EVIDENCE 9481

(February 2002)

In order to successfully prosecute known law violations and to prevail in civil actions, the proper collection, preservation, and maintenance of evidence must be adhered to. Failure to properly handle evidence can lead to criminal and civil liabilities to the Department and the officer.

PHYSICAL EVIDENCE 9481.1

(February 2002)

Physical evidence regarding any suspected criminal activity or that would be needed for any potential civil litigation (in which the State may be a party) shall be properly preserved, collected, and maintained by Department personnel. Currently recognized techniques and court accepted procedures will be employed. All physical evidence that is collected will be documented.

PHOTOGRAPHIC EVIDENCE 9481.2

(February 2002)

Photographic evidence is an important link within the investigation process. Fire and crime scene areas will be thoroughly photographed prior to disturbance and all physical evidence will be photographed prior to removal from its location, when possible.

All photographs should be in color. Three copies of all photographs used in the case report should be forwarded with the case report. Photocopies are not acceptable. All negatives for a given fire are to be maintained at the Unit. Any requests for the original negatives shall be declined and professionally produced negative copies should be provided to the requestor. All negatives should be so organized and maintained that the negative for any given photograph can be retrieved without undue searching. If the negatives are sent out for additional copies, they should be reorganized when they are returned. The responsible person should verify that all negatives are returned. It is crucial that all negatives remain accounted for and in order. This includes all negatives and not just the negatives for the photographs used in the investigator's initial report.

A photo log is to be prepared for <u>all</u> photographs and not just for the ones used in the investigator's report. This log will show the date and time the photograph was taken and a brief description of the subject matter. The alpha/numeric system for the log should be such that the negative and the actual photograph may be located without undue difficulty.

VIDEO TAPE EVIDENCE 9481.3

(February 2002)

Use of video recording devices can be used to assist in the investigative process. Video taping of fire and crime scenes and evidence collection should be in addition to, and not in lieu of, photographic evidence documentation.

Any video taping activities must be included in the case report and documentation. Tapes must be adequately identified and maintained in order to avoid loss of video or over-dubbing. All protective-recording tabs must be removed in order to avoid loss of video.

Three copies of all videotapes identified in the case report should be forwarded with the case report. All videotapes for a given fire are to be maintained at the Unit. Any requests for the original videotapes shall be declined and professional quality copies should be provided to the requestor. All videotapes should be so organized and maintained so that tapes can be retrieved without undue searching. If the videotapes are sent out for additional copies, they should be reorganized when they are returned. The responsible person should verify that all videotapes are returned. It is crucial that all videotapes remain accounted for and in order.

A log is to be prepared for <u>all</u> videotapes. This log will show the date and time the video was taken and a brief description of the subject matter. The alpha/numeric system for the log should be such that the videotape and specific sections showing particularly significant events may be located without undue difficulty.

TAPE RECORDED EVIDENCE 9481.4

(February 2002)

Use of audio recording devices can be used to assist in the investigative process. Audio taping of interviews and investigator's crime scene activities should be used whenever possible.

Any taping activities must be included in the case report and documentation. Tapes must be adequately identified and maintained in order to avoid loss of audio or over-dubbing. All protective-recording tabs must be removed in order to avoid loss.

Three copies of all tapes identified in the case report should be forwarded with the case report. All tapes for a given fire are to be maintained at the Unit. Any requests for the original tapes shall be declined and professional quality copies should be provided to the requestor. All tapes should be so organized and maintained so that tapes can be retrieved without undue searching. If the tapes are sent out for additional copies, they should be reorganized when they are returned. The responsible person should verify that all tapes are returned. It is crucial that all tapes remain accounted for and in order.

A log is to be prepared for all tapes. This log will show the date and time the tape was recorded and a brief description of the subject matter. The alpha/numeric system for the log should be such that the tape and specific sections showing particularly significant events may be located without undue difficulty.

DIGITAL AND OTHER RECORDING MEDIUMS 9481.5

(February 2002)

Use of digital or other new technologies for photographs, video, or audio evidence must be based on court or prosecutorial accepted procedures. These may vary from county to county based on local courts or rulings. Investigators should check with local district attorney offices prior to using or relying on these systems as their only means of evidence gathering.

If utilized, the digital or other recording medium must be maintained in its original form.

WITNESS STATEMENTS AND SIGNED AFFIDAVITS 9481.6

(February 2002)

All witness statements shall be documented through either tape recorded interviews or written and signed statements. If tape recording has been conducted, a signed affidavit based on the recorded statement or signed transcript of the taped statement should be obtained as soon as practical.

MAINTENANCE AND STORAGE OF EVIDENCE 9481.7

(February 2002)

An evidence log shall be maintained for all evidence that has been collected for each case. This shall be in addition to evidence tags attached to a particular piece of evidence. All evidence shall be maintained in a secure and locked area, accessible only to authorized personnel. A listing of all cases within the storage area and each locker or cabinet shall be maintained.

PURCHASE OF EVIDENCE 9481.8

(February 2002)

To obtain information or evidence that will lead to identification and prosecution of person(s) responsible for arson-caused fires on state responsibility areas (SRA's) it is sometimes necessary to make out-of-pocket expenditures that may not be claimed as normal business or travel expenses.

PRC Section 4418 permit peace officers designated by the Director to purchase evidence and to pay for the services of "operatives" to obtain evidence in arson cases within SRA's.

INFORMANTS/OPERATIVES 9481.8.1

(February 2002)

CDF peace officers are encouraged to develop sources that can lead to the apprehension and prosecution of wildland arsonists. This may include the use of informants (operatives).

Funds for the purpose of purchasing evidence or employing operatives shall come from the arson investigation account maintained at Sacramento Headquarters Law Enforcement Section.

EXPENDITURE AUTHORIZATION 9481.8.2

(February 2002)

The Unit Fire Prevention Bureau Chief can authorize expenditures of up to $50 without additional approval. The Region Fire Prevention Program Manager can authorize up to $100 expended for these purchases. The Deputy Chief of Law Enforcement must approve amounts above $100. Supervisors at all levels will be kept informed to the extent necessary. Names of operatives will be kept confidential.

RELATIONSHIP OF EMPLOYEES AND OPERATIVES 9481.8.3

(February 2002)

It is the policy of CDF that the relationship between CDF peace officers and operatives be of a completely ethical and professional nature. Social contacts will be strictly avoided unless necessary in an official investigation and then only with the prior approval of a higher authority. The acceptance of a gratuity or gift from an operative is prohibited.

ADMONITION 9481.8.4

(February 2002)

Operatives shall be instructed that they are acting in an independent capacity, not as officers, employees, or agents of the State of California and that they shall not represent themselves in any official capacity whatsoever. Operatives shall be instructed that they may not engage in any type of criminal activity.

EXPENSE VOUCHER 9481.8.5

(February 2002)

The accounting office is to receive all copies of Section A only (LE-96). Section B is to be retained by the law enforcement section.

Complete LE-96 Section A and Section B according to the instructions on the reverse side of form.

Date	Date of transaction.
Voucher Number	To maintain control of documents initiated, each document shall be assigned a unique voucher number in (eight alpha-numeric) sequence. The same voucher number shall appear on both Section A and Section B. Implement a logging system so that the voucher numbers assigned in sequence can be readily identified on your CALSTARS Report (see Section 3762.1, 3600 Accounting Procedures Handbook, regarding Field Assigned Document Number).
Incident No.	CDF incident number.
Incident Name	CDF incident name.
Case Number	CDF law enforcement assigned case number.
Expended Amount, Number	$XX.XX ($50.00).
Expended Amount, Written	Fifty dollars.
Revolving Fund Advance Data	If an advance was received, circle "Yes" or “No”; amount; check number; date. Remarks: Estimate how long this investigation will take—30, 60, 90, days, etc.
Revolving Fund Advance	To minimize unnecessary advances, all advances data must be cleared in 30 days by the employee issuing a personal check for the unexpended amount of the advance.
Officer's Signature/ Printed Name	Officer incurring the expense.
Approved, Region Office	Region office approval.
Approved for Payment	Signature of Deputy Chief of Law Enforcement.
Cost Account Code	Shall be completed by the Sacramento Headquarters Law Enforcement Section.

The first five items in Section B must be identical to the data in Section A. Complete the other portion of the form as indicated.

Date

Voucher Number

Incident Number Info at left is the same information as on Section A

Incident Name

Case Number

Detach Section B after completing both sections.

Submit Section A only for processing by accounting, through appropriate review and approval procedure.

All revolving fund checks will be issued by the accounting office, upon request from the Deputy Chief of Law Enforcement. Additionally, any procedural problems encountered will be directed to the Deputy Chief of Law Enforcement by the accounting office.

DEPARTMENT SUBPOENAS 9481.9

(No. 4 March 2005)

Statutory Provisions of Government Code §§ 11180 and 11181 authorize the Director to issue subpoenas for personal appearance, for the production of documents and things, and for the production of business records regarding activities that are under the authority of the Department. The statutes read, in pertinent part:

Government Code §11180

"*The head of each department may make investigations and prosecute actions concerning:*

(a) All matters relating to the business activities and subjects under the jurisdiction of the department.

(b) Violations of any law or rule or order of the department.

(c) Such other matters as may be provided by law."

Government Code §11181

"In connection with any investigation or action authorized by this article, the department head may do any of the following:

(a) Inspect and copy books, records, and other items described in subdivision (e).

(e) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, any writing as defined by Section 250 of the Evidence **Code***, tangible things, and testimony pertinent or material to any inquiry, investigation, hearing, proceeding, or action conducted in any part of the state.*

(g) Divulge information or evidence related to the investigation of unlawful activity discovered from interrogatory answers, papers, books, accounts, documents, and any other item described in subdivision (e), or testimony, to the Attorney General or to any prosecuting attorney of this state, any other state, or the United States who has a responsibility for investigating the unlawful activity investigated or discovered, or to any governmental agency responsible for enforcing laws related to the unlawful activity investigated or discovered, if the Attorney General, prosecuting attorney, or agency to which the information or evidence is divulged agrees to maintain the confidentiality of the information received to the extent required by this article.

(h) Present information or evidence obtained or developed from the investigation of unlawful activity to a court or at an administrative hearing in connection with any action or proceeding."

Department Peace Officers may request the issuance of a Deposition Subpoena For Personal Appearance and Production of Documents and Things or a Deposition Subpoena For Production of Business Records regarding investigations or actions relating to activities under the jurisdiction of the Department. Such requests will be coordinated through the Department's Chief of Law Enforcement and the Department's Legal Office and can only be signed by the Director.

A fully completed Deposition Subpoena For Personal Appearance and Production of Documents and Things, or Deposition Subpoena For Production of Business Records, or both will be submitted to the Chief of Law Enforcement for submission and coordination through the Department's Legal Office for the Director's authorization and signature. If time is of the essence, this may be coordinated through normal law enforcement emergency channels and fax transmissions.

The subpoena(s), with the Director's original signature will be returned to the requesting officer for issuance to the individual(s), company(ies), and/or entity(ies).

Testimony, records, or evidence obtained through Department Subpoena's will be maintain in accordance with procedures articulated within the 9400 Handbook.

SUBPOENA AFFIDAVIT 9481.9.1

(No. 4 March 2005)

Any request for issuance of either a Deposition Subpoena For Personal Appearance and Production of Documents and Things or a Deposition Subpoena For Production of Business Records will be accompanied by a signed DEPOSITION SUBPOENA AND AFFIDAVIT by the CDF Peace Officer requesting the subpoena that articulates:

A) The CDF Peace Officers authority and statutory provisions that allow the issuance of the subpoena and the affidavit;
B) A declaration, under the penalty of perjury, that the statements are true and correct along with the date and place of execution;
C) The particulars of the investigation or action and the reasonable suspicion that indicates that an alleged violation of law, rule, or order related to the business activities and subjects under the jurisdiction of the department has occurred;
D) The specific persons to be deposed, reason for appearance, specific documents or things requested, or the specific business records required;
E) Any and all related or similar records or things that might relate to the specific items that have been listed;
F) Any attachments that may be helpful in facilitating the subpoena:
    1) Director's Delegation of Authority Letter
    2) Evidence that may identify the person, documents, things, or records requested
    3) Specific contact information not included within the subpoena's language

SUBPOENA ISSUANCE 9481.9.2

(No. 4 March 2005)

Department issued subpoenas may be authorized for use when other means of obtaining the required information are not available or have been unproductive. This may include, but are not limited to:

A) Conducting interviews with non-CDF and/or non-state individuals that would not be under a state employees' admonition to respond to questions or providing documents or records;
B) Obtaining photographic, video, or telephonic evidence or records from individuals, public or private entities regarding forest practice activities, fire investigations, personnel investigations, or other Department related activities;
C) Obtaining items or evidence that may have been removed or is in the possession of another party for documenting, testing, or sampling by Department Experts or investigators;
D) Obtaining business records from timber companies, insurance companies, utility companies, railroads, or other business or private entities or persons that may be involved with forest practice activities, fire investigations, personnel investigations, or other Department related activities; and,
E) Obtaining other instruments or things pertinent to the investigations or actions being pursued by the Department.

(see next section)

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(see Forms or Forms Samples)