



<p style="text-align: center;">SOUTH DAKOTA</p>  <p style="text-align: center;">DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE</p>		POLICY NUMBER	PAGE NUMBER
		1100-04	1 OF 6
		DISTRIBUTION:	Public
		SUBJECT:	Crime Scene Management and Criminal Evidence Handling
RELATED STANDARDS:	ACA 5-ACI: 3A-42 PREA: 115.21, 115.71	EFFECTIVE DATE:	July 01, 2024
		SUPERSESSION:	New Policy
DESCRIPTION: Inspector General	REVIEW MONTH: June	 <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>	

## I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to seek prosecution on crimes occurring within its jurisdiction. Crime scenes and evidence must, therefore, be preserved to ensure the integrity of evidence in order to conduct a successful investigation and subsequent prosecution occur.

## II. PURPOSE

The purpose of this policy is to ensure that the crime scene is properly located, contained, and secured, the authority for investigation is clearly assumed, and to *provide for the preservation, control, and disposition of all physical evidence obtained in connection with a violation of law and/or institutional regulation [ACA 5-ACI-3A-42]*. Procedures will address the chain of custody, evidence handling, and location and storage requirements.

## III. DEFINITIONS

### Crime Scene:

The immediate area where a crime has been discovered, or any location where evidence is likely to be found and an area surrounding that scene, of a reasonable dimension, to ensure that potential evidence is not disturbed, lost, or destroyed.

### Dangerous Drugs and Paraphernalia:

All controlled substances as listed in SDCL chapter 34-20B (and alcohol); marijuana, and marijuana concentrates including all parts of the plant cannabis sativa L., and any volatile substance inhaled for its mood-altering effect, including but not limited to, cleaning fluids, glue, lacquer, petroleum distillates, and/or any drug controlled by regulations of federal or state law. This area will also include drug paraphernalia.

## IV. PROCEDURES

### 1. Overview:

- A. Major Crime Discovery: Upon discovery of a major crime, whether within a DOC facility or a major crime committed to the DOC working outside of a DOC correctional facility, the person discovering the crime shall ensure that sufficient backup persons have been activated to neutralize or counter any additional threats.

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1. Once sufficient persons are on the scene, the highest-ranking person at the crime scene will become the scene commander. Upon arrival of the inspector general (IG), their designee, or special investigation unit (SIU) staff, they will assume command of the crime scene. The IG or SIU staff has full authority over the crime scene. The crime scene commander will direct activities to preserve life, prevent further injuries or damage, prevent escape, and preserve evidence.
  2. After all life safety provisions have been met, the scene of the crime will be isolated, cordoned off, and secured.
    - a. The crime scene should be large enough to encompass the entire area of the crime, to include any area where potential evidence from the crime may be located.
    - b. The crime scene is easily reduced, but it is extremely difficult to enlarge, especially after the area has been contaminated.
    - c. Sufficient DOC employees will be posted at the crime scene and will maintain a crime scene log of events to assist the investigators.
    - d. All suspects and witnesses will be separated and will not be allowed to communicate with each other until after they have been interviewed by the IG or SIU investigator.
  3. Once secured, no person will enter the crime scene without the prior approval of the IG or their designee.
    - a. In cases of emergency, it is occasionally required that a person enter a crime scene. In such cases, those persons will submit reports detailing their actions within the scene. All persons will pay particular attention to the location and position of suspects, victims, and potential evidence. Those persons entering a crime scene will guard against needlessly disturbing the scene.
  4. If the scene involves a live victim, DOC employees will be assigned (two (2) when staffing level allows) to the victim and will record any statements given by the victim until such time that they are relieved by the IG or designee.
  5. Any person entering into a crime scene should take appropriate precautions against disease or illness, especially when blood or other bodily fluids are present.
    - a. Clinical Services staff entering the crime scene will attempt to perform life and/or limb saving measures without disturbing the crime scene, as much as possible.
  6. Major crimes involving offenders or parolees that occur outside a DOC correctional facility and grounds will be investigated in accordance with local procedures and jurisdictions.
- B. Offender Suspected Death:
1. Medical assistance must be summoned, and all efforts made to maintain life or limb.
  2. A death will be treated as a suspected death, until the death is confirmed by an official qualified to make that determination. The IG, coroner, and any law enforcement authority with jurisdiction will be notified.
  3. If the suspected death occurs in a contracted community corrections center, the residential program staff will notify the assigned community parole officer.
    - a. The assigned parole officer will notify the director of Parole.
    - b. The director of Parole will notify the secretary of Corrections (SOC), the deputy secretary of Corrections (DSOC) and the IG, who will also notify the Division of Criminal Investigations (DCI).
    - c. All unattended or unexpected deaths of offenders assigned to contracted corrections centers will be managed and investigated by the local law enforcement agency. The parole officer will serve as the liaison with the corrections center staff and local law enforcement agencies.
  4. When a suspected death occurs off grounds during transit, the ranking officer will follow the same procedure outlined above and, in addition, will summon a local law enforcement agency with jurisdiction.
  5. If a death is attended by a health care provider in a DOC facility, it will be reported to the IG, their designee, or SIU, but will not normally need to be secured for investigative purposes, unless requested by the coroner or any person who has reason to believe that the death could be attributed to causes unrelated to the terminal or complicated medical condition.
  6. The coroner and his/her investigators may conduct an independent investigation into the death and will provide authorization to remove the body, following the death. All DOC employees, contract workers, and volunteers will adhere to the directives of the coroner at the death scene.

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7. When death is confirmed, the ranking DOC employee, in accordance with local procedures, will:
    - a. Complete the *Death of an Offender Checklist* (see DOC policy 300-20 – *Death of an Offender*) and make notifications.
    - b. Notify the offender's recorded next of kin, in accordance with SDCL. In cases of medically unattended, unexpected deaths, such as homicides, suicides, and unattended unexpected natural causes, the respective coroner's office will make the notifications. In all medically attended deaths, expected deaths, such as hospice deaths, the warden or designee will make the notification.
- C. The IG or SIU: Assistance and access to the crime scene, witness(es), and evidence are to be determined by the IG or SIU.
1. Once the scene has been secured, access to the crime scene area will be limited to the IG or SIU and those approved by the IG or SIU, except where emergency personnel must enter to preserve life or limb and/or remove an injured party. Entering the crime scene out of curiosity is forbidden and has the potential of destroying evidence.
  2. The IG or SIU may expand or reduce the area of the crime scene. The crime scene should be opened to normal use as soon as practical but will not be released until cleared by the IG or SIU in cooperation with DCI.
  3. Only the IG shall close and/or release a crime scene back to normal operations.
- D. Major Crime Scene Evidence Handling: Only DOC employees technically trained to handle evidence will be permitted to take control of evidence at major crime scenes. An offender, victim, or suspect, will not be allowed access to evidence, except as ordered by a court of competent jurisdiction.
1. When practical, evidence in major crime scenes will remain undisturbed and may be photographed, videotaped, and /or sketched by the IG or SIU staff. Often, especially in cases involving homicide, this will be accomplished by a lab team from DCI. Exceptions are as follows:
    - a. Dangerous contraband, dangerous drugs, or drug paraphernalia will be confiscated immediately when found on the person of a suspect or witness. Any item located within the area designated as the crime scene, will be left in place until such time that it is noted and processed as evidence by the IG or SIU staff. Except in cases where the item could cause further injury, or further jeopardize the security of the facility, items located within the crime scene will not be moved or handled, and photos will not be taken and/or altered without the consent of the IG or SIU staff. If the item must be moved, handled, or altered, it will be done so in a manner that will, to the highest extent possible, protect against loss of trace evidence (to include but not limited to fingerprints, DNA, hairs, or fibers). In any case, the person removing items of evidence will complete a report detailing the circumstances surrounding the removal of the item from the crime scene.
    - b. Clothing and/or other material(s) that may have been removed from the scene with a victim, witness, or suspect will be confiscated, at the earliest possible time, consistent with proper medical care of the victim, witness, or suspect. These materials will be separated and placed into clean paper bags. It is important that blood-soaked clothing be allowed to dry prior to packaging as evidence. All evidence removed from a victim, witness, or suspect will be turned over to the IG or SIU staff at the earliest possible opportunity.
    - c. Evidence found in other areas, but with the potential connection to a recent major crime will be treated in the same manner as the original crime scene. The evidence will be protected, in place, until it has been acknowledged and collected by the IG or SIU staff.
    - d. Criminal evidence that is recovered during the course of a minor incident will be packaged and tagged, as detailed in this policy and will be placed into the facility evidence intake locker.
  2. It is a criminal offense to conceal, destroy, or alter any physical evidence that may aid in a discovery, detection, apprehension, prosecution, corrective, or disciplinary action. Any contraband item or drug is evidence of a crime and will be treated according to proper criminal evidence procedures, to include the proper reporting to the IG or SIU staff.

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- E. Sexual Assault or Sexual Act Investigations: An investigation is conducted and documented whenever a sexual assault or threat is reported. For felony criminal investigations conducted by the IG, the IG or SIU staff ***will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and will review prior complaints and reports of sexual abuse involving the suspected perpetrator*** [PREA Standard 115.71 (c)].
1. ***Criminal investigations will be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible*** [PREA Standard 115.71(g)].
  2. ***Substantiated allegations of conduct that appear to be criminal will be referred for prosecution*** [PREA Standard 115.71(h)].
  3. ***The departure of the alleged abuser or victim from the employment or control of the facility or DOC will not provide a basis for terminating an investigation*** [PREA Standard 115.71(j)].
  4. The IG or SIU staff will follow a uniform sexual assault evidence protocol that maximizes the potential for obtaining viable physical evidence for administrative proceedings and criminal prosecutions. The ***sexual assault protocol will be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents"*** [PREA Standard 115.21(b)].
  5. ***When the quality of evidence appears to support criminal prosecution, the agency will conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution*** [PREA Standard 115.71(d)].
  6. ***When outside agencies investigate sexual abuse, the facility will cooperate with outside investigators and will endeavor to remain informed about the progress of the investigation*** [PREA Standard 115.71(1)].
- F. Statements: DOC employees, contract workers, and volunteers will not attempt to elicit statements from any person suspected of a felony crime. Any statements that are unsolicited, given voluntarily, spontaneously, and without threat or coercion, or any statement that is given by a victim or witness, must be documented by DOC employees, contract workers, or volunteers and used during criminal proceedings.
- G. Reporting: Any person who is involved in a crime scene discovery or who is assigned to supervise the crime scene will prepare a report, in addition to the crime scene log, prior to their release from duty. This report will include a detailed account of their activities in regard to the crime scene with observations of items, objects, and/or activities that their duties allowed them to view. All reports will be filed with the IG or SIU as soon after completion as possible. If, at a later time, additional information becomes available to the writer a supplemental report will be forwarded to the IG or SIU.
- H. Chain of Custody Procedure: DOC employees, contract workers, or volunteers finding and taking custody of physical evidence should do the following:
1. Document the type of evidence and description, date, time that the evidence was located, and its exact location within the facility.
  2. Physical evidence will be photographed prior to moving it from its original location. The photograph will be downloaded and printed and/or saved electronically.
  3. Place the evidence in an evidence bag. Wet or damp items must be allowed to dry prior to placing them in paper evidence bags. Other organic type materials, such as green plant material, should also be placed into paper bags to prevent mold and mildew from forming and destroying the evidence.
  4. Evidence that is too large to fit into an evidence bag should be marked with the date and time, case number, and the collector's name. This marking should be placed in an area that will not alter the evidentiary value of the item. If the marking cannot be accomplished without damaging the evidentiary value of the item, an evidence tag will be attached to the item and the item will be placed into a blue OIG/SIU evidence intake locker.
  5. Multiple pieces of evidence shall be packaged separately. Ensure all items are placed in evidence, even when the parts are dismantled such as homemade weapon, item in sock, etc.

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6. After placing the evidence into an evidence bag, the bag shall be sealed using evidence tape. The finder will then place their initials and date across the seal.
  7. The finder will complete an incident report in COMS and notate all actions and the enclosed evidence. Multiple pieces of evidence may be logged in on the same form, providing that the evidence is connected to the same case or event, and that it is collected at the same time. Additional evidence or evidence that is located after the initial evidence is placed into the temporary criminal evidence storage box will be documented in COMS.
  8. After properly packaging and tagging the evidence, the evidence will be placed into an evidence intake locker for storage or will be turned over to the IG or SIU with appropriate chain of custody documented.
  9. The person finding the evidence is responsible for that piece of evidence until it has been either packaged and turned in to the blue OIG/SIU evidence intake locker, or until it is collected by the IG or SIU staff. Evidence will not be handled by other persons.
  10. Follow the same steps above when suspected dangerous drugs or controlled substances are found. Additionally, the finder will package the substance in an evidence bag in such a way that the drug and its original packaging container are protected. The evidence will then be given to the IG or SIU staff directly or will be placed in the evidence intake locker. Any persons finding or handling suspected dangerous drugs or controlled substances should take precautions prior to handling the substances.
  11. Non-criminal evidence will be handled and processed through the hearings and discipline process. Non-criminal case evidence should be placed in the gray DOC hearings/discipline evidence intake lockers. Authorized facility staff (SIU/IG and/or OIC) may perform a presumptive test on suspected alcohol when found.
  12. A *Receipt for Property and Chain of Custody* form (see attachment #1) will be attached to the evidence prior to it being placed into the gray DOC hearings/discipline evidence intake locker.
  13. Any criminal evidence that will be presented as evidence at any administrative hearing, such as a photograph or the determination of any presumptive tests, will be sufficient for administrative proceedings.
- I. Custody and Storage of Evidence: SIU will collect the evidence from the blue OIG/SIU evidence intake lockers and assure that a report and Receipt for Property and Chain of Custody is attached. The SIU staff will sign for the item on the chain of custody and ensure that it is properly packaged.
1. The IG or SIU staff will determine whether the item has criminal evidentiary value and will, when necessary, photograph the evidence and forward it to the appropriate lab for testing if needed.
    - a. The evidentiary review will be in conjunction with DCI personnel for lab determination.
  2. The IG or SIU staff will complete an *Inspector General Evidence Log* (see attachment #5) for any evidence that will be used in a criminal case.
  3. Evidence will be secured in the area designated by the facility for storage of criminal evidence except, but not limited to, during submission to a laboratory for testing, for submission into court as evidence, or when being examined by counsel prior to court proceedings.
  4. Where a crime was committed and adjudicated, evidence will only be disposed of when released by the appropriate prosecutor's office, or designee.
- II. Disposal of Evidence: Evidence may be disposed of in accordance with SDCL and this policy.
1. Evidence that is deemed to be dangerous, including dangerous contraband, drugs, weapons, alcohol, or other items that could jeopardize the safety and security of a facility, will be destroyed. The item will be deemed destroyed when it has been damaged to the point that it no longer presents a threat to any person. Drug and blood evidence will normally be burned or incinerated. Knives, firearms, or other weapons, will be burned, ground, or cut so that they are no longer serviceable. Drug paraphernalia may be burned, crushed, or otherwise disabled to the point that it is no longer usable or serviceable.
  2. Evidence that is deemed to be non-dangerous, such as altered clothing, may be returned to its owner or facility.
  3. When evidence is destroyed, the destruction will be documented on the chain of custody form, as well as on, *Evidence Disposal Record* (see attachment #3). The evidence custodian along with one

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(1) other IG staff member will witness the destruction of the evidence and will sign the Evidence Disposal Record. When evidence is returned to its owner, it will be documented on a Receipt for Property and Chain of Custody and on an *Evidence Release Form* (see attachment #4). The owner of the evidence will be required to sign the document prior to its release. Copies of the Receipt for Property and Chain of Custody form, as well as the Evidence Disposal Record and Evidence Release Form, will be maintained by the IG or designee.

## V. RESPONSIBILITY

- A. This policy is applicable to any facility/office which houses offenders committed to the DOC. Procedures on holding and disposition of physical evidence will meet the requirements of the Office of the Attorney General, IG's office, and state's attorneys.
- B. The IG will review and update this policy annually.

## VI. AUTHORITY

- A. SDCL Chapter 22-22 [Sex Offenses](#).
- B. SDCL Chapter 23A-37 [Disposition of Seized Property](#).
- C. SDCL § [19-19-901](#) **Authenticating or identifying evidence.**
- D. SDCL § [22-42-5](#) **Unauthorized possession of controlled drug or substance as felony.**

## VII. HISTORY

July 2024 – New Policy

## ATTACHMENTS *(\*Indicates document opens externally)*

1. Receipt for Property and Chain of Custody\*
2. Receipt for Property Continuation Report\*
3. Evidence Disposal Record\*
4. Evidence Release Form\*
5. Inspector General Evidence Log\*
6. DOC Policy Implementation / Adjustments









### EVIDENCE DISPOSAL RECORD

<b>Case Number:</b>		<b>Date:</b>	
<b>Defendant:</b>			

The property mentioned below was destroyed because it was deemed to be (check all that apply):

- Illegal to Possess     
  Bio-Hazardous Material     
  Abandoned Property (in which an owner could not be located)

Item Number	Item Description

The below signing investigator states that on this date they have witnessed the destruction of the listed property.

\_\_\_\_\_  
Investigator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

## EVIDENCE RELEASE FORM

<b>Case Number:</b>		<b>Date:</b>	
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Dear Owner or Property Custodian:

The District Attorney’s Office has adjudicated the above referenced case and has allowed for the disposition of all evidence related to that case. All property which has not been deemed to be dangerous contraband, as defined in DOC policy, is being returned to you.

The items being returned are listed below. Please verify that the item being received is the actual item listed on the inventory sheet. If there are no discrepancies, you will be required to sign for the release of the items.

Evidence Item Number	Item Description

**By my signature below, I hereby acknowledge that the above mentioned property has been returned to me.**

\_\_\_\_\_  
Property Owner or Custodian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Evidence Custodian

\_\_\_\_\_  
Date

