

**WINONA POLICE DEPARTMENT**

**NUMBER: 104-02 PAGES: 2**

**EFFECTIVE DATE: July 27, 2004**

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**SUBJECT: EVIDENCE: SHOPLIFTING CASES**

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**1.0 PURPOSE:**

It is the purpose of this general order to establish policy and procedures for the securing of evidence seized as the result of a shoplifting arrest.

**2.0 POLICY:**

It is the policy of this department that all evidence seized as a result of a shoplifting arrest shall be retained until a plea of guilty is obtained or until the evidence is produced at the trial.

**3.0 PROCEDURE:**

**3.1** In the case of all misdemeanor arrests for shoplifting initiated by a citizen arrest by the store owner or his representative, the following procedure for the securing of the evidence shall be followed.

**3.1.1** The responding officer shall tell the merchant to mark the evidence at the time of recovery (time, date and initials of person seizing property) so that a proper identification of the property can be made in court.

**3.1.2** Photographs: The merchant may take a photograph of the evidence and retain the photograph as evidence. On the photograph the merchant will record:

- a description of the property.
- the property owner's name,
- the suspect's name,
- the investigating officer's name,
- the date of the photograph, and
- the signature of the photographer.

The photograph will then be retained by the merchant as evidence.

**3.1.3** The merchant shall be told that he/she should store evidence in a secure place; that is, somewhere not accessible to others (so that chain of custody is maintained).

**3.1.4** The merchant shall bring the evidence to court if notified of a trial.

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**3.1.5** In the event of a guilty plea to the charge of shoplifting, the merchant shall be notified to retain the evidence for a period of ten days, and that after the ten days, the property can be returned to the regular inventory or otherwise disposed of by the merchant.

**3.2** In the event of a felony or gross misdemeanor arrest for shoplifting, all evidence seized in the case shall be confiscated by the police officer and shall be handled within the department according to evidence procedures.

**3.2.1** The determination as to whether a case shall be classified as a felony, gross misdemeanor, or misdemeanor shall be based on the requirements for felony thefts, as spelled out in Minnesota State Statutes 609.52, Subdivision 1, (3) and 609.52, Subdivision 3.

**3.2.2** The release of property seized in felony and gross misdemeanor shoplifting cases shall be ordered by the County Attorney, following the guidelines of 609.523 (Return of Stolen Property to Owners).