

**Kansas Attorney General**

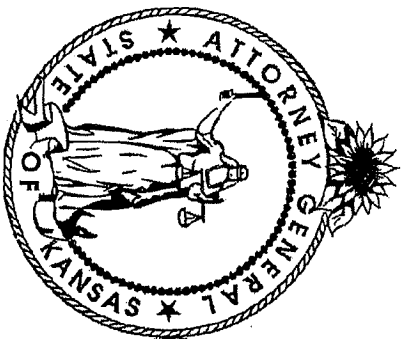
**Derek Schmidt**

# **Evidence Control Procedure**

**Bruce Adams, Special Agent**

**Travis Harrod, Assistant Attorney General and  
Evidence Control Advisor**

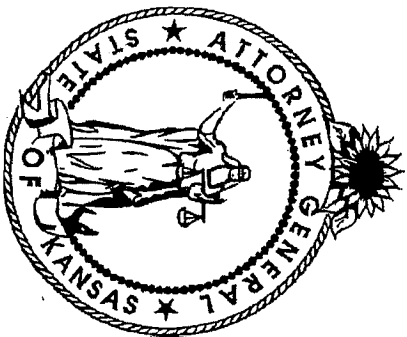
**Lisa Mendoza, Assistant Attorney General**



# **Evidence Control Procedure**

## **Purpose and application**

- Establish uniform procedures for:
  - Collection and packaging of lawfully obtained evidence
  - Documentation
  - Intake and storage
  - Transfer, release or other lawful disposition
  - Secure storage locations
  - Inspection and audit of evidence, storage locations and documentation
- Applies to all employees of AG's Office
- Establishes guidelines and directives, but not new rights or liberty interests for employees, defendants, or third parties



## **Evidence Control Procedure**

### **What doesn't the Procedure cover?**

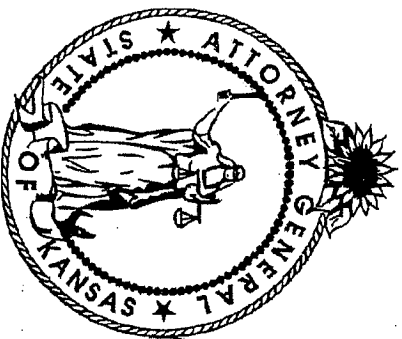
- It does not cover every conceivable situation involving physical evidence.
- Why not? Investigations and litigation are dynamic. Every situation and case is different.
- Procedure provides guidance. It is not a substitute for common sense, training, experience, or supervisory guidance.



# **Evidence Control Procedure**

## **Some new concepts**

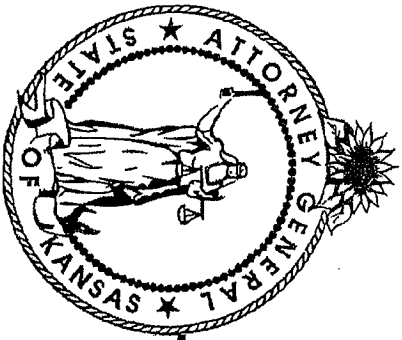
- Evidence Control Center
- Evidence Intake Center
- Evidence Working Group
- Temporary and Permanent Evidence Storage Locations
- Evidence Control Advisor
- Primary and Secondary Evidence Custodians



# **Evidence Control Procedure**

## **Who are they?**

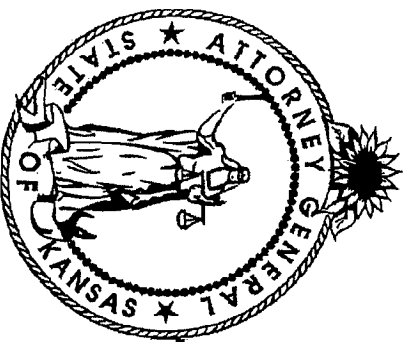
- Evidence Control Advisor
  - AAG Travis Harrod
- Primary Evidence Custodian
  - Special Agent Dave Unger
- Secondary Evidence Custodian
  - Special Agent Bruce Adams



## **Evidence Control Procedure**

### **What is evidence?**

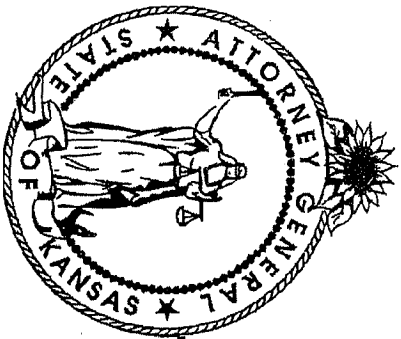
- Any tangible item or object
- that when lawfully collected, documented, or analyzed
- may be submitted to prove, either directly or indirectly
- a fact asserted in an administrative, judicial or quasi-judicial proceeding



# **Evidence Control Procedure**

## **Examples of evidence**

- **Biological material** (fluids, tissue or other substances from human or animals)
- **Controlled substances** (liquid, powder, capsule, tablet, etc.)
- **Documentary items** (books, ledgers, correspondence, etc.)
- **Electronic equipment or media** used to store electronic data
- **Hazardous materials** (explosives, corrosives, noxious or dangerous chemicals regardless of form)
- **Tangible items** (clothing, weapons, vehicles, footwear impressions, machines, carpet fibers, etc.)

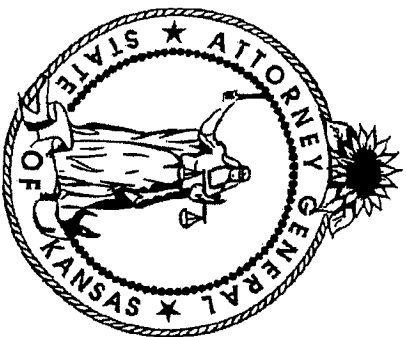


# **Evidence Control Procedure**

## **Documentation, collection, packaging, transportation, and storage of evidence**

- Assure safety of persons that may come into contact with evidence
- Minimize cross-contamination, degradation, or destruction
- Document evidence and chain of custody to assure it can be admitted in an administrative, quasi-judicial or judicial proceeding
- Consider obtaining assistance from other LEO agencies that can safely and reasonably collect, transport and store evidence if necessary
- Consider using personal protective equipment (gloves, boots, eye protection, etc.) to protect from injury or contamination and cross-contamination of evidence

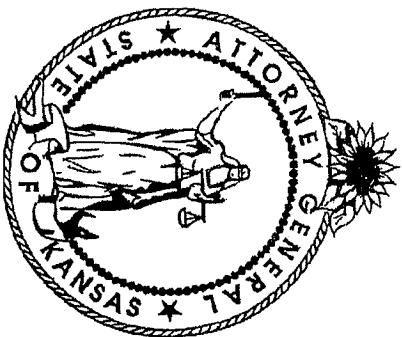




# **Evidence Control Procedure**

## **Documentation of evidence collected**

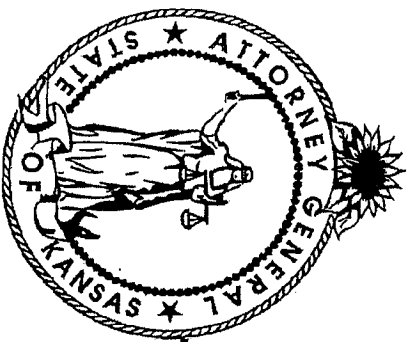
- Complete description of item
- Date/time, location and condition of item when first collected
- Identify who had physical custody of item when first collected
- **Evidence Custody Receipt** documents collection and chain of custody
- Consider using photographs, video, sketches/diagrams, notes and the like as additional source of documentation



## **Evidence Control Procedure**

### **Hazardous materials**

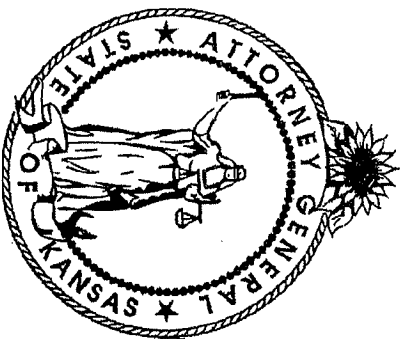
- AG's evidence storage facilities are not designed for storage of hazardous materials
- Do **not** transport or store known hazardous materials in any location under control of AG's Office
- Notify and request assistance from LEO agencies such as KBI, KHP, Fire Marshal, KDHE, ATF or other explosive ordinance units that are trained to handle and store such materials



# **Evidence Control Procedure**

## **Firearms and ammunition**

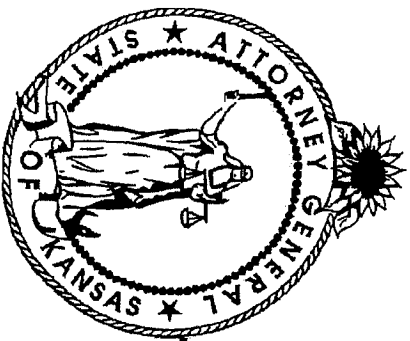
- Must render the firearms and/or ammunition safe prior to collection
- Unload firearm where it does not destroy or contaminate the evidentiary value of the firearm
- No loaded firearms shall be stored in evidence storage locations under the control of AG's Office



# **Evidence Control Procedure**

## **Biological evidence**

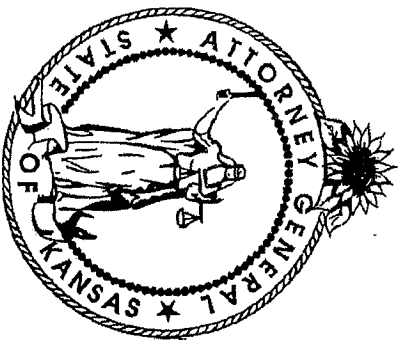
- Use personal protective equipment during collection and packaging
- AG's evidence storage facilities are not designed for storage of many types of biological evidence
- Consider requesting assistance from other LEO agencies with capabilities to adequately collect, transport, store and analyze the type of biological evidence being collected



# **Evidence Control Procedure**

## **Documents**

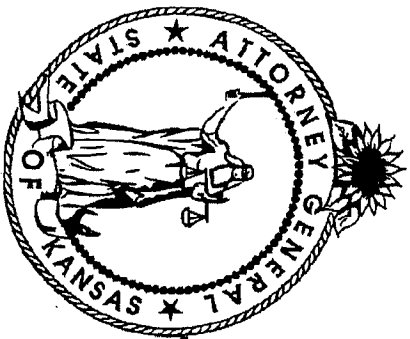
- Collect pursuant to judicial authority or other lawful means, such as a warrant or inquisition subpoena
- If dealing with original documents, assigned case attorney must consider seeking judicial authorization to compel custodian of original document to preserve and maintain custody of document until further court order
- May consider other available alternatives that will preserve and protect original documents from destruction



## **Evidence Control Procedure**

### **Motor vehicles and other means of conveyance**

- May be collected as evidence or as assets in a civil or consumer protection investigation; use **Evidence Custody Receipt**
- Must also use **Vehicle Impoundment and Inventory Record** form
- Vehicle impoundment form must be completed by conducting inventory of interior items
- Transport to location with restricted access



# **Evidence Control Procedure**

## **Evidence Control System**

- Evidence shall be subject to tracking and control from time of collection through disposition
- This may include labeling or use of a bar code, detailed descriptions, inventories, documentation of chain of custody, use of an Evidence Location Access Log, and movement in or between evidence storage locations

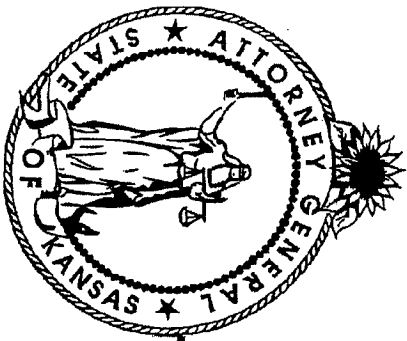


# **Evidence Control Procedure**

## **Evidence Custodians**

- AG or designee appoints two Special Agents to be Primary and Secondary Evidence Custodians
- Evidence Custodians have the sole custody and control of keypad combinations or keys to all temporary and permanent evidence storage locations
- No person shall access or enter any evidence storage location without knowledge, permission and supervision of an Evidence Custodian

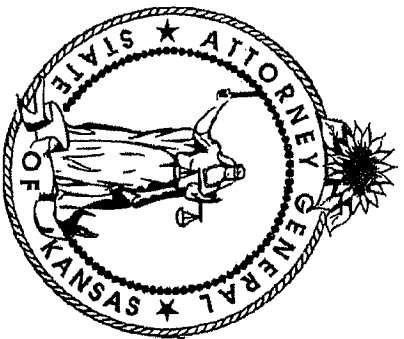




# **Evidence Control Procedure**

## **Evidence Custodian Responsibilities**

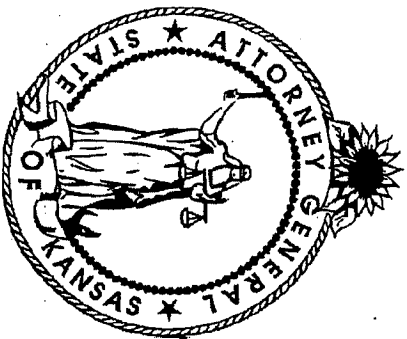
- Inspect evidence, documentation and packaging before accepting and assigning to storage location
- Control, care, transfer, and destruction of all evidence
- Document any transfer or destruction
- Maintain log of all persons entering/exiting storage locations, and supervise/escort all persons while present there
- Supervise and maintain Evidence Control Center, including Intake Center, and any Temporary Evidence Storage Location
- Conduct periodic safety and security inspections



# **Evidence Control Procedure**

## **Review of evidence during trial preparation – generally**

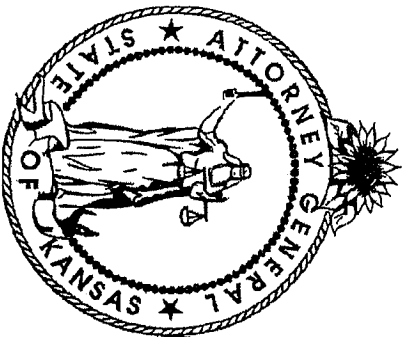
- Submit written request to Evidence Custodian to schedule date/time
- Include name, case number, reason for review, and approximate length of time needed for review
- Evidence Custodian coordinates with collecting SA to arrange time for review/transfer of evidence to Investigative Case Agent
- Investigative Case Agent maintains custody/physical control of evidence until review is complete
- Following review, evidence transferred back to Evidence Custodian
- Case agent submits narrative to case file documenting the review
- Special rules for review by prosecuting county or district attorney



# **Evidence Control Procedure**

## **Release of evidence from AG's Office**

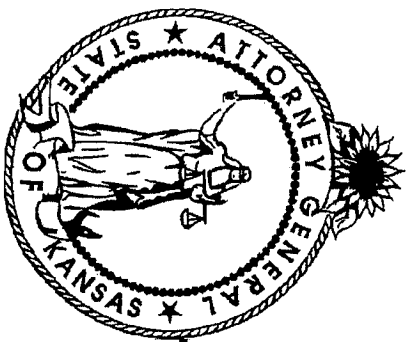
- **Movement/transfer for scientific or technical analysis** – must be transported by a Special Agent or by approved secure means of transport (e.g., certified mail, FedEx, etc.)
- Must maintain chain of custody
- Evidence received from a lab or through other secured means shall be inspected by an Evidence Custodian or the assigned Special Agent to document condition of evidence at time of receipt



# **Evidence Control Procedure**

## **Release of evidence from AG's Office**

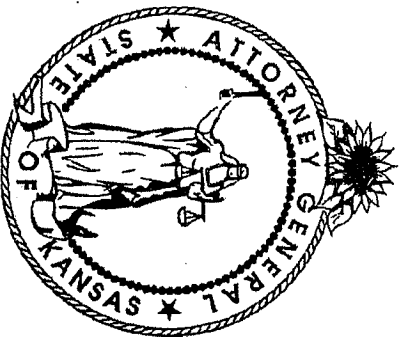
- **Movement/transfer to custody of court** – must be transferred to the Special Agent who collected the evidence or who will testify in order to establish admissibility
- If court admits evidence and takes custody, Special Agent shall document transfer by obtaining signature from court employee taking custody or by obtaining a written receipt



# **Evidence Control Procedure**

## **Release of evidence from AG's Office**

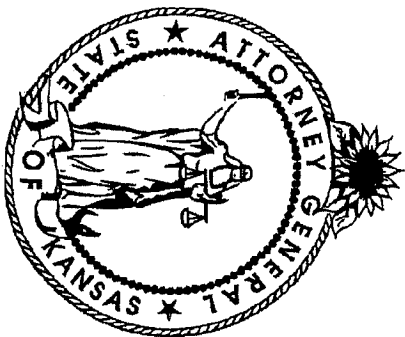
- **Transfer to person of original control or ownership** – only with order from court of competent jurisdiction
- Upon receipt of court order:
  - Evidence Control Advisor must review order before release
  - Photograph evidence to document condition
  - May remove marks of evidence (packaging, tape, etc.) as a convenience to person accepting property
  - Obtain written receipt from person receiving evidence
  - Where doubt identity or dispute in ownership, Evidence Control Advisor or other assigned AAG may file interpleader action to resolve the issue



# **Evidence Control Procedure**

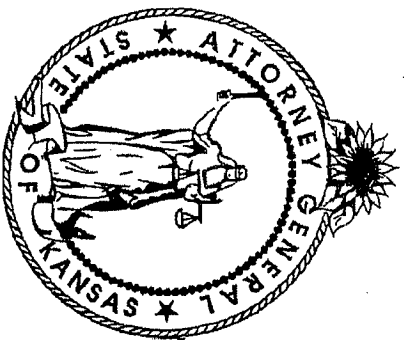
## **Release of evidence from AG's Office**

- Other than as described (release for scientific or technical analysis, release to court, transfer to person of original ownership), evidence shall only be released with court order
- Evidence subject to forfeiture shall only be disposed of pursuant to court order that specifically authorizes the release and disposition of the evidence



# **Evidence Control Procedure**

- **No evidence shall be destroyed except as follows:**
  - Court of competent jurisdiction issues an order specifically authorizing destruction
  - Evidence Control Advisor must review the case and court order to assure destruction complies with authorization of court
  - Evidence Control Advisor must notify Attorney General or designee of the court's order
  - Evidence Control Advisor shall consult with Agency Records Officer and obtain all necessary approvals required to permit destruction in accordance with records retention schedules and AG records retention policy

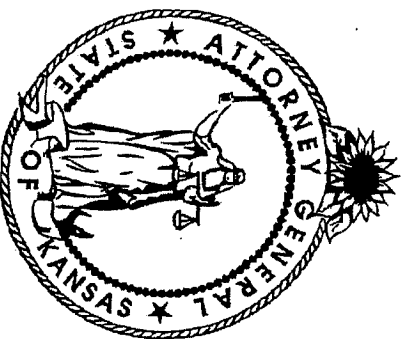


# **Evidence Control Procedure**

## **Annual Inspection of Evidence Control System**

- Conducted by Evidence Control Advisor and AG's designee
- Physical inspection of evidence and all related documentation
- Compliance with Evidence Control Procedure
- Inspection Report submitted to AG or designee with copy to Evidence Custodians
- Evidence Custodians take corrective action, if any
- Also annual review of Procedure by Evidence Working Group





# **Evidence Control Procedure**

## **Retention and disposition of records relating to evidence**

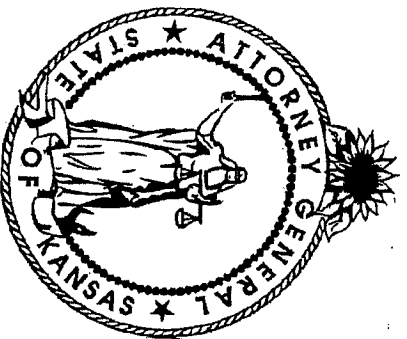
- **Must follow:**
  - Court orders
  - Public Records Preservation Act, K.S.A. 45-401 *et seq.*
  - State record retention schedules
  - Evidence Control Procedure
  - AG Record Retention Policy
- **New retention schedules relating to evidence**



# **Evidence Control Procedure**

## **Training**

- Conducted by Evidence Control Advisor
- Implementation, annually, and orientation for new special agents
- Covers Kansas statutes, current case law and Evidence Control Procedure



# **Evidence Control Procedure**

## **To Summarize**

- Identify item as evidence
- Lawfully collect and store it to preserve and safeguard
- Document in a manner that:
  - Explains the relationship of the evidence to the fact asserted
  - Establishes and maintains a chain of custody to preserve integrity of the evidence
  - Allows the person who collects, stores and analyzes the evidence to refresh his/her recollection to aid in testimony about the evidence



## **Evidence Control Procedure**

### **Remember . . .**

- If you deviate from the Procedure, document why you did
- Be able to explain why you did
- Be ready to explain it numerous times . . . to everyone.
- Possibly under oath.
- Forever.