging, chain of custody, documentation, misplaced items or the inability to locate items. Once the audit or inspection is completed a time frame should be identified in which any discrepancies are addressed and who shall be responsible for addressing them. All follow up should also be documented.

If these recommendations are adopted, they should be appropriately identified in department policy.

Again, these are recommendations, the department can certainly choose to redefine the frequency of audits and inspections, or the persons responsible for conducting them. Current CPD policy states that inspections and sampling audits of high risk property be conducted quarterly.

With respect to subsections a.-d. of section X it appears that the policy was not being followed and that the identified Inspections and Audits were not being conducted with the exception of the audit conducted in mid-September. The recommendation is that the policy be adhered to by the Property/Evidence Manager as well as by the Property/Evidence Supervisor and documented.

9. Evidence Management System

The CPD utilizes Valcour to track the evidence function of the department. *It might be useful to investigate whether an evidence management software package would be useful for CPD.*

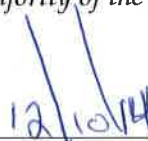
10. Oversight and Accountability

In reviewing the policy and speaking with officers involved in the supervision of the evidence function of the CPD, *the recommendation is that there be better supervision and oversight. As outlined in this report there are areas in which the policy was simply not being followed which should have been detected by the supervisors and rectified. Strict adherence to the policy should be enforced and the supervisors should take an active role in monitoring the evidence function of the department.*

As outlined in this report, there are areas where changes can be made to improve the accountability, documentation and security, however it should be noted that the majority of the policy is sufficient as long as it is being adhered to.




Lieutenant Dee Barbic
Vermont State Police



Date



Major Glenn Hall
Vermont State Police



Date

