



**CITY COUNCIL
AGENDA ITEM APPROVAL FORM**

AGENDA ITEM INFORMATION

MEETING DATE: DECEMBER 1, 2021

AGENDA ITEM TITLE:

RESOLUTION NO. 21-38: A RESOLUTION OF THE CITY OF
TAYLORSVILLE APPROVING THE PROPERTY AND EVIDENCE POLICY
FOR THE TAYLORSVILLE CITY POLICE DEPARTMENT.

PUBLIC HEARING REQUIRED:

YES: _____

NO: X _____

ORDINANCE REQUIRED:

YES: _____

NO: X _____

RESOLUTION REQUIRED:

YES: X _____

NO: _____

PRESENTER:

CHIEF BRADY COTTAM

AGENDA ITEM SUMMARY: LIMIT 150 WORDS

This resolution approves the Taylorsville City Police Department's Property and Evidence policy, which provides for the proper collection, storage, and security of evidence and other property collected in the course of law enforcement.

ATTACHMENTS:

Exhibit "A" – TVPD Property and Evidence Policy

TAYLORSVILLE, UTAH
RESOLUTION NO. 21-38

**A RESOLUTION OF THE CITY OF TAYLORSVILLE APPROVING THE PROPERTY
AND EVIDENCE POLICY FOR THE TAYLORSVILLE CITY POLICE
DEPARTMENT.**

WHEREAS, the Taylorsville City Council (the "Council") met in regular session on December 1, 2021, to consider, among other things, approving the property and evidence policy for the Taylorsville City Police Department; and

WHEREAS, the Taylorsville City Police Department is requesting approval of its new property and evidence policy, attached hereto as Exhibit "A" and incorporated herein by this reference, which provides guidelines for the proper collection, storage, and security of evidence and other property collected in the course of law enforcement; and

WHEREAS, the Council has reviewed the proposed policy and, after careful consideration, has decided that it is in the best interest of the health, safety, and welfare of the City's citizens to approve said policy.

NOW, THEREFORE, BE IT RESOLVED by the Taylorsville City Council that the property and evidence policy for the Taylorsville City Police Department as proposed in Exhibit "A" is hereby approved.

This Resolution, assigned Resolution No. 21-38, shall take effect immediately upon passage and acceptance as provided herein.

PASSED AND APPROVED by the Council of Taylorsville, Utah this _____ day of _____, 2021.

TAYLORSVILLE CITY COUNCIL

By: _____
Curt Cochran, Council Chair

SEAL:

VOTING:

Ernest Burgess	_____ Yea	_____ Nay
Curt Cochran	_____ Yea	_____ Nay
Dan Armstrong	_____ Yea	_____ Nay
Meredith Harker	_____ Yea	_____ Nay
Anna Barbieri	_____ Yea	_____ Nay

PRESENTED to the Mayor of the City of Taylorsville for approval this _____ day of _____, 2021.

APPROVED this _____ day of _____, 2021.

Mayor Kristie S. Overson

ATTEST:

Jamie Brooks, City Recorder

DEPOSITED in the office of the City Recorder this ____ day of _____.
2021.

RECORDED this _____ day of _____, 2021.

Exhibit A

Taylorsville City Police Department Property and Evidence Policy

Property and Evidence

802.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage and security of evidence and other property collected in the course of law enforcement. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove, transfer, and/or destroy property.

802.2 DEFINITIONS

Definitions related to this policy include:

Cohabitant - A person who is eighteen (18) years old or older who resides in the same residence as the owner cohabitant, and is any of the following (UTAH CODE ANN. 53-5c-201):

- Living as if a spouse of the owner cohabitant;
- Related by blood or marriage to the owner cohabitant;
- Has one or more children in common with the owner cohabitant; or
- Has an interest in the safety and well-being of the owner cohabitant.

Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes, but is not limited to, photographs and latent fingerprints.

Found Property - Includes property found by a Department employee or citizen that has no apparent evidentiary value, and where the owner cannot be readily identified or contacted.

Owner cohabitant - A person who owns, in whole or in part, a firearm and is related to a cohabitant as described in UTAH CODE ANN. 53-5c-102.

Property - Includes all items of evidence; items taken for safekeeping; and found property.

Safekeeping – Includes, but is not limited to, the following types of property:

- Property obtained by the Department for safekeeping such as a firearm.
- Personal property of an arrestee not taken as evidence.
- Property taken for safekeeping under authority of a law.

Evidence Continuity/Chain of Custody – The continuity and custody of evidence from the time of the original collection to the final disposal, which may be introduced in judicial proceedings.

Evidence Room – All facilities and storage areas utilized by this law enforcement agency to store evidence.

Evidence Manager/Technician – A Department employee accountable for control and maintenance of all items accepted or stored in the evidence room.

802.3 PROPERTY HANDLING

Any Department employee who first comes into possession of any property, shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room. Care shall be taken to maintain and limit the number of officers involved in the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. All property information shall be documented in the officer's report.

802.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the Department employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

- (a) Complete the property entry describing each package of property. There can only be one (1) property entry per packaged items. List all serial numbers, owner's name, finder's name and other identifying information or markings.
- (b) All seals shall be properly signed. Mark each item of evidence with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (c) Label each package with:
 - 1- General Offense number;
 - 2- Item number;
 - 3- Description; and
 - 4- Officer name & ID number.
- (d) When the property is too large to be placed in a locker, the item may be retained in the sally port. Email the property evidence manager indicating that property was placed in this location.

802.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be double bagged & booked separately. A drug measurement is mandatory for all drugs or suspected drugs. Paraphernalia as defined by UTAH CODE ANN. 58-37a-3 shall also be booked separately from the drugs.

802.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Shift Sergeant. The bomb squad shall be called to handle explosive-related incidents and shall be responsible for the handling, storage, sampling, and disposal of all suspected explosives.

Explosives shall not be retained in the police facility at any time. Fireworks that are considered

stable and safe and road flares or similar signaling devices shall be given to a local fire station. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials prior to transporting the items to the fire department. Officers shall document in their report that they transported the items to the fire department and who took custody of the items for disposal.

802.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (e) Bodily fluids such as blood or semen stains shall be air dried prior to booking. All items shall subsequently be packaged in a paper evidence handling product.
- (f) All bicycles and bicycle frames require a property report. Tags shall be completed and attached to each bicycle or bicycle frame. The property may be released directly to the property and evidence technician or placed in the bicycle storage area until a property and evidence technician can log it in.
- (g) All cash shall be counted, and a witness officer shall confirm the count prior to placing the cash in the property room. The supervisor shall be contacted for cash in excess of One Thousand Dollars (\$1,000) for special handling procedures. The supervisor shall confirm the count by both officers prior to placing the cash in the property room. All witness officers shall complete a supplemental report to document the money count.

City property, unless connected to a known criminal case, shall be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property shall be booked for safekeeping in the normal manner.

802.3.5 FIREARMS SAFE HARBOR ACT

Officers shall accept a firearm for safekeeping from any cohabitant or owner cohabitant who requests it, and who believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to him/herself, to the owner cohabitant, or any other person (UTAH CODE ANN. 53-5c-201).

The officer receiving the firearm shall:

- (h) Record the owner cohabitant's name, address, and telephone number;
- (i) Record the firearm's serial number and the make and model of each firearm received.;
- (j) Record the date that the firearm was accepted for safekeeping; and
- (k) If the firearm was received from a cohabitant, require that the cohabitant sign a document attesting that he/she resides in a home with the owner cohabitant.

The person committing the firearm shall not be asked or required to provide the name of, or any other information about, the cohabitant who poses the threat.

The property and evidence technician shall hold a firearm accepted pursuant to this policy for an initial period of sixty (60) days, renewable for an additional sixty (60) days upon request of the

cohabitant or owner cohabitant. At the expiration of this time or upon request by the owner cohabitant, the firearm shall be returned to the owner cohabitant or other owner (UTAH CODE ANN. 53-5c-201). If the person who committed the firearm for safekeeping cannot be located, the Department shall, after one (1) year, dispose of the firearm in accordance with UTAH CODE ANN. 24-3-103.5 (UTAH CODE ANN. 53-5c-202).

If a firearm received under the Act is determined to be illegal to possess or to own, the property and evidence technician shall confiscate and book the firearm according to current procedures, notify the person who requested that the firearm be taken for safekeeping of its confiscation, and dispose of the firearm in accordance with UTAH CODE ANN. 24-3-103.5 (UTAH CODE ANN. 53-5c-202).

The property and evidence technician shall destroy any record created exclusively to document the safekeeping of the firearm as soon as practicable but no later than five (5) days after releasing the firearm to the owner cohabitant or other authorized person, or of otherwise disposing of the firearm under the Utah Firearms Safe Harbor Act (UTAH CODE ANN. 53-5c-201).

The property and evidence technician shall promptly contact the City Council for assistance with a proper disposition when a non-owner cohabitant surrendered a firearm and an owner cohabitant at any time requests its return.

802.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs;
- (b) Firearms (ensure they are unloaded and booked separately from ammunition);
- (c) Property with more than one known owner;
- (d) Paraphernalia as described in UTAH CODE ANN. 58-37a-3;
- (e) Syringes;
- (f) Fireworks; and
- (g) Contraband.

802.4.1 PACKAGING CONTAINER

Department employees shall package all property, except narcotics and dangerous drugs, in a suitable container available for its size. Knife boxes shall be used to package knives when they cannot be secured for safe handling. Syringe tubes should be used to package syringes and needles (only in applicable felony cases).

Each packaged item(s) shall be clearly labeled with the General Offense number, Item number, Description, Officer name & ID number.

802.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in their possession until it is properly weighed, packaged, labeled, and placed in the designated lockers. Prior to packaging, and if the quantity allows, a presumptive field test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report. The used field test kit shall be destroyed.

Narcotics and dangerous drugs shall be double bagged in an appropriate size bag available in the report room. Narcotics and dangerous drugs shall not be packaged with other property. If a drug is suspected to be fentanyl, it shall be triple bagged. A drug measurement must always be included. These items shall be properly labeled.

802.5 RECORDING OF PROPERTY

Officers shall complete a property entry for each packaged property item that is placed in evidence. This shall be completed in the report system. There can only be one (1) entry per packaged item. If there are separate property entries, the items will need to be booked separately.

802.6 PROPERTY CONTROL

Each time the property room personnel receive or releases property to another person, he/she shall enter this information in the report system to document the chain of custody. Officers desiring to check out property items for court shall contact the evidence manager at least one (1) day prior to the court date. A court evidence receipt shall be completed & given to the officer.

If the court keeps the property item(s), the officer shall be responsible to have a court clerk sign for the property. The officer shall be responsible to complete a supplemental report to ensure the items are appropriately logged in the report system and are now in the custody of the court.

The officer shall retain the court evidence receipt until the property is returned to evidence or the document is signed by the court; at which time the court evidence receipt shall be returned to evidence.

802.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry in the records system shall be completed in order to maintain evidence continuity. No property or evidence is to be released without first receiving written authorization from a supervisor or detective, excluding safekeeping.

Request for analysis of items shall be completed on the appropriate forms and submitted to the property evidence manager. This request may be filled out anytime after booking of the property or evidence.

802.6.1 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee shall confirm the processing request and check the evidence out of property, indicating the date and time. (An exception would be a code R kit that is mandatorily processed by law).

802.6.2 STATUS OF PROPERTY

Each person receiving property shall make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be documented in the report system.

The property evidence manager shall obtain the signature of the person to whom the property is released and the reason for the release. Any employee receiving property shall be responsible for such property until it is properly returned to the property room or released to another authorized person or entity. This information shall be documented in the report system by the officer who checked the items out of the property room.

802.6.3 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the Property Form and must specify the specific item(s) to be released. Release of all property shall be documented on the Property Form.

With the exception of property specifically regulated by the state, found property or property being held for safekeeping shall be held for a minimum of ninety (90) days. A Notice to Claim Property Form shall be submitted. If the owner of any unclaimed property cannot be determined or notified, or if the owner has been notified and fails to appear and claim the property, the Department shall follow the process detailed in UTAH CODE ANN. §77-24a-5:

- (a) Publish at least one (1) notice (giving a general description of the property and the date of intended disposition) of the intent to dispose of the unclaimed property in a newspaper of general circulation within the county;
- (b) Post a similar notice in a public place designated for notice within the law enforcement agency;
- (c) Post a similar notice on the public Taylorsville City website; and
- (d) Post a similar notice in Utah's public legal notice website.

The final disposition of all such property shall be fully documented in the report system.

A property and evidence technician shall release the property upon proper identification being presented by the owner for which an authorized release form has been received. A signature of the person receiving the property shall be recorded.

802.6.5 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property. All parties shall be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim.

802.6.6 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Taylorsville Police Evidence and Property Room shall be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of the Department, including, but not limited to, paraphernalia as described in UTAH CODE ANN. §58-37a-3 and following a two (2) person disposal verification process.

802.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding and held for six (6) months or longer where the owner has not been located or fails to claim the property may be disposed of in compliance with existing laws upon receipt of an authorized release form for disposal. The property and evidence technician shall request a disposition or status on all property which has been held in excess of one hundred twenty (120) days and for which no disposition has been received from a supervisor or detective.

802.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances;
- Animals, birds, and related equipment that have been ordered forfeited by the court;
- Counterfeiting equipment;
- Gaming devices;
- Obscene matter ordered to be destroyed by the court;
- Altered vehicles or component parts;
- Narcotics (UTAH CODE ANN. §58-37-2 *et seq.*);
- Unclaimed, stolen, or embezzled property; and
- Destructive devices.

802.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after nine (9) days of being posted, as described in Release of Property, the Department shall notify the person who turned the money over to the local law enforcement agency. Any person employed by a law enforcement agency who finds or seizes money may not claim or receive the money (UTAH CODE ANN. §77-24a-5(2)(a)).

802.7.3 PRESERVATION OF BIOLOGICAL EVIDENCE

The Evidence Room Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant;
- (b) The defendant's attorney;
- (c) The appropriate prosecutor;
- (d) Any sexual assault victim; and
- (e) The Special Operations Supervisor.

Biological evidence shall be retained for a minimum of twelve (12) months. Following the retention period, notifications shall be made by certified mail and shall inform the recipient that the evidence will be destroyed within twelve (12) months unless a motion seeking an order to retain the sample is filed and served on the Department within ninety (90) days of the date of the notification. A record of all certified mail receipts shall be attached to the case. Any objection to, or motion regarding, the destruction of the biological evidence shall be attached to the case and a copy forwarded to the Special Operations Supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence related to sexual assaults must be retained in accordance with UTAH CODE ANN. §76-5-604 and UTAH CODE ANN. §76-5-605. If the evidence relates to an unsolved sexual offense, the victim shall be notified at least sixty (60) days prior to destruction and provided with information on how to appeal the decision (UTAH CODE ANN. §77-37-3(3)).

802.7.4 PROPERTY NO LONGER NEEDED AS EVIDENCE

When a prosecuting attorney notifies the Department that evidence may be returned to the rightful owner, the property and evidence technician shall attempt to notify the rightful owner that the property is available for return (UTAH CODE ANN. §24-3-103). Prior to the release of the property, the owner shall provide:

- (a) Documentation establishing ownership of the property; and
- (b) Documentation that the owner may lawfully possess the property.

When the property is returned, a receipt listing the detail of the property shall be signed by the owner and retained by the Department. A copy of the receipt shall be provided to the owner.

If the Department is unable to locate the rightful owner or the rightful owner is unable to lawfully take possession of the property, the Department may dispose of the property as provided by UTAH CODE ANN. §24-3-103.

If a court orders extraction and return of personal digital data from a computer determined to be contraband, the Department shall determine reasonable cost to provide the data, which shall be paid by the owner at the time the request is made (UTAH CODE ANN. §24-3-103).

The Department shall dispose of confiscated or unclaimed firearms as provided by UTAH CODE ANN. §24-3-103.5.

802.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a quarterly basis, the supervisor of the evidence custodian shall inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the Department shall be conducted by a Section Commander or personnel designated by the Chief or Police.
- (d) Whenever a change is made in personnel who have access to the Evidence Room, an inventory of all evidence/property shall be made by an individual(s) not associated with the property room or its functions to ensure that records are correct, and all evidence and property is accounted for.

802.9 ADMITTANCE TO EVIDENCE ROOM

Admittance to the Evidence Room shall be restricted to the evidence custodian(s), the evidence manager, and designated personnel by the Chief of Police. All other individuals require an escort to enter the Evidence Room. A log entry shall be made indicating:

- (a) Date and time of entry and exit;
- (b) Name of individual(s) entering the Evidence Room;
- (c) Reason for entry; and
- (d) Name of the escort.