



Minnesota State Evidence Retention Guide 2025

Endorsed by:

**Minnesota Chiefs of Police Association
Minnesota Sheriff's Association
Minnesota County Attorneys Association
League of MN Cities**

The Minnesota State Evidence Retention Guidelines were developed through the collaborative efforts of the Minnesota Association of Property and Evidence Technicians (MAPET), in partnership with representatives from law enforcement agencies, city attorneys, and county attorney offices across the state.

Their collective expertise, thoughtful input, and commitment to consistent evidence management practices were instrumental in shaping these guidelines.

MN State Evidence Retention Guidelines

Definitions

Adjudicated - when a court or other authority has issued a final ruling or judgment that resolves the matter. This includes findings of guilty, not guilty, delinquent, dismissed, or any other final disposition.

Acquittal – A judgment that a person is not guilty of the crime in which the person has been charged.

Appeal - unless a different time is provided by Statute, or the court has issued an extension.

Civil Appeal - may be taken from a judgment within 60 days after its entry. The Court, by law, must issue a decision within 90 days of oral arguments. If no oral argument is held, a decision is due within 90 days of the case's scheduled conference date.

Criminal Appeal - a criminal defendant has:

- 90 days after sentencing to appeal a felony or gross misdemeanor conviction
- 30 days to appeal a misdemeanor or petty misdemeanor conviction
- 90 days to appeal a felony sentence
- 60 days to appeal an order denying a post-conviction petition

Biological or DNA Evidence -evidence commonly recovered during a criminal investigation in the form of skin, tissue, bones, teeth, blood, semen, or other bodily fluids, which may include samples of biological materials, evidence items containing biological material, or preserved on a slide or swab if such evidence relates to the identification of the defendant or the victim.

Refer to Minn. Stat. §299C.106, subd. 3, §299C.155, and §590.10

Charged – a formal accusation of criminal activity accepted by the court.

Civil Case - a dispute between parties typically involving monetary damages.

Criminal Case - when a crime is committed against the State (including harm done to another) and charges are filed in a court of law to punish someone (the defendant).

Convicted – a formal declaration that someone is guilty of a criminal offense in a court of law.

Declined – a determination from the prosecuting authority to either refer the case back to law enforcement for further investigation or decision to not file charges.

Dismissal – a court's decision to terminate a court case without imposing liability on a defendant. A dismissal can either be with prejudice (i.e., case cannot be refiled) or without prejudice (i.e., case may be refiled).

Disposal – includes all forms of disposition (release, destroy, transfer, etc.).

Electronic Record – electronic log of all property submitted to the Evidence Room that maintains the chain of custody of all property.

Evidence – includes all items taken or recovered in the course of an investigation that may be used in the prosecution of a case, or as evidence in a civil case.

Evidence Room - includes all rooms designated for secure storage of property and evidence.

Expiration of Sentence – defined as release from prison and completion of the entire period of supervised conditional release and final discharge.

Found Property – property found that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

Perishables - things likely to decay (like food), or go bad quickly.

Post-Conviction Relief - the deadline for filing Post-Conviction Relief is two years from the final recorded judgment or appeal decision, except in specific circumstances. Refer to Minn. Stat. §590.01, subd 4.

Property – all items taken as evidence, items taken for safekeeping and found property.

Safekeeping – non-evidentiary property that is placed in the custody of a law enforcement agency for temporary protection on behalf of the known owner, or as ordered by the court.

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Definitions

Sentence - the sanction or combination of sanctions imposed by the court on an offender who is convicted of, or pleads guilty to an offense.

Statute of Limitations – the legally defined time in which a criminal or civil action may be initiated.

Civil - Refer to Minn. Stat. §541.05.

Criminal - Refer to Minn. Stat. §628.26.

Stay of Adjudication - entered a guilty plea, but the judge did not accept the guilty plea, nor adjudicate the defendant guilty, and set conditions for a period of time. If conditions are violated, the guilty plea will be accepted.

Definitions were created using the following source materials:

Evidence, Technical Working Group on Biological. *Biological Evidence Preservation: Considerations for Policy Makers* 2015. Document. <<http://www.nist.gov/forensics/upload/NIST-IR-7928.pdf>>.

IAPE. "Professional Standards." *International Association of Property and Evidence, Inc. Professional Standards (Revised 2024)*. January 2024. Document.

MN State Evidence Retention Guidelines

PART 1 – Evidence and Property in UNCHARGED or UNSOLVED Cases

Retention of evidence and property in cases where no charges have been filed and a court outcome has not been achieved. Reference MN State Statute of Limitations.¹

Section 1:

Serious person crimes [Crimes resulting in the Death of Another, Kidnapping, Criminal Sexual Conduct (1st - 4th degree), Labor Trafficking (under the age of 18 years old), Sexual Extortion, Solicitation/Promote Prostitution/Sex Trafficking]

General Rule: Retain all evidence indefinitely.

Circumstances to consider:

- One defendant may have been acquitted or dismissed, but another unknown person might be charged
- Suspicious death or death of undetermined manner
- Missing person suspected to be a homicide

Section 2:

Labor trafficking (over the age of 18 years old), Certain bribery offenses, Medical assistance fraud, and Medical care/assistance theft

General Rule: Retain all evidence for six (6) years after the commission of a crime.

Section 3:

Arson, Environmental Crimes, Identity Theft where the offense involves eight or more direct victims, or when the value of property or services stolen is more than \$35,000: Check forgery, False representation, Theft by swindle, Corporate theft, Financial exploitation of a vulnerable adult, Identity theft, and Credit card fraud

General Rule: Retain all evidence for five (5) years after the commission of a crime.

Exception: Arson in the First Degree - retain all evidence for ten (10) years after the commission of a crime.

Section 4:

All other crimes not specified above (Sections 1-3)

General Rule: Retain evidence at the department's discretion based on the potential to charge the case in the future and the applicable statute of limitations.

- If no specific statute of limitations applies, dispose with written consent from the prosecuting attorney or case investigator.
- Otherwise, the general statute of three (3) years will apply.

Section 5:

Use of Force Incidents

General Rule: Retain all evidence for 7 years after the commission of a crime unless it results in the death of another.

¹ [Minn. Stat. §628.26 \(Limitations\)](#)

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PART 1 – Evidence and Property in UNCHARGED or UNSOLVED Cases

Section 6:

Items that may contain Biological or DNA evidence²

Crimes when DNA evidence has been collected and other physical evidence exists:

- Possible DNA evidence of a victim, perpetrator or suspect is present
 - Retain until submitted to the lab for analysis, or until Statute of Limitations expires
- Sexual Assault Examination (SAE) Kits submitted labs for analysis and returned to a law enforcement agency
 - Tested kits do not need to be retained after analysis by the lab if there is no evidence remaining in the kit. Verify with the lab that they have retained all evidence.
 - Before disposal of the SAE kit, the label and all writings showing chain of custody must be retained by some form of copy, photocopy, scan or other acceptable method.
 - Request written permission from the prosecuting attorney or case investigator for disposal.
 - All actions must be documented with the case.
- Refer to [NIST guidelines](#) for the storage of biological evidence
- Evidence processing should take place before the statute of limitations expire, otherwise defer to the general rules of Sections 1-5.

Section 7:

Bulky or Large Evidence

- Bulky or large evidence, including furniture, doors, mattresses, or other large items may be disposed after:
 - Any specific area or section which may contain evidence will be retained.
 - DNA swabs have been collected on any areas suspected of containing evidence and the lab confirmed that analysis has been completed
 - Photographs have been taken and retained with the case file to document how the portion was removed from the item of physical evidence.
 - All actions must be documented with the case.
- Request written permission from the prosecuting attorney or case investigator for disposal.
- Evidence processing should take place before the statute of limitations expire, otherwise defer to the general rules of Sections 1-5.

Section 8:

Perishables

General Rule: Perishable items will generally not be accepted.

Recommendation:

- Submitting personnel should photograph, document and dispose of perishable items in lieu of submission unless the physical item is needed for testing purposes or another documented reason noted by the officer.
- Evidence processing should take place before the statute of limitations expire, otherwise defer to the general rules of Sections 1-4.

² Minn. Stat. §590.10 – regarding biological evidence

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PART 1 – Evidence and Property in UNCHARGED or UNSOLVED Cases

Section 9:

Special Disposal Considerations

- If the identity of a perpetrator is known, but deceased, and there is no expectation another person will be charged with the crime.
 - Dispose of evidence with consent of the prosecuting attorney or case investigator.

*****Follow your Agency's policy on destruction protocols.***

MN State Evidence Retention Guidelines

PART 2 – Evidence and Property in CHARGED Cases

Retention of evidence and property in cases where charges have been filed and a court outcome may have been achieved. Reference MN State Statute of Limitations.³

Section 1: Pending Court Cases

General Rule: All evidence will be retained until the conclusion of court proceedings, which includes all appeals.

Active Warrants⁴

If there is an active warrant for any defendant in a charged case, the related evidence must be retained until the case is completed in court.

Early Disposition of evidence:

- With written consent from the prosecuting attorney or case investigator.
- The defense attorney should be notified by the prosecuting attorney or case investigator if biological evidence is being dispositioned.⁵
- If the evidence in question is stolen property, it may be returned to the rightful owner provided proper documentation including photography is obtained prior to release.⁶

Section 2:

Homicide and Death Investigation, Kidnapping, Sex Trafficking, Criminal Sexual Conduct, (murder, manslaughter, criminal vehicular homicide, and other cases resulting in death, kidnapping, and sex trafficking)

The defendant is convicted:

- Retain evidence until the expiration of sentence (which includes probation).
- Until the death of the defendant, if that occurs before the expiration of sentence, and there is no expectation that another person will be charged.
- If the identity of the perpetrator was at issue in the case, early release or destruction of fingerprint or biological evidence related to the identity of the perpetrator requires written approval of the prosecutor. The prosecutor may not give approval without first providing the defendant an opportunity to object.³
 - This **applies only to the portion** of such evidence necessary to obtain a biological sample sufficient for DNA analysis.
 - Law enforcement must document when and how the portion was removed from the item of physical evidence.

If the defendant is acquitted and no other suspect or related court action is expected see section 6.

Section 3:

Sexual Assault Examination Kits (SAE Kits)

- Sexual Assault Examination (SAE) Kits submitted to the lab for analysis and returned to a law enforcement agency, may not need to be retained as long as the lab has kept the evidence from the kit.⁷

³ [Minn. Stat. §628.26 \(Limitations\)](#)

⁴ Minn. Stat. §626.04

⁵ Minn. Stat. §590.10 – regarding biological evidence

⁶ Minn. Stat. §609.523

⁷ Minn. Stat. §299C.106, subd. 3

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PART 2 – Evidence and Property in CHARGED Cases

- Tested kits do not need to be retained after analysis by the lab if there is no evidence remaining in the kit. Verify with the lab that they have retained all evidence.
- Before disposal of the SAE kit, the label and all writings showing chain of custody must be retained by some form of copy, photocopy, scan or other acceptable method.
- Request written permission from the prosecuting attorney or case investigator for disposal.
- All actions must be documented with the case.
- Any untested specimens must be retained by law enforcement. All specimen kits should be submitted for testing.
 - Victim blood and urine kits that have not been tested and are older than one (1) year may not be tested by the Lab due to degradation. Consult the Lab for guidance.

Section 4: Convicted Cases

General Rule: Law enforcement agencies may dispose of evidence 90 days after sentencing or 90 days after all appeals have expired:

- If there is no expectation another person will be charged or no other related court action is expected.
- With written consent from the prosecuting attorney or case investigator.

Section 5: Dismissal or Decline to Charge

If the case against the defendant is dismissed and there is no expectation another person will be charged, or no other related court action is expected:

- All property and evidence may be disposed of after the Statute of Limitations has expired, or earlier with written consent from the prosecuting attorney or case investigator.
- If no specific statute of limitations applies, the general statute of three years will apply.⁸

Section 6: Acquittal

If the defendant is acquitted and there is no expectation another person will be charged, or no other related court action is expected:

- Evidence may be disposed of after 90 days from the conclusion of the court proceeding with written consent from the prosecuting attorney or case investigator.

Section 7: Appeals

A defendant has the right to appeal a sentence.⁹

For specific circumstances, consult with the prosecuting attorney.

⁸ Minn. Stat. §628.26

⁹ Minn. R. App. 104

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PART 2 – Evidence and Property in CHARGED Cases

Appeal After Conviction¹⁰

Defendant has the right to appeal a felony or gross misdemeanor conviction within 90 days of final judgment. Misdemeanor or petty misdemeanor appeals must be brought within 30 days of final judgment.¹¹

Post-Conviction Relief¹²

No petition for Post-Conviction Relief may be made filed more than 2 years after:

- Entry of judgment of conviction/sentence if no direct appeal filed or
- Appellate court's decision of petitioner's direct appeal
- Unless the Petitioner can prove the following, in which case the 2-year clock begins at first claim/assertion:
 - Physical or mental disability kept them from filing a claim in timely fashion
 - Newly discovered evidence was found after the original 2-year deadline
 - New interpretation of federal law
 - The petitioner can satisfactorily convince the court of some other reason that PCR is in the interest of justice

Section 8:

Bulky or Large Evidence

- Bulky or large evidence, including furniture, doors, mattresses, or other large items may be disposed of after:
 - Any specific area or section which may contain evidence has been retained.
 - DNA swabs have been collected on any areas suspected of containing evidence
 - Confirm that analysis has been completed
 - Photographs have been taken to document how the portion was removed from the item of physical evidence.
 - Photos will be retained with the case file.
 - All actions must be documented with the case.
- Request written permission from the prosecuting attorney or case investigator for disposal.

Section 9:

Perishables

General Rule: Perishable items will generally not be accepted.

Recommendation:

- Submitting personnel should photograph, document and dispose of perishable items in lieu of submission unless the physical item is needed for testing purposes or another reason documented by the officer.

Follow your Agency's policy on destruction protocols.

¹⁰ Minn. Stat. §480A.08, subd. 3

¹¹ Minn. R. Crim. P. 28.01, subd. 1 and 28.02, subd. 4(3)(a)

¹² Minn. Stat. §590.01, subd. 4

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PART 3 – Non-Evidentiary, Found Property, Safekeeping, Perishable Items

All other cases that have items listed as non-evidentiary, found property, safekeeping property or items that will not be used in prosecuting a criminal case. This Part also covers cases where no charges will ever be filed.

Section 1:

Suicide, Accidental Death, or Natural Death

No charges expected to be filed due to the nature of the case.

- For cases ruled “suicide” by the Medical Examiner evidence will be retained for a period up to ten (10) years from the date of death.
- For cases ruled “accidental death” by the Medical Examiner evidence will be retained for a period up to five (5) years from the date of death.
- For cases ruled “natural death” by the Medical Examiner evidence will be retained for a period of up to one (1) year from the date of death.
- Early Disposition of evidence may be allowed with written consent from the prosecuting attorney or case investigator.
 - It is recommended that departments implement general procedures for obtaining written consent from prosecuting attorney or case investigator into their policies to streamline earlier destruction for the above case types.

Section 2:

Non-Evidentiary Items

Any items that are not explicitly listed as EVIDENCE.

- Best efforts should be made after the seizure of abandoned or stolen property to return it to the lawful owner.
- Found or safekeeping items deemed abandoned may be disposed of after 60 or 90 days per Minnesota statute.¹³ Dispose of such items per city or county ordinance, or agency policy.

Section 3:

Perishables

General Rule: Perishable items will generally not be accepted.

Recommendation:

- Submitting personnel should photograph, document and dispose of perishable items in lieu of submission unless the physical item is needed for testing purposes or another reason documented by the officer.

Section 4:

No Charges Expected

No charges expected to be filed due to the nature of the case.

- If there is no expectation a person will be charged or no other related court action is expected, disposition with written consent from the case investigator.

Follow your Agency’s policy on destruction protocols.

¹³ Minn. Stat. §471.195 (City) or Minn. Stat. §345.15 (County)