Effective Date **February 1, 2008**	*Amended Date* **December 27, 2023**	*Directive* **12.05.1**
Subject **Disposal of Property and Evidence**		
Reference		

Distribution	*TPCA Best Practices Recognition Program Reference*	*Review Date*	*Pages*
All Personnel **City Manager** **City Attorney**	**12.05.1 Disposal of Property and Evidence**	**December 27, 2023**	**4**

This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to require the proper documentation and proper procedure for the disposal of property and evidence.

SECTION 2 POLICY

It is the policy of the department that all property and evidence will be disposed of at the appropriate time in accordance with the provisions of this directive.

SECTION 3 PROCEDURES

A. PROPERTY DISPOSAL

1. Authorized methods of disposal for property or evidence include the return of the property to the owner, city-controlled sale or auction, agency or other public use, or destruction.

2. No item of property/evidence held by this Department shall be disposed of in any manner until the Property and Evidence Manager as approved of the disposal of the property.

3. When an officer receives a Property Disposition Form, the officer shall expeditiously review the case and determine the proper action to be taken by Property and Evidence personnel by indicating such on the form. The completed form should be returned to Property and Evidence personnel.

4. When there are two or more defendants involved in a case, property/evidence shall not be disposed of until all defendants' cases have been adjudicated and a disposal order has been received from the court.

5 Following receipt of a completed Property Disposition Form indicating the property should be returned to the owner of the property, the Property and Evidence Controller shall prepare a Property Release Notice and mail it to the owner of the property.

   a. The Property Disposition Form should include the name and address of the person to whom the property is to be released.

b. An owner who claims found property shall be responsible for any costs which may have been incurred for the storage and care of the property should the property have been held in a location other than police storage facilities.

6. If the property held is ***found*** property (other than illegal contraband, inclusive of drugs, firearms, and alcohol) and is not claimed by the owner within 30 days from the date of submission to the Property and Evidence Unit, the Property and Evidence Controller shall dispose of the property with the approval of the Manager in accordance with the appropriate property disposal laws found in the Texas Code of Criminal Procedure.

7. Found property which is illegal to possess shall be destroyed. Other found property shall be sold at public auction unless the item of property may be of use to the Department in which case the item may be converted to Department use with written approval from the Chief of Police.

8. Found property classified as having no monetary value will be destroyed if not claimed within 30 days. Generally, found property categorized as having no value will be visibly damaged and non-serviceable and/or decaying or naturally occurring objects and substances; all of which would be prudently classified as trash. Property designated as having no value must be sanctioned by the Property and Evidence Manager.

9. Property that was classified as evidence at one point and is no longer needed for that purpose may be disposed in the same manner.

B. PUBLIC AUCTION

Property which has not been released in accordance with this order, and which is not destroyed, may be sold at public auction through the City's surplus property auction. Public auctions are generally held once each year, but may be held more often if necessary.

C. PROPERTY ACQUIRED FOR AGENCY AND OTHER PUBLIC USE

1. The Texas Code of Criminal Procedure provides that certain unclaimed property held in the custody of a law enforcement agency may be retained for agency or other public use, rather than being sold or destroyed.

2. Requests for conversion of unclaimed property held by the Department for agency or other public use shall be made in writing and forwarded to the Office of the Chief of Police. All requests shall include complete justification for acquiring the property and copies of relevant Department documents describing how the Department came into possession of the requested property.

3. Unclaimed property which has been converted to use by the Department shall be included on the Department's equipment and supplies inventory.

4. No property so acquired shall be used for personal reasons.

D. DESTRUCTION OF NARCOTICS

1. The destruction of controlled substances and assorted paraphernalia shall be carried out by the Narcotics Task Force supervisor and Property and Evidence Manager. Destruction shall be pursuant to a court order, as well as pursuant to the guidelines for the proper destruction of

controlled substances and paraphernalia as outlined in the procedure manual of the Narcotics Task Force.

2. The Property and Evidence Manager and Narcotics Task Force supervisor shall maintain a list of all narcotics property/evidence that has been destroyed by the Property and Evidence Unit. A copy of this list shall be forwarded to the Office of the Chief of Police.

3. Controlled substances will be destroyed in the Departments portable incinerator (Elsatec incinerator system).

4. Controlled substances will not be destroyed for any type of payment, service, or favor from any other agency, department, entity, or vendor maintaining compliance with 40CFR 60.2887.

5. Only controlled substances that are evidence or found property that have been recovered or seized by officers of the Texarkana Texas Police Department and stored in the departments property and evidence section will be eligible for destruction in the department's portable incinerator. Any controlled substance stored or housed in the department's property and evidence section for an outside agency, department, entity, or vendor will not be eligible for destruction and will have to be destroyed by the responsible party it is being stored for at their own expense to maintain compliance with 40CFR 60.2887.

6. Controlled substance destruction in the department's portable incinerator will be conducted at the Texarkana Texas Fire Department training facility located at 1101 W.21st St. Texarkana, Texas. The destruction will be conducted with the property and evidence manager, narcotics unit supervisor, and at least two witnesses present during the destruction. Controlled substance destruction will be recorded on video and uploaded to the departments current video records system.

7. Ash created by the incinerator during the destruction of controlled substances will be bagged after all fire hazards have been extinguished. The bagged ashes will be taken to a solid waste container located in the fenced in portion of the City Garage located at 921 Elm St. Texarkana, Texas and properly disposed of.

8. Only personnel that have been trained in the operation of the portable incinerator will be allowed to conduct controlled substance destruction. Training will consist of reviewing the owner's manual and conducting a controlled burn of documents and other sundry items demonstrating the safe operation and use of the portable incinerator

E. DESTRUCTION OF FIREARMS

1. The destruction of firearms and weapons shall be carried out by the Property and Evidence Manager, who shall make application for a court order authorizing the destruction of certain firearms and weapons, which are subject to disposal. The application shall list each weapon to be destroyed by make, model, caliber and serial number.

2. Destruction of firearms and weapons shall be accomplished by cutting, melting or torching in the presence of the Property and Evidence Personnel and one other Department employee, who shall act as a witness.

3. Weapons described as Destructive Devices and/or prohibited weapons, which were unlawfully possessed, must be surrendered to the Department of Justice. Should the Department of Justice

authorize the destruction of such weapons, it will be the Property and Evidence Manager's responsibility to carry out the destruction.

4. Nothing in this order should be construed to prohibit official use should the Department of Justice, or a court of proper jurisdiction, award certain weapons to the Police Department for official use.

5. The Property and Evidence Manager shall maintain a list of all property/evidence that has been destroyed by department personnel. A copy of this list shall be forwarded to the Office of the Chief of Police.

F. RETURN OF FIREARMS

Confiscated firearms shall be released to the owner, upon request, only after the Property and Evidence Controller has verified that the owner has the right to possess the firearm.

G. RESPONSIBILITY

1. All members of the Department shall know and comply with all aspects of this directive.

2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.