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CLARK COUNTY
WASHINGTON

AUDITOR
GREG KIMSEY

The Life Cycle of Evidence

Clark County Auditor's Office
Audit Services

Report # 10-4

September 15, 2010



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proud past, promising future

CLARK COUNTY
WASHINGTON

AUDITOR
GREG KIMSEY

Transmittal and Executive Summary

Date: September 15, 2010

To: Sheriff Garry Lucas, Clerk Sherry Parker, Prosecuting Attorney Art Curtis

From: Julie Jackson, Senior Analyst/Auditor, Auditor's Office

Subject: Audit of the Life Cycle of Evidence

Policy makers and citizens say law and justice activities are an important county function. A critical element behind the scenes is the processing and storing of evidence in police cases. In Clark County that responsibility crosses between the Sheriff, Prosecuting Attorney, and Clerk Offices. A performance audit of this function was designed to answer three questions:

1. Throughout the life cycle of evidence, do records accurately report the items of evidence and provide information for managing evidence?
2. Is evidence properly handled and protected during the life cycle?
3. Are efficiencies available?

While there are some areas for improvement, the answer to each question is generally "yes." The Sheriff and Clerk systems record items in their custody, and manage data for their own needs. The Clerk has already taken steps to improve the handling of evidence in court, resealing items if they are opened at trial. The Clerk has also added a control to confirm that items returned to law enforcement are actually received at their warehouses. Storage at the Sheriff's warehouse is well controlled; a few changes may gain efficiencies to reduce manual entering or re-entering information.

Some changes could create better tracing between offices; an example is getting one unit of deputies on the latest electronic reporting so data transfers automatically to the evidence system. For better storage controls, the Clerk's Office will return long-term items to law enforcement agencies.

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Introduction

When a Clark County Sheriff's deputy obtains evidence, the item starts a journey of packaging, labeling, recording, transfers, testing, and possibly going to court. The item is eventually destroyed, or returned to an owner, or held indefinitely.

Of all the evidence gathered by officers, only a small percentage is ever used in court trials. How well that evidence is handled can impact the results of a case. In Oregon last year, evidence from a 1999 trial could not be located so a triple-homicide conviction was dismissed. Here in Clark County this year, because of newly available DNA testing, two men were cleared of charges years after their convictions. The legal system was able to use evidence which had been packaged and retained properly.

County offices involved in the handling of evidence are the Sheriff, Clerk, and Prosecuting Attorney. This performance audit was undertaken to identify whether improvements could be made in recording or handling evidence in these offices.

Audit Scope and Methodology

The performance audit objectives, scope, and methodology are explained in Appendix A.

Results in Brief

In general, the life cycle of evidence has accurate records, proper handling, and adequate physical security.

There are two areas where records can be improved for tracking evidence:

1. **We recommend** that the Sheriff's and Clerk's offices continue to work on cross-referencing their tracking numbers.
2. One unit of the Sheriff's Office has not been upgraded to the current version of electronic police reports and **we recommend** this be done as soon as possible.

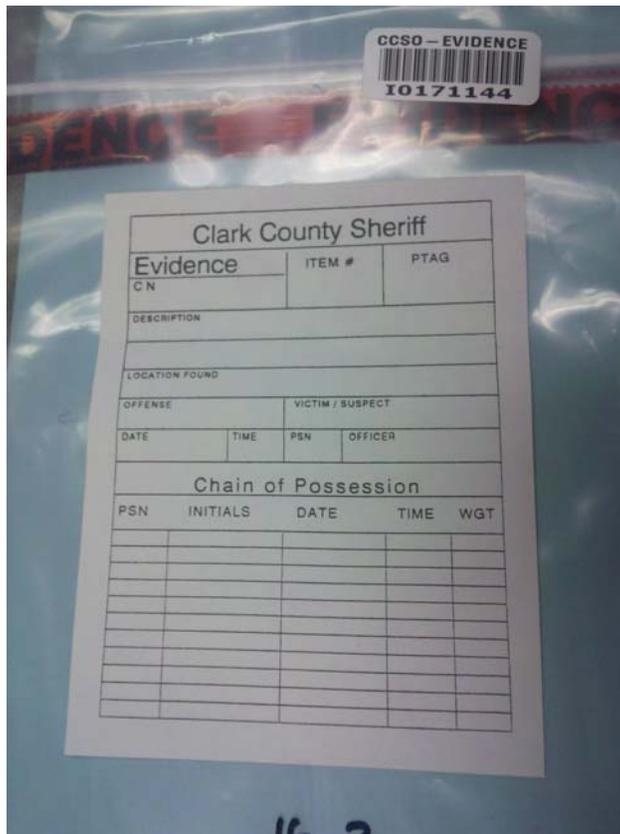
These are areas where evidence storage or handling can be improved:

3. It is not necessary for the Clerk's Office to retain evidence long-term, so **we recommend** that items currently stored be returned to the police agencies.

4. **We recommend** increased access controls over the Clerk's regular exhibit room.
5. **We recommend** the PA's Office continue with their commitment to return original police evidence to the local agencies.

Finally, there are some opportunities to improve efficiency:

6. **We recommend** that bar code scanners be used.
7. The warehouse might consider physical changes to gain efficiency.
8. Items #1 and #2 above will improve efficiency: (1) electronically transferring/matching police and evidence numbers and (2) automatically transferring evidence data to the evidence system.



Background Statistics

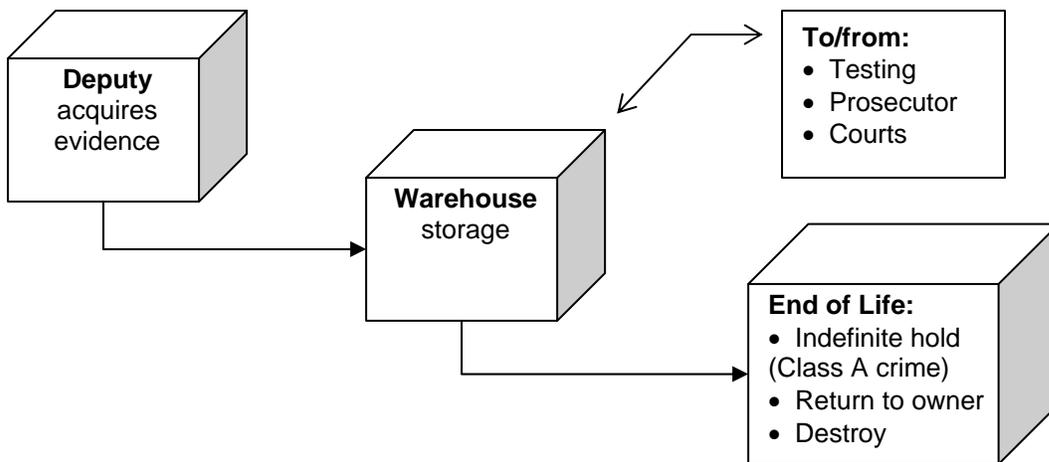
At any point in time, the Sheriff's Office evidence unit is holding about 60,000 items. Last year, the unit received over 9,000 items of evidence on over 3,000 police cases.

In May 2010, the Clerk's office was holding 8,150 exhibit items in 221 criminal cases (mostly Clark County Sheriff and Vancouver Police).

Evidence can range from a vehicle title to an actual vehicle, or from a single bud of marijuana to a kilo of cocaine. Other examples include weapons, money, jewelry, clothing, photos, video/audio recordings, or biological/trace evidence. The Sheriff's Office holds these items in a 16,000 square foot warehouse plus a separately secured drug room.

Life Cycle Overview

Detailed flowcharts were prepared during this performance audit and provided to the Sheriff's Office, Clerk's Office, and District Court. The following chart shows, at the highest level, the life cycle of evidence; more details on evidence handling are listed in Appendix B.



Sheriff's
Office

The Sheriff's office has procedures in place for accepting, storing, issuing, and destroying evidence. They have modified the procedures as needed and are currently working on further improvements.

*Existing
Procedures*

The Sheriff has issued a general order on the collection of evidence; deputies are also directed to the Washington State Patrol's evidence guide. The general order, guide, and training help ensure that evidence is properly identified, packaged, recorded, and transported. If any package or information is not complete, the evidence technician will not accept it until it is corrected.

Our observation at the collection sites (precincts and specialty units) and storage was that they were clean and well organized. When evidence is transferred, the change is documented with dates, signatures and/or initials, and recorded in the system.

Access to evidence is restricted, alarmed, and monitored. Reviews of procedures and evidence are performed throughout the year by the evidence manager, the CCSO Professional Standards Unit, and Sheriff Lucas. In addition, the three-year peer review of CCSO by the Commission on Accreditation for Law Enforcement Agencies includes a review of evidence.

An information system for evidence management is in place. The system automatically receives details on evidence recorded through electronic police reports (except one unit as discussed later). Details and history on the items are tracked in the system.

*Gun room
(long guns)*



*Improvements
Made*

The evidence unit had a significant learning experience in 2000 when they found an employee had been taking evidence for personal use. As a result, a complete inventory was performed, criminal and internal investigations completed, and procedures were revised.

In addition, on an ongoing basis the evidence unit evaluates and updates their procedures as needed.

*Changes
Underway or Being
Considered*

1. Currently, evidence items in the Sheriff's Office are tracked individually by a barcode number. When an item goes to court, the Clerk's Office has different tracking needs, and they track by the court case and exhibit number. Neither method is incorrect but verifying one item can require that records from both systems be compared to all the physical items from the case.

We recommend that the two offices continue to work on cross-referencing their tracking numbers. Both offices agree that they can make improvements. This could create efficiency as well: the Sheriff's Office may be able to send an electronic file to the Clerk's Office when evidence is checked out, and the court clerk can use that file as a starting point for the exhibit list, rather than having to re-type all the information.

Sheriff's response: "We agree that numbering systems that differ create opportunity for error. We are committed to working with the Clerks office to improve systems and believe that there is an opportunity to identify an electronic data transfer that would reduce confusion and would allow for the cross-referencing of evidence items."

Clerk's response: "... we will work with the Sheriff's Office to develop an automated procedure for capturing the bar codes associated with court assigned exhibit numbers in order to cross-reference the evidence between departments. This will create efficiencies for both departments."

2. Most of the Sheriff's Office is on a version of the police reporting system which automatically uploads evidence information into the evidence management system. One small group of deputies is on an older version, and

this creates several problems. The evidence manager cannot run a report to see if evidence is overdue for receiving at the warehouse. Sometimes the older version has an evidence field record one way (e.g., the deputy number is 1234) but the identity is changed when it is turned in (say to 5678), which makes tracing a case difficult. And there is added workload on the evidence staff to re-enter the records in the evidence management system.

We recommend that the remaining deputies receive the system upgrade as soon as possible. The Sheriff's Office expected the change to happen this summer.

Sheriff's response: "The affected work unit is actually an independent entity; however the systems are supported by the Sheriff's Office Records and I/T Systems. The upgrade to EPR has been installed and is presently being tested. We anticipate that full transition will be completed before year end 2010."

3. Although the Sheriff's Office uses bar codes on evidence, the numbers are manually entered rather than using scanners to capture the data. Manual entry is less efficient than scanning the bar code, and introduces the possibility for errors. For quality control, a second person checks the data entry, which uses more resources. Later, an item may be checked out (for court or for testing) and eventually destroyed or returned to the owner. The Sheriff's Office would have a tighter control if the actual package barcode was scanned at those transfer points.

(Changes underway, contin.)

We recommend that the bar code scanners be used.

Sheriff's response: "The Evidence Unit purchased and deployed bar code scanners over a decade ago. At that time, the Evidence staff found them to be prone to error and chose to utilize a manual entry system to reduce errors. Technology has improved significantly since this early generation hardware was deployed. We are committed to revisiting this hardware/software and will investigate options as part of our planning efforts for 2011."

4. Certain warehouse modifications could increase efficiency. One example is the vehicle impound lot and another is for copying video/audio tapes. In the impound lot, an evidence technician stays with a detective who is processing a vehicle for evidence; otherwise all the items in the area would have to be “checked out” to the detective if he/she were left alone in the lot. The warehouse might consider a separate bay where detectives can do the work without warehouse staff having to be present. In the other example for efficiency, copying capabilities at the warehouse (for video/audio tapes) would reduce the transport time and risks of the PA’s staff taking items away for copying.

Sheriff’s response: “...it appears that the temporary location [for the warehouse] is becoming a long-term solution for the housing of evidence and logistics. We agree that physical modifications are necessary to increase the usability of the structure. This includes modifications to the vehicle storage areas that would allow for evidence processing without the need for redundant staffing. ...”

[See Appendix C for the full response]

Clerk's Office	The Clerk's office has procedures in place for handling exhibits, which includes police evidence and other items submitted in court cases. The Clerk's Office modifies the procedures as needed, and they are currently working on further improvements.
<i>Existing Procedures</i>	The office operates under state court rules, internal policies, and judge's orders on specific cases. Evidence is numbered and described on the case exhibit list, which becomes part of the permanent court record. The office has a database to track cases where they are holding evidence. When exhibits are returned to attorneys or law enforcement, receipts are signed.
<i>Improvements Made</i>	<p>The Clerk has made improvements in handling exhibits. Before this performance audit started, the Clerk updated procedures to ensure that exhibits are resealed if they are opened during trial.</p> <p>The office has also partially implemented a state court rule and is substituting photographs for hazardous items after trial. This means if the judge approves and orders, items such as firearms or drugs can be photographed and returned to the law enforcement agency rather than kept at the Clerk's Office.</p> <p>Finally, during the audit the Clerk added a quality control step on returning sensitive exhibits. One employee had sole control over the final return or destruction of exhibits. Now an independent employee will periodically confirm that law enforcement has received sensitive items.</p>
<i>Changes Underway or Being Considered</i>	<ol style="list-style-type: none"> 1. As described in the Sheriff's Office section above (page 8), the Clerk is working with the evidence unit on cross-referencing tracking numbers. A possible benefit to the Clerk is that they may receive an electronic file of evidence on a case, so there will be less re-entering of data for the exhibit list. 2. The Clerk has a long-term (post-trial and appeal) storage area which is not well controlled and which 30 or more county employees can access. Only five are from the Clerk's Office; the others are facilities staff because they need to access general building equipment in the room such as HVAC. The room is accessed with a key, so there

(Changes underway, contin.)

is no card-swipe record of who accessed the room or when, nor are there any cameras in the area.

We recommend that the long-term storage area be closed and evidence returned to the original police agency. The Clerk and Sheriff offices have agreed in concept, and are working out the details and timing to make the transfers.

Clerk's response: "The process of returning items of evidence stored in our long-term storage area has begun and will continue as the records clerk has time available..."

Clerk's long-term storage



3. The Clerk's regular exhibit storage is a key-access room, which means there is no record or monitoring of who has been in the room. The room can be accessed by many county employees (49+). The state auditors have also voiced a concern about the unmonitored access to the room.

We recommend increased controls and monitoring over the exhibit room. There will be costs for options such as cameras or card-access locks, but a first step could be training employees to sign a log when they enter the room.

Clerk's response: "The last recommendation was to tighten access to the exhibit room in our main office. The most secure recommendation was to install a card swipe access

system. This room is locked at all times, however there are many people who need access to it daily. This includes facilities staff who may need to enter at night or on weekends. In order to have a detailed report of who has entered the room and when, each individual who needs access would have to be issued a card. Preliminary research indicates this would cost approximately \$3,500 which would be prohibitive considering our current budget situation. Although this would tighten the security in this area, it still would not address the problem of knowing what items leave or are returned. However, we would like to pursue this solution, as we think this is a high liability area, and will continue to look for a funding source to accomplish this.”

Prosecuting
Attorney's
Office

The Prosecuting Attorney's (PA's) Office goal is to not hold original evidence. They are working to improve evidence handling, which means handling evidence less often (checking it out only if it is really needed), and having the evidence spend less time in the PA's office (copying and returning as soon as possible). As we discussed in the Sheriff's section, transporting audio/video tapes could be eliminated if the evidence warehouse had copying capability for those media.

*Existing
Procedures*

The PA's Office does not have a central tracking system for evidence in the office. Some employees use the case tracking system, Tiburon, to note when they have requested and returned evidence items. Others use logs or spreadsheets, while some do not track at all.

A list is provided from the PA's Office to the Sheriff's Office of employees who are authorized to check out evidence. The PA's Office also stated that they believe there is adequate physical protection in all units for what is on hand.

Electronic police reports (EPR) on more recent cases have photos attached electronically. This is a benefit for the PA's Office because they can access the police case and the photos directly, rather than checking out physical pictures from the evidence warehouse.

*Improvements
Made*

Post-trial, current practice: Because the court clerks are now returning police evidence to law enforcement rather than to the PA's Office, the post-trial return of items should not be a problem in future cases. (Note the discussion below regarding items from older cases.)

*Changes
Underway or Being
Considered*

Pre-trial: The PA's Office has stated their intent to not hold any original evidence, so attorneys should only have evidence temporarily for copying or for discovery with opposing counsel. But many PA units have original items; one unit keeps photos and documents, archiving them as part of the case file.

Post-trial, older cases: The PA's Office brought to our attention that older cases had evidence returned to them at the end of the trial. There is some concern in their office that their role as an officer of the court could change to

being a witness if they become part of the evidence chain of custody.

We recommend the PA's Office continue with their commitment to return original police evidence to the local agencies. This needs to be addressed on two fronts: (1) working with the CCSO evidence unit on older cases to find items in the PA's case files to be returned, and (2) going forward, only requesting evidence for temporary observation or copying, then returning it immediately.

**Closing
Comments**

In their review of the draft report, the Sheriff, Prosecutor, and Clerk generally agreed with the findings and recommendations. Changes suggested for clarification of the text, or those of a technical nature, have been made throughout the report. The Sheriff's and Clerk's Offices' responses to the report have been included as appendices C and D.

Commendation

Staff and management were cooperative and professional during this audit. We commend and thank everyone for their assistance.



Refrigeration/freezer Storage

APPENDIX A: Objectives, Scope, and Methodology

Assignment Objectives

1. Throughout the life cycle of evidence, do records accurately report the items of evidence and provide information for managing evidence?
2. Is evidence properly handled and protected during the life cycle?
3. Are efficiencies available?

Scope and Methodology

This review covered evidence starting with a Clark County Sheriff's deputy (CCSO), held at the Sheriff's evidence warehouse, possibly introduced by the Prosecutor's Office (PA) for trial, and held by the Clerk's Office during trial and appeals. The methodology for this review included:

1. Interviewing and observing managers and staff in three offices (CCSO, PA, and Clerk) and various specialty units within the offices to understand their processes.
2. Reviewing laws, general orders (CCSO), and office procedures for required or expected practices.
3. Touring the temporary or permanent holding spaces for evidence to evaluate controls over access and environmental protection.
4. Flowcharting the processes and validating with managers/staff.
5. Evaluating other periodic management reviews (and supporting documentation) to determine whether the methods were sufficient and whether we could rely on those reviews to perform less direct testing.
6. Reviewing our (Audit Services') recent work on sampling items in evidence (specifically the money safe and the drug room).
7. Requesting exception reports to determine if they could be produced, and to perform other tests.
8. Testing from the "checked out" report to determine if the current location could be verified.
9. Testing from the "holding area" report. These are items listed as in-transit from the initial police report to the warehouse.
10. Bringing two offices together to discuss options for, and reach agreement on, better cross-referencing between police cases and court cases.
11. Bringing the three offices together to discuss better options for long-term storage of evidence.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: Details on Evidence Handling

If evidence never goes to court, it still starts by being collected by a deputy and takes a journey through packaging, labeling, recording, transfers, storage, and disposition. The following list does not cover every possible step in the handling, but it does represent a typical pattern.

1. Evidence is identified by a deputy.
2. Evidence is recorded in a case via electronic police reports. Drugs are weighed and money is counted by two people.
3. The deputy packages according to standards (evidence tag attached, package sealed, seal is signed). There are specifications for handling firearms, explosives, liquor, motor vehicles, etc.
4. The evidence and property sheet are placed in individual lockers at the precincts (most cases). Once it is secured, only the commander or an evidence technician can access that case evidence.
5. The record is automatically transferred (most instances) to the evidence management system.
6. Evidence is picked up daily from the precincts by an evidence technician. If the package is incorrect (property sheet not included, seal not signed), then the item stays in the locker; the technician prepares a correction notice and leaves a copies for the deputy and commander.
7. The technician places matching bar codes on the evidence tag and the property sheet, and signs/initials the tag and property sheet to take custody. If it is drug evidence, the package is re-weighed and the total package weight is recorded.
8. At the warehouse, if any evidence is money, it is recounted by two technicians.
9. In the evidence management system, the technician locates the auto-loaded record for the case, and adds information to the record: bar code, warehouse storage location, incident type, and their identity as receiving the item.
10. A second technician verifies the data entry.
11. A case file is created and paperwork added.
12. The item is added to a review calendar as appropriate. Misdemeanors can be destroyed after two years, and "B" felonies after three years or with release from prosecuting attorney.
13. If the item has a request for lab testing, it is put in the weekly transfer for the state lab. The transfer includes the lab request, initialing the evidence tag for chain of possession, an entry in the system to show the destination and create a check out release form, and paperwork in the case file. The process is reversed when the evidence comes back from the lab: re-weighing drugs, and entry in the system for check in, and case file papers.
14. A similar check out process is followed if an item is being released to the officer or the PA's Office. If an item is going to court, two check out release

- forms are generated; the deputy signs one, and takes the other to be signed by the court clerk and returned to the evidence warehouse.
15. At court, the court clerk may work with attorneys to pre-mark exhibits before trial.
 16. If items are not offered at trial, or are not admitted by the judge, they are kept separate by the clerk.
 17. The clerk creates an exhibit list, which is part of the permanent court record.
 18. If a trial goes more than one day, the exhibits are stored in the active case section of the Clerk's exhibit room.
 19. If items are unsealed during trial, the court clerk is responsible for repackaging, sealing, and signing on the seal.
 20. After trial, the attorneys verify the exhibit list. They can also agree that hazardous items will have a photograph of the item substituted; the exhibits clerk takes the pictures.
 21. If the court clerk returns items during trial, a receipt is signed by the attorney or law enforcement agency, then kept in the court record.
 22. The judge and attorneys will sign a stipulation to return/destroy exhibits, but the items are held until the case is final or all appeals have passed.
 23. After trial, an exhibits clerk tracks all items from the trial in a database.
 24. When the case is final and all appeals have passed, the exhibits clerk notifies attorneys and/or law enforcement that items are to be picked up.
 25. When the exhibits clerk returns items, a receipt is signed by the attorney or law enforcement agency, then kept in the court record.
 26. For quality control, a separate Clerk's employee audits the return of sensitive items monthly to assure they were received by law enforcement.
 27. At the Sheriff's evidence unit, the warehouse has various internal and external reviews monthly, semi-annually, annually, three years, and when there is a change in management.
 28. The Sheriff's evidence management system maintains the history of disposed items.
 29. Evidence on "A" felonies, by agreement between the Sheriff and Prosecuting Attorney, are held until a prosecutor or judge authorizes release. In practice this means that homicide and other serious cases are kept indefinitely, or upon the prosecuting attorney's release.
 30. Drugs are destroyed, never returned. The drugs are weighed and the destruction witnessed by at least two employees.
 31. For items that can be returned to owners, they are mailed a 60 day notice.
 32. If an owner claims evidence as their property, they have to present valid identification and sign for the item.
 33. Firearms and weapons cannot be returned to owners when the owner is barred by law from possessing such items.



Garry E. Lucas
Sheriff

Julie Jackson
Clark County Auditor's Office

Re: Audit Response Memorandum

September 8, 2010

Ms. Jackson,

This letter is in response to the audit services report dated August 27, 2010, detailing the Life Cycle of Evidence. Before I respond to the recommendations, I would like to thank you for the comprehensive work that was done as part of this performance audit. Our staff found the experience both helpful and beneficial.

I also would like to offer the following responses to recommendations made in the report.

Recommendation #1 – We recommend that the Sheriff's and Clerks offices continue to work on cross-referencing their tracking numbers.

Response: We agree that numbering systems that differ create opportunity for error. We are committed to working with the Clerks office to improve systems and believe that there is an opportunity to identify an electronic data transfer that would reduce confusion and would allow for the cross-referencing of evidence items.

Recommendation #2 – One unit of the Sheriff's Office has not been upgraded to the current version of electronic police reporting and we recommend that this be done as soon as possible.

Response: The affected work unit is actually an independent entity; however the systems are supported by the Sheriff's Office Records and I/T Systems. The upgrade to EPR has been installed and is presently being tested. We anticipate that full transition will be completed before year end 2010.

Recommendation #6 – We recommend that bar code scanners be used.

Response: The Evidence Unit purchased and deployed bar code scanners over a decade ago. At that time, the Evidence staff found them to be prone to error and chose to utilize a manual entry system to reduce errors. Technology has improved significantly since this early generation hardware was deployed. We are committed to revisiting this hardware/software and will investigate options as part of our planning efforts for 2011.



Garry E. Lucas
Sheriff

Recommendation #7 – The warehouse might consider physical changes when funding is available.

Response: The present warehouse was designed to serve as a temporary location for the Sheriff's Evidence and Logistics Units. County master plans identified that the warehouse would be relocated and rebuilt in a timely way, so construction modifications were made to the existing location with the understanding that although not optimum, it would suffice as a temporary fix.

Plans have changed significantly in the past three years, and it appears that the temporary location is becoming a long-term solution for the housing of evidence and logistics. We agree that physical modifications are necessary to increase the usability of the structure. This includes modifications to the vehicle storage areas that would allow for evidence processing without the need for redundant staffing.

Additionally, because the warehouse was temporary, structural fixes and longer term plans are needed for the maintenance and upkeep of the aging building. There were issues with roof drainage that were identified during the winters of 2008 and 2009 that resulted in significant leakage into the logistics area. As the facility ages, the county will need to increase the level of investment in this critical area to ensure that the structure is maintained adequately. It will also be important to consider the evolution of the county capital facilities plan to ensure that the level of investment in this structure fits with the modified timeline for replacement or relocation.

Again, thank you for your work on this performance audit; your recommendations have been helpful.

Sincerely,

Joe Dunegan
Undersheriff



Proud past. Promising future

Sherry W. Parker, County Clerk

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Memorandum

To: Julie Jackson, Senior Management Analyst, Auditor's Office
From: Sherry Parker, County Clerk
Date: September 9, 2010
Re: **Response to Report: Life Cycle of Evidence**

We appreciate your thorough analysis of the evidence process within our department, your professional approach to this process and your consideration of our staff's time.

As you have recommended, we will work with the Sheriff's Office to develop an automated procedure for capturing the bar codes associated with court assigned exhibit numbers in order to cross-reference the evidence between departments. This will create efficiencies for both departments.

The process of returning items of evidence stored in our long-term storage area has begun and will continue as the records clerk has time available. She has many other duties in the office and is not able to devote full time to this task.

The last recommendation was to tighten access to the exhibit room in our main office. The most secure recommendation was to install a card swipe access system. This room is locked at all times, however there are many people who need access to it daily. This includes facilities staff who may need to enter at night or on weekends. In order to have a detailed report of who has entered the room and when, each individual who needs access would have to be issued a card. Preliminary research indicates this would cost approximately \$3,500.00 which would be prohibitive considering our current budget situation. Although this would tighten the security in this area, it still would not address the problem of knowing what items leave or are returned. However, we would like to pursue this solution, as we think this is a high liability area, and will continue to look for a funding source to accomplish this.

Thank you and please be assured that we will continue to follow your recommendations and improve our procedures.