

20-032 PROPERTY HANDLING

Effective Date: 10/01/2020

Revision Date: 10/01/2021

APPROVED: 

Purpose

The purpose of this procedure is to safeguard the property of citizens and to provide a standard method of handling recovered property, most specifically during the execution of a Writ of Possession. Weapons or other items that could cause bodily harm to the public are not to be placed at the curb in a Writ of Possession. This procedure addresses the method of safeguarding those kinds of items and is not intended to address criminal evidence.

Procedure

Found Property is property of no evidentiary value, which comes into the custody of an agency employee, and whose rightful owner may, or may not, be known to the finder or the agency. Due diligence must be exercised to discover the rightful owner. If the owner cannot be located, this office will dispose of the property in a time and manner prescribed by law. Specifically, this procedure addresses the recovery of weapons that have been abandoned and subsequently recovered by deputies of this agency.

A. Taking Control of the Weapon

1. Firearms (operable or not) and dangerous weapons that are abandoned or found during the lawful execution of civil process are to be taken into the care of this agency.
2. The firearm or other weapon shall be made safe by ensuring it is not loaded or inert. Deputies who cannot unload a weapon due to a mechanical defect must attach a warning note to the weapon indicating it is loaded. The Chief Deputy Constable will arrange for the range master (or qualified designee) to unload the weapon prior to placing it in storage. Unfired cartridges shall be placed inside a separate envelope or bag from the weapon. Weapons are unloaded ONLY after noting the position of the bullets, empty cartridges, safety, bolt, breechblock, hammer, cylinder, magazine, etc.
3. The deputy will conduct a TCIC/NCIC check of the property to determine if the property is reported as stolen.
 - a. If the property is reported stolen, the deputy is to contact the police department who has jurisdiction where the property was recovered and request a response to take custody of the property.
 - b. If the property is not reported stolen, then the property can be taken for safekeeping.
4. The property is to be affirmatively secured in the deputy's vehicle until it can be transferred into the office.
5. If the property is suspected as being an explosive device, the property will remain untouched where it is found, dispatch will be notified, the area evacuated and the local fire department will be requested. The Senior Deputy or Chief Deputy Constable will respond to the location.

A deputy is to never transport or store any unexploded (or suspected unexploded) device in or about the office. Never transport or store any Class A explosive such as dynamite, desensitized nitroglycerin, large quantities of fireworks or more than one pound of black powder in or about the office.

6. The deputy accepting the property documents the details upon taking property in to the agency. That report contains a description of the item, along with all other pertinent details of how the item came into possession. The report must also include complete information on the person who found the property, or from whom it was seized or recovered.
7. An Incident Report is completed and submitted to the Chief Deputy Constable, along with the property, prior to the end of the business day.

B. Determining Ownership

1. The deputy initially taking control of the weapon will attempt to determine the property's owner. The deputy will call that person instructing them to contact the Chief Deputy Constable to schedule an appointment and claim their property.
2. The owner has 90 days to establish ownership and claim the property.
3. If the owner claiming a firearm is not legally entitled to a weapon under the provisions of the law, or prohibited from possessing a weapon, the Chief Deputy Constable determines the type of release or destruction of the firearm.
4. Pursuant to Code of Criminal Procedure Art. 18.17, any found property having a value of \$500 or more and the owner is unknown, will be advertised as found in a newspaper of general circulation prior to forfeiture to the county or destruction.
5. In the event that the initial deputy cannot locate the owner, the Chief Deputy Constable will assume the responsibility for locating the owner.
6. The Chief Deputy Constable processes all unclaimed property for auction, disposal, or transfer for Departmental use.
7. In the event that the owner can be affirmatively identified, the property may be released to the owner:
 - a. Prior to releasing the weapon, check property items with serial numbers in the TCIC/NCIC system.
 - b. The owner must appear in the office in person and:
 - 1). Present a valid government issued identification;
 - 2). Provide proof of weapon ownership;
 - 3). In all cases when releasing a firearm, the Chief Deputy Constable will conduct a criminal history check of the person receiving the weapon. This establishes whether restrictions exist that prevent the release of the firearm to that individual.

C. Storage

1. The Constable and the Chief Deputy Constable will be permitted access & key control of the weapons safe.
2. Weapons received from field deputies as abandoned shall be placed in the weapons safe.
3. Weapons will be affixed with a property tag that designates the case number, date of submission, and name and ID number of the submitting deputy.

4. Hazardous Materials Storage. This agency does not recover or store hazardous materials in any form.
 - a. The deputy consults with a member of fire services on any unknown substance. Deputies ensure contact with supervisors to determine appropriate measures for storage or destruction.
 - b. The deputy consults with a member of fire services on all flammable materials. Deputies ensure contact with supervisors to determine appropriate measures for storage or destruction.
 - c. Fireworks are not stored, but instead photographed. Deputies destroy all confiscated fireworks by drowning and physical destruction in view of a video recording device.

D. Disposition

1. Disposal of items held in the property room is made in a manner authorized by statute and as provided in policy.
2. The Chief Deputy Constable disposes of no property item until receiving a release authorization from a magistrate.
See **Figure 32.1**.
3. Upon receipt of a Court Order, the Chief Deputy disposes of property in the manner indicated in that order.
4. Property of value (except firearms, money, ammunition, controlled substances, and hazardous materials) is sold at auction, destroyed, or designated for department use.
5. Handguns and assault weapons are destroyed. Hunting rifles and shotguns may be sold at auction.
6. Ammunition is disposed of through pre-approved, designated agencies or designated for department use.
7. Knives, clubs, BB or pellet guns, or other dangerous weapons are destroyed in the same manner as firearms.

E. Additional Notes of Disposition of Firearms/Ammunition

All firearms will be destroyed unless released to their rightful owner with two exceptions. Firearms that are scheduled for disposal that could be used by the department may be converted to departmental the proper “forfeiture” paperwork is received from the court of record. These weapons will become the property of the department and not individual deputies and will be tracked and accounted for on inventories and audits. Weapons of intrinsic collectable value or long guns (not handguns) of sporting value may be auctioned by the county during the regular auction process. Only those persons possessing an FFL may bid on the weapons. Destruction process will proceed as follows:

1. The Property Custodian destroys firearms authorized for disposal as necessary to conserve space and security of the weapon(s).
2. All firearms are inventoried prior to destruction.

3. The Chief Deputy updates the new status on all related documents and computer files.
4. The Chief Deputy and another deputy will transport the firearms to a destruction facility. The Chief Deputy and deputy witnesses the destruction of each weapon and signs a certificate certifying the destruction.
5. Destruction of Ammunition
 - a. Department Use
 - 1). Surplus small arms and rifle ammunition may be retained by the department for official use.
 - 2). Ammunition retained for department use is transferred to the range master, who signs receipt for the items and maintains records of the inventory and use of such ammunition.
 - 3). No ammunition of this nature is used for duty purposes.
 - b. Disposal
The range master has final discretion on the means of ammunition destruction. That deputy decides if the ammunition lends itself well to training or other range use.
6. The Office Manager retains all written documentation of destruction transactions.

Figure 32.1 Motion for Disposition of Property

OFFENSE # _____	TARRANT COUNTY, PCT. 1 DALE CLARK, CONSTABLE
<u>MOTION FOR DISPOSITION PROPERTY</u>	
To the Honorable Judge of said Court:	
<p>Presented to the court that the above entitled and numbered cause has been disposed of on the merits. It is requested that the Court enter an order in conformity with the relief requested herein below, disposing of all property now in possession of Tarrant County, Pct. 1, Dale Clark, Constable.</p>	
<p><input type="checkbox"/> CONTROLLED SUBSTANCE, DANGEROUS DRUGS OR DRUG PARAPHERNALIA. Arts. 4476-14 and 4476-15 The following described property: _____</p>	
<p>Is owned by: _____ Tarrant County Constables Office should be ordered to DESTROY the property.</p>	
<p><input type="checkbox"/> FOUND, ABANDONED, EVIDENCE: Article 18.17 Texas Code of Criminal Procedure. The following described property: _____</p>	
<p>Is owned by: <input type="checkbox"/> Notify the owner of his right to claim said property. <input type="checkbox"/> Owner is unknown. Rightful owner could not be located. <input type="checkbox"/> The property cannot be possessed by persons. <input type="checkbox"/> Destroy the property. <input type="checkbox"/> Exceeds the statute of limitation pursuant to Chapter 12, Texas Code of Criminal Procedure <input type="checkbox"/> Convert to official use.</p>	
<p><input type="checkbox"/> PROHIBITED WEAPONS OR CRIMINAL INSTRUMENTS: Article 18.18 C.C.P. The following described property: _____</p>	
<p>Is owned by: Tarrant County Constables Office should be ordered to DESTROY the property.</p>	
<p><input type="checkbox"/> WEAPONS. Article 18.19 C.C.P. The following described property: _____</p>	
<p>Is owned by: <input type="checkbox"/> Destroy the weapon. <input type="checkbox"/> Notify the owner of his right to claim said property. <input type="checkbox"/> Owner is unknown. Rightful owner could not be located. <input type="checkbox"/> Convert to official use.</p>	
<p>WHEREFORE, premises considered, we pray that the court enter an order in conformity with this motion.</p>	
Respectfully submitted.	
<p>Offense # _____ Disposition _____ Date Disposed _____</p>	
<p>ORDER The Court Finding the foregoing motion for disposition in good order. It is therefore Ordered, adjudged and decreed that the Tarrant County Constables Office, Precinct 1, Tarrant County, Texas shall immediately dispose of the property described hereinabove in the manner requested.</p>	
<p>SIGNED AND ENTERED THIS _____ DAY OF _____, 20 ____.</p>	
<p>Ralph Swearingin, Jr. Justice of the Peace, Pct. 1 Tarrant County, Texas</p>	