

STANDARDS AND GUIDELINES FOR THE METHOD
OF CUSTODY, TRANSFER AND RETURN OF
EVIDENCE (Virginia Code § 19.2-270.4:1)

- Upon motion of the defendant or his/her attorney in non-capital cases, the court will issue an order to the Clerk of the Court and to the law enforcement agency for the storage, preservation and retention of any human biological evidence for a period of up to fifteen years from the time of the conviction, unless the court determines that the evidence should be retained for a longer period. In the case of a person sentenced to death, the Court shall order that the human biological evidence be stored until the judgment is executed, or if the sentence is reduced, the evidence shall be transferred from the Department to the original law enforcement investigating agency.
- The court order should state the defendant's name and include the forensic science laboratory number and a listing of those items of evidence to be included in the storage order. The court order should also state the date until which the evidence will be stored.
- The court order will 1) direct the clerk of the court, in coordination with the appropriate law enforcement agency, to determine the items and condition of the evidence and conduct an inventory of the evidence in the custody of the Court and transfer that evidence to the law enforcement agency to complete the inventory of the evidence, and 2) direct the appropriate law enforcement agency to package and seal said evidence and either hand deliver said evidence and any other associated human biological evidence listed in the court order which may be in the possession of the law enforcement agency to any laboratory operated by the DFS or send said evidence by US Postal Service-registered mail directly to:

Virginia Department of Forensic Science
700 North 5th Street
Richmond, VA 23219
Attn: Evidence Receiving

- A copy of the court order and a properly completed Request for Laboratory Examination (RFLE) must accompany the evidence.

Instructions for Completion of RFLE for Evidence Storage

The RFLE should be completed by the investigating/submitting officer prior to being hand-carried or mailed to the laboratory with the evidence accompanied by a copy of the court order.

Investigating Officer: Enter the full name, title, telephone number of the officer responsible for the inventory and the name and address of the submitting agency.

Agency Case Number: Enter the case number assigned to this specific investigation by your agency.

Previous FS #: If evidence in this case has been previously submitted to the laboratory, enter the FS#.

Name of Victim: (Optional) Enter victim's name.

Name of Suspect: Enter name of convicted person.

Date and Type of Offense: N/A

Examinations Requested: Enter "NONE, STORAGE ONLY."

Jurisdiction of Offense: Enter Court Ordering Storage.

Brief Statement of Fact: N/A

Specify Manner of Return of Evidence: N/A

Evidence Submitted: List Inventory of Items of Evidence Being Submitted for Storage. The description of all items must be specific. For example, a bag of clothing must be listed to include a description of each piece of clothing in the bag.

- A container is properly sealed if its contents cannot readily escape and only if entering the container results in obvious damage/alteration to the container or its seal. Proper seals include:
 - Containers which are secured with any generic tamper-resistant seals or tape
 - Lock sealed envelopes
 - Any container secured with any form of adhesive or tape in such a manner that the contents cannot escape.
- In all cases, the date, initials/mark of the person sealing the evidence must be placed on, across or under the seal itself.
- The DFS will acknowledge receipt of the sealed evidence as listed on the inventory on the RFLE; when submitted by certified mail, the signed green card returned to the sender will constitute acknowledgement of receipt by the DFS. In the case of personal delivery, the chain of custody portion of the RFLE will be completed and a copy provided to the submitting officer.
- At the time of submission, large or bulky objects may be sub-sampled by appropriate DFS staff for storage purposes and the original item returned to the submitting agency for final disposition.
- Upon expiration of the court order, the evidence shall be transferred from the DFS to the appropriate law enforcement agency for final disposition.

For assistance with motions or orders for scientific analysis or the storage, preservation and retention of evidence, please contact Department Counsel at Stephanie.Merritt@dfs.virginia.gov or 804-786-2281.