

Welcome To Laws



Disclaimer

The goals and objectives of the Texas Association of Property and Evidence Inventory Technician are to educate, guide, and direct you in working in a Property Room. TAPEIT will provide you with what we believe to be the “BEST PRACTICES” when dealing with property and evidence. TAPEIT will provide you with information on how to process, package, store, maintain chain of custody, inventory, audit and proper ways to dispose of the property and evidence. What we teach is information that can be used as a guideline in creation of Policy and Procedures that work for your department. Each department is unique and must adapt to different courts, prosecutors and follow both Federal and State Laws.

*This is not legal advice

Objectives

1

Provide laws related to the property room function

2

Cover key components of laws related to the property room function

3

Provide statute citations that correspond with laws and regulations related to the property room

Law Sections Pertaining to The Property Room

Texas Code of
Criminal
Procedure

Texas Penal Code

Texas Health and
Safety Code

Texas Alcoholic
Beverage Code

Texas
Administrative
Code

Texas Government
Code

U.S. Code - Title
18. Crimes and
Criminal
Procedure

Table of Contents



Texas Alcoholic Beverage Code (ABC)

Chapter 1

- Sec. 1.04 - Definitions

Chapter 103

- Sec. 103.06 - Beverage Seized By Peace Officer

Texas Code of Criminal Procedure (CCP)

Chapter 12

- Art. 12.01 - Felony Limitations
- Art. 12.02 - Misdemeanor Limitations

Chapter 18

- Art. 18.17 - Disposition of Abandoned Or Unclaimed Property
- Art. 18.18 - Disposition of Gambling Paraphernalia, Prohibited Weapon, Criminal Instruments and Other Contraband
- Art. 18.181 - Disposition of Explosive Weapons and Chemical Dispensing Devices
- Art. 18.182 - Disposition of Item Bearing Counterfeit Mark
- Art. 18.183 - Disposition of Money Pending Disposition
- Art. 18.19 - Disposition of Seized Weapons
- Art. 18.191 - Disposition of Firearm Seized From Certain Persons With Mental Illness

Texas Code of Criminal Procedure (CCP)

Chapter 38

- Art. 38.34 - Photographic Evidence in Theft Cases
- Art. 38.43 - Biological Evidence
- Art. 38.50 - DWI Evidence

Chapter 47

- Art. 47.01 - Subject to Order of Court
- Art. 47.01a - Restoration When No Trial is Pending
- Art. 47.06 - Property Sold
- Art. 47.07 - Owner May Recover

Texas Code of Criminal Procedure (CCP)

Chapter 56A

- Art. 56A.306 - Procedures for Transfer and Preservation of Evidence

Chapter 59

- Art. 59.06 - Disposition of Forfeited Property

Chapter 64

- Art. 64.01 - Motion for Forensic DNA Testing
- Art. 64.03 - Requirements and Testing

Texas Government Code (GC)

Chapter 420

- Sec. 402.033 - Chain of Custody
- Sec. 420.036 - Duty to Enter Certain Information in VICAP
- Sec. 420.042 - Analysis of Evidence
- Sec. 420.0432 - Survivor Notification Concerning Database DNA Match

Texas Health and Safety Code (HSC)

Chapter 481

- Sec. 481.152 - Seizure and Summary Forfeiture and Destruction of Controlled Substance Plants
- Sec. 481.153 - Seizure and Summary Forfeiture and Destruction of Controlled Substance Property
- Sec. 481.154 - Rules
- Sec. 481.159 - Disposition of Controlled Substance Property or Plant
- Sec. 481.160 - Destruction of Excess Quantities
- Sec. 481.161 – Disposition of Controlled Substance Property or Plant In Lieu of Destruction

Texas Penal Code (PC)

Chapter 12 Punishments

- Sec. 12.01. Punishment In Accordance With Code
- Sec. 12.02. Classification of Offenses
- Sec. 12.03. Classification of Misdemeanors
- Sec. 12.04. Classification of Felonies
- Sec. 12.21. Class A Misdemeanor
- Sec. 12.22. Class B Misdemeanor
- Sec. 12.23. Class C Misdemeanor
- Sec. 12.31. Capital Felony
- Sec. 12.32. First Degree Felony
- Sec. 12.33. Second Degree Felony
- Sec. 12.34. Third Degree Felony
- Sec. 12.35. State Jail Felony
- Subchapter D. Exceptional Sentences

Texas Penal Code (PC)

Chapter 37 Perjury and Other Falsification

- Sec. 37.09 - Tampering With or Fabricating Physical Evidence

Chapter 48 Offenses Affecting Public Health

- Sec. 48.05 - Prohibited Camping

Texas Administrative Code

Title 37, Part 1, Chapter 13, Sub-chapter G

- §13.151 - Subchapter Definitions
- §13.154 - Destruction Authority - Controlled Substance Property or Plant
- §13.155 - Destruction Authority - Other Item
- §13.156 - Destruction Authority - Court Order
- §13.157 - SOP for Destruction by Laboratory or Agency - Security Control
- §13.158 - Manner of Destruction - Security Control
- §13.159 - Two-Witness Rule - Security Control
- §13.161 - Witness Responsibility - Security Control
- §13.163 - Destruction Documentation - Security Control
- §13.164 - Document Maintenance, Inspection, and Transmittal - Security Control

Title 18 United States Code (18 USC)

Chapter 44 Firearms

- Sec. 922 - Unlawful Acts
- Sec. 924 - Penalties

Texas Alcoholic Beverage Code (ABC)



ABC Section 1.04 – Definitions

Sec. 1.04. Definitions

- (1) **Alcoholic beverage**" means alcohol, or **any beverage containing more than one-half of one percent of alcohol by volume**, which is capable of use **for beverage purposes**, either alone or when diluted.
- (4) **"Illicit beverage"** means an alcoholic beverage:
 - (A) Manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, stored, possessed, imported, or transported in violation of this code;
 - (B) **On which a tax imposed by the laws of this state has not been paid and to which the tax stamp, if required, has not been affixed;** or
 - (C) Possessed, kept, stored, owned, or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse, store, **or transport in violation of this code.**

ABC Section 103.06

- Beverages Seized
By Peace Officer

Sec. 103.06. Beverages Seized By Peace Officer

Any alcoholic beverage, its container, and its packaging which has been seized by a peace officer, as provided in Section 103.03:

- (1) May not be replevied; and
- (2) Shall be:
 - (A) **Destroyed or disposed of by a peace officer;** or
 - (B) Delivered to the commission for immediate public or private sale in the manner the commission considers best.

ABC Chapter 103.06 Guide

Any alcoholic beverage that is no longer evidence in a court proceeding, or the offense has surpassed the statute of limitations

Shall be destroyed or disposed of by a **peace officer**; or delivered to the commission.

Texas Code of Criminal Procedure (CCP)



CCP Chapter 12 Limitations

Sec. 12.01. Felonies

(1) No limitation:

- (A) Murder and manslaughter;
- (B) Sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code;
- (C) Sexual assault, if:
 - (i) During the investigation of the offense biological matter is collected and the matter:
 - (a) Has not yet been subjected to forensic DNA testing; or
 - (b) Has been subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or
 - (ii) Probable cause exists to believe that the defendant has committed the same or a similar sex offense against five or more victims;

Sec. 12.01. Felonies

(1) No limitation (Continued):

- (D) Continuous sexual abuse of young child or disabled individual under Section 21.02, Penal Code;
- (E) Indecency with a child under Section 21.11, Penal Code;
- (F) An offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the accident resulted in the death of a person;
- (G) Trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code;
- (H) Continuous trafficking of persons under Section 20A.03, Penal Code; or
- (I) Compelling prostitution under Section 43.05(a)(2), Penal Code;

Sec. 12.01. Felonies

(2) Ten years from the date of the commission of the offense:

- (A) Theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;
- (B) Theft by a public servant of government property over which the public servant exercises control in the public servant's official capacity;
- (C) Forgery or the uttering, using or passing of forged instruments;
- (D) Injury to an elderly or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;
- (E) Sexual assault, except as provided by Subdivision (1) or (7);
- (F) Arson;
- (G) Trafficking of persons under Section 20A.02(a)(1), (2), (3), or (4), Penal Code; or
- (H) Compelling prostitution under Section 43.05(a)(1), Penal Code;

Sec. 12.01. Felonies

(3) Seven years from the date of the commission of the offense:

- (A) Misapplication of fiduciary property or property of a financial institution;
- (B) Fraudulent securing of document execution;
- (C) A felony violation under Chapter 162, Tax Code;
- (D) False statement to obtain property or credit under Section 32.32, Penal Code;
- (E) Money laundering;
- (F) Credit card or debit card abuse under Section 32.31, Penal Code;
- (G) Fraudulent use or possession of identifying information under Section 32.51, Penal Code;
- (H) Exploitation of a child, elderly individual, or disabled individual under Section 32.53, Penal Code;
- (I) Health care fraud under Section 35A.02, Penal Code; or
- (J) Bigamy under Section 25.01, Penal Code, except as provided by Subdivision (6);

Sec. 12.01. Felonies

(4) Five years from the date of the commission of the offense:

- (A) Theft or robbery;
- (B) Except as provided by Subdivision (5), kidnapping or burglary;
- (C) Injury to an elderly or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;
- (D) Abandoning or endangering a child; or
- (E) Insurance fraud;

Sec. 12.01. Felonies

(5) If the investigation of the offense shows that the victim is younger than 17 years of age at the time the offense is committed, 20 years from the 18th birthday of the victim of one of the following offenses:

- (A) Sexual performance by a child under Section 43.25, Penal Code;
- (B) Aggravated kidnapping under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually; or
- (C) Burglary under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with the intent to commit an offense described by Subdivision (1)(B) or (D) of this article or Paragraph (B) of this subdivision;

Sec. 12.01. Felonies

(6) Ten years from the 18th birthday of the victim of the offense:

- (A) Trafficking of persons under Section 20A.02(a)(5) or (6), Penal Code;
- (B) Injury to a child under Section 22.04, Penal Code; or
- (C) Bigamy under Section 25.01, Penal Code, if the investigation of the offense shows that the person, other than the legal spouse of the defendant, whom the defendant marries or purports to marry or with whom the defendant lives under the appearance of being married is younger than 18 years of age at the time the offense is committed;

(7) Two years from the date the offense was discovered:

Sexual assault punishable as a state jail felony under Section 22.011(f)(2), Penal Code; or

(8) Three years from the date of the commission of the offense:

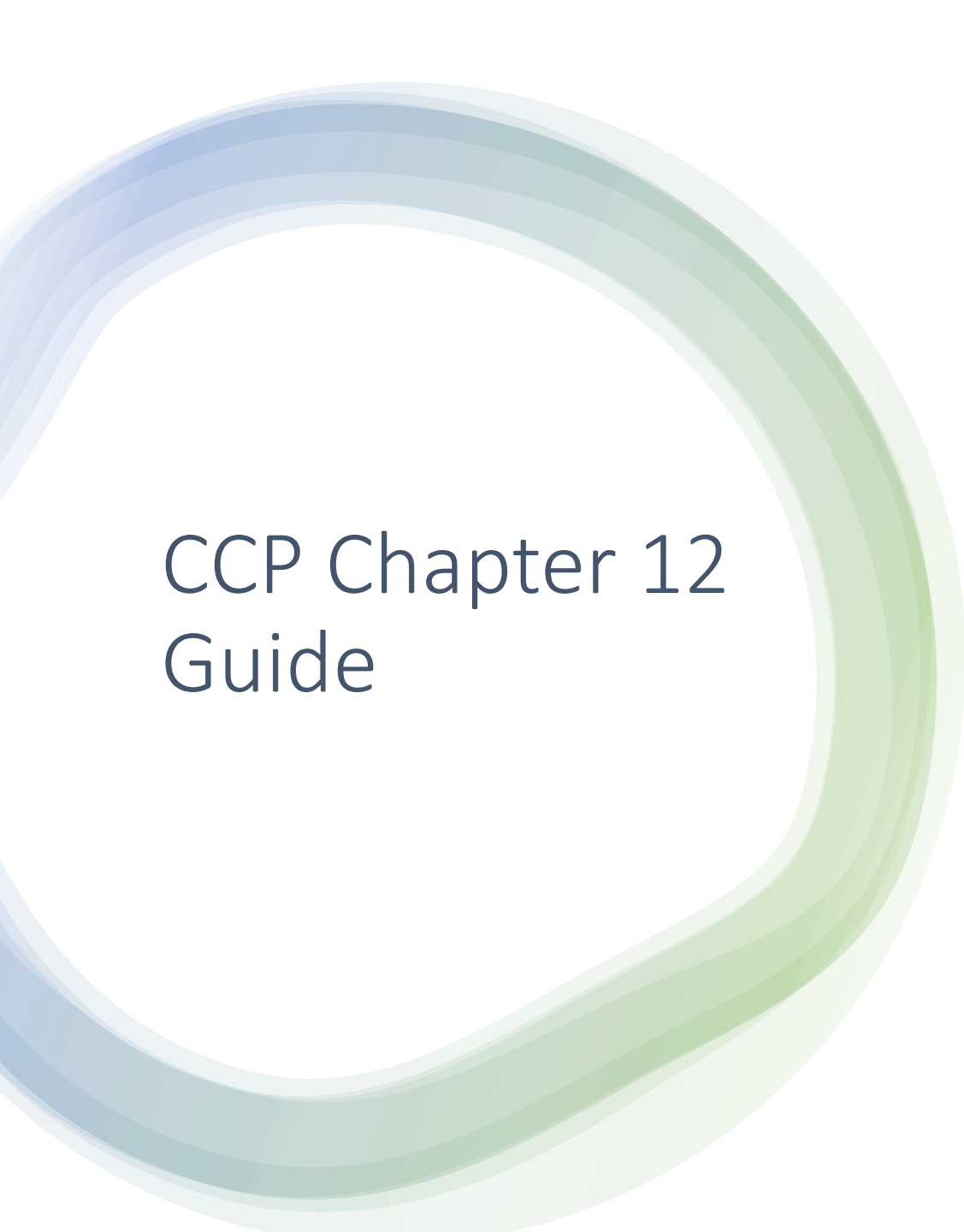
All other felonies.

Sec. 12.01. Felonies

NOTE: Some limitations under 12.01 will change effective December 04, 2025.

Sec. 12.02. Misdemeanors

- (a) An indictment or information for any Class A or Class B misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward.



CCP Chapter 12 Guide

Use the statute of limitations in Chapter 12 to determine how long you need to keep evidence related to a CRIMINAL CASE when charges have not been filed

The statute of limitations must expire in criminal cases where no charges have been filed before evidence can be disposed of, released, or destroyed

CCP Article 18.17 – Abandoned and Unclaimed Property

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

(a) All **unclaimed or abandoned personal property** of every kind, other than contraband subject to forfeiture under Chapter 59 and whiskey, wine and malt beverages, seized by any peace officer in this state **which is not held as evidence** to be used in any pending case **and has not been ordered destroyed or returned to the person entitled to possession** of the same by a magistrate, which shall remain **unclaimed for a period of 30 days** shall be **delivered for disposition to a person designated by the municipality or the purchasing agent of the county in which the property was seized**. If a peace officer of a municipality seizes the property, the peace officer shall deliver the property to a person designated by the municipality. If any other peace officer seizes the property, the peace officer shall deliver the property to the purchasing agent of the county. If the county has no purchasing agent, then such property shall be disposed of by the sheriff of the county.



Art. 18.17a Guide

Unclaimed or abandoned personal property (other than Asset Forfeiture, whiskey, wine and malt beverages)

Which is not held as evidence and has not been ordered destroyed or returned to the person entitled to possession

Deliver it to a person designated by the municipality or the purchasing agent of the county for disposition after 30 days

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

(b) The **county purchasing agent, the person designated by the municipality, or the sheriff of the county**, as the case may be, shall mail a notice to the last known address of the owner of the property by certified mail or place a one-time notice on the Internet website and social networking website of the law enforcement agency that seized the property.

The notice must describe the property being held, give the name and address of the officer holding the property, and state that if the owner does not claim the property before the 90th day after the date of the notice the property will be disposed of and the proceeds, after deducting the reasonable expense of keeping the property and the costs of the disposition, placed in the treasury of the municipality or county giving the notice.



Art. 18.17b. Guide (Owner and Address are Known)

The person you give the property too (or you if you are the designated person)

Must mail a notice to the last known address of the property owner by certified mail, if they are known, or post on the internet website and social media site of the agency

The notice must describe the property being held and give the name and address of the person holding it

And the notice must state they have until the 90th day after the date of the notice to retrieve the property or it will be disposed of, and the proceeds placed in the treasury of the municipality or county giving the notice

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

(c) If the property has a **fair market value of \$500 or more** and **the owner or the address of the owner is unknown**, the person designated by the municipality, the county purchasing agent, or the sheriff, as the case may be, **shall published a notice once in a paper of general circulation** in the municipality or county **or place a one time notice on the Internet website and social networking website of the law enforcement agency that seized the property**. The notice must contain a general description of the property held, the name of the owner if known, the name and address of the officer holding the property, and a statement that if the owner does not claim the property before the 90th day after the date of the notice, the property will be disposed of and, after deducting the reasonable expense of keeping the property and the costs of the disposition, any proceeds from the sale deposited in the treasury of the municipality or county selling the property. If the property has a **fair market value of less than \$500** and **the owner or the address of the owner is unknown**, the person designated by the municipality, the county purchasing agent, or the sheriff **may sell or donate the property**. The person designated by the municipality, the purchasing agent, or the sheriff shall **deposit**, after deducting the reasonable expense of keeping the property and costs of the disposition, any proceeds from a sale **in the treasury of the municipality or county selling or donating the property**.



Art. 18.17c Guide

(Owner or Address is Unknown – Over \$500)

The property item has fair market value of \$500 or more and the owner or the address of the owner is unknown

Must publish one notice in a paper of general circulation, or post on the internet website and social media site of the agency

The notice must include a general description of the property, the name of the owner or address that is known, and the name and address of the person holding the property

And the notice must state they have until the 90th day after the date of the notice to retrieve the property or it will be disposed of, and the proceeds placed in the treasury of the municipality or county giving the notice

Art. 18.17c Guide (Owner or Address is Unknown – Under \$500)

The property item has a fair market value of less than \$500 and the owner or the address of the owner is unknown



The designated person may sell or donate the property
(Refer to your Department SOP)



Proceeds go into the treasury of the municipality or county selling or donating the property

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

- (d) **The sale** under this article **of any property** that has a **fair market value of \$500 or more** shall be **preceded by a notice published once at least 14 days before the date of the sale** in a **newspaper of general circulation** in the municipality or county where the sale is to take place, **or place once on the Internet website and social networking website of the law enforcement agency that seized the property at least 14 days before the date of the sale.** The notice must state the general description of the property, the name of the owner if known, and the date and place that the sale will occur. This article does not require disposition by sale.



Art. 18.17d. Guide

Regarding the sale of property that has a fair market value of \$500 or more

Publish your notice of sale in a newspaper of general circulation (in the municipality or county), or post on the internet website and social media site of the agency

Must be published at least once, and a minimum of 14 days prior to the date of the sale

The notice must include the general description of the property, the name of the owner if known, and the date and place that such sale will occur

You are not required to dispose of this property by selling it

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

(d-1) Notwithstanding Subsection (a), (b), (c), or (d), if property described by Subsection (a), **other than money**, is seized by a peace officer **at the time the owner of the property is arrested for** an offense punishable as a **Class C misdemeanor**, the law enforcement agency **may provide notice** to the owner **at the time the owner is taken into or released from custody**. On receiving the notice, **the owner must sign the notice and attach a thumbprint** to the notice. The **notice must include**:

- (1) **a description** of the property being held;
- (2) the address **where the property is being held**; and
- (3) a statement that **if the owner does not claim the property before the 31st day after the date the owner is released from custody**, the **property will be disposed of** and the proceeds of the property, after deducting the reasonable expense of keeping and disposing of the property, will be placed in the treasury of the municipality or county providing the notice.



Art. 18.17d-1

Guide

A person taken into custody for a Class C Misdemeanor can be provided written notice at the time they are arrested or released

That they have 30 days after being released to get their property

The notice must include... A description of the property; the address where the property is being held;

The notice must also include a statement... *that if the owner does not claim the property before the 31st day after the date the owner is released from custody, the property will be disposed of and the proceeds of the property, after deducting the reasonable expense of keeping and disposing of the property, will be placed in the treasury of the municipality or county providing the notice.*

The owner must sign and attach a thumbprint to the notice

This can be done for any property other than money!

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

(d-2) **If the property** for which notice is provided **under Subsection (d-1) is not claimed** by the owner **before the 31st day** after the date the owner is released from custody, **the law enforcement agency** holding the property **shall deliver the property for disposition** to a **person designated by the municipality or to the purchasing agent or sheriff of the county** in which the property was seized, as applicable. **The person** designated by the municipality, the purchasing agent, or the sheriff **may sell or donate the property without mailing or publishing an additional notice** as required by Subsection (b), (c), or (d). **The sale proceeds**, after deducting the reasonable expense of keeping and disposing of the property, **must be deposited in the treasury** of the municipality or county disposing of the property.



Art. 18.17 d-2 Guide

If the property is not claimed by the owner under d-1 before the 31st day after they are released from custody

Deliver the property for disposition to the person designated by the municipality or to the purchasing agent or sheriff of the county in which the property was seized, as applicable

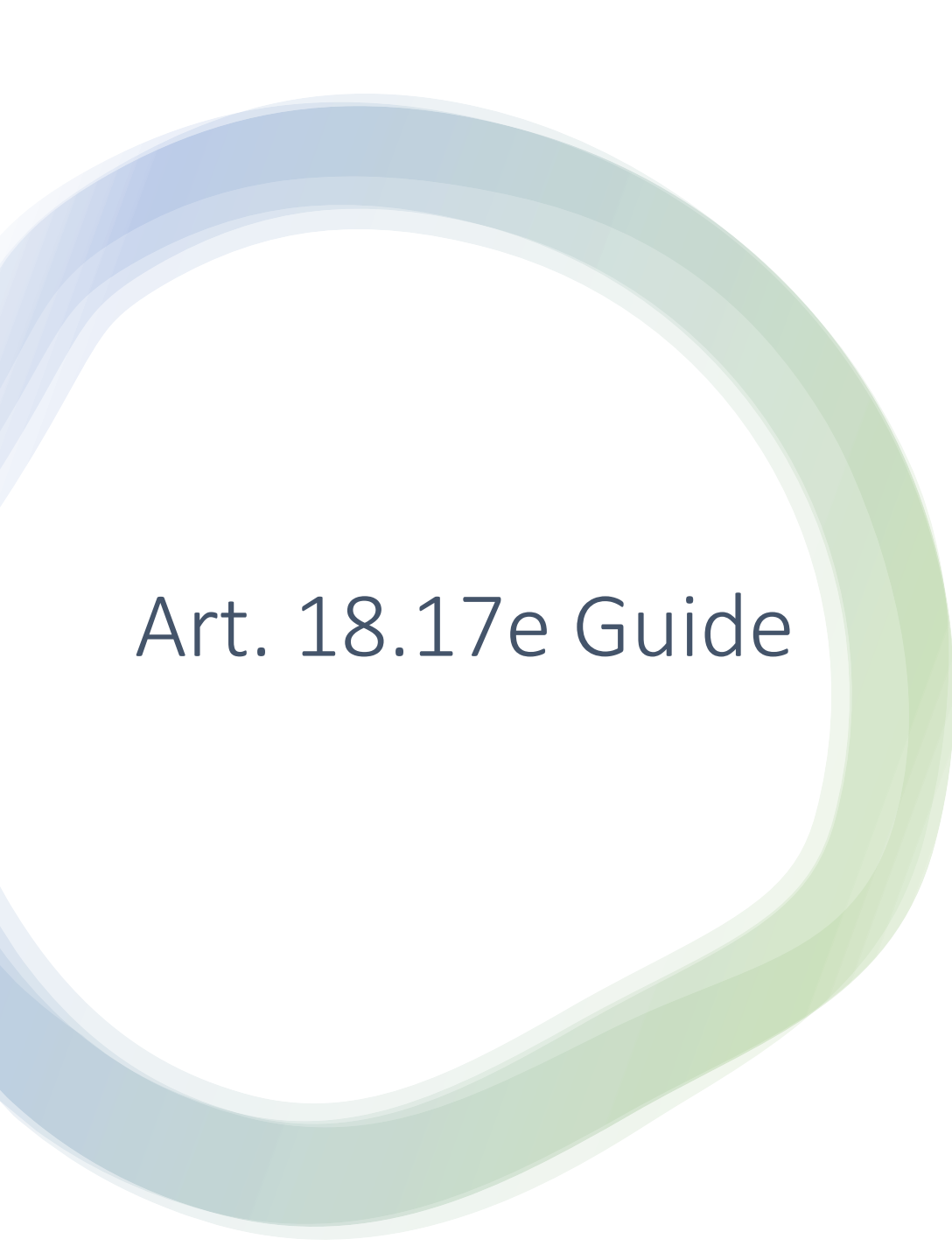
That person (maybe you) can sell or donate the property without mailing or publishing an additional notice (Follow your SOP for selling or donating abandoned property)

The proceeds from the sale must be deposited in the treasury of the municipality or county disposing of the property, after deducting the reasonable expense of keeping and disposing of the property

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

(e) **The real owner of any property disposed of shall have the right to file a claim to the proceeds with the commissioners court of the county or with the governing body of the municipality in which the disposition took place. A claim by the real owner must be filed not later than the 30th day after the date of disposition. If the claim is allowed by the commissioners court or the governing body of the municipality, the municipal or county treasurer shall pay the owner such funds as were paid into the treasury of the municipality or county as proceeds of the disposition. If the claim is denied by the commissioners court or the governing body or if said court or body fails to act upon such claim within 90 days, the claimant may sue the municipal or county treasurer in a court of competent jurisdiction in the county, and upon sufficient proof of ownership, recover judgment against such municipality or county for the recovery of the proceeds of the disposition.**





Art. 18.17e Guide

The owner of property you disposed of under this chapter has the right to file a claim for the proceeds to any sale

To do so, the owner must file a claim with the commissioners' court of the county or with the governing body of the municipality in which the disposition took place

The claim must be filed not later than the 30th day after the date of disposition

If the claim is allowed by the commissioners' court or the governing body of the municipality, that entity's treasurer needs to pay the owner the proceeds from the sale

If the claim is denied or they fail to act within 90 days, the owner can sue the municipal or county treasurer in a court of competent jurisdiction

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

(f) For the purposes of this article:

- (1) "Person designated by a municipality" means an officer or employee of a municipality who is designated by the municipality to be primarily responsible for the disposition of property under this article.
- (2) "Property held as evidence" means property related to a charge that has been filed or to a matter that is being investigated for the filing of a charge.

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

(g) **If the provisions of this section have been met** and the property is scheduled for disposition, the municipal or county **law enforcement agency that originally seized the property may request and have the property converted to agency use.** The agency at any time **may transfer the property to another municipal or county law enforcement agency** for the use of that agency. **The agency last using the property shall return the property** to the person designated by the municipality, county purchasing agent, or sheriff, as the case may be, **for disposition when the agency has completed the intended use** of the property.



Art. 18.17g Guide

Once the provisions 18.17 have been met



The agency can ask the designated person holding the property to convert it to agency use



Converted property can be transferred to another municipal or county law enforcement agency for at that agency's use



Any transferred property needs to be returned to the original agency's designated person for disposition once they are finished with it

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

(h) **If the abandoned or unclaimed personal property is money**, the person designated by the municipality, the county purchasing agent, or the sheriff of the county, as appropriate, may, **after giving notice under Subsection (b) or (c)** of this article, **deposit the money in the treasury** of the municipality or county giving notice **without conducting the sale as required by Subsection (d)** of this article.



Abandoned or unclaimed money may be deposited into the city/county treasury by the municipality's designated person, the county purchasing agent, or the sheriff of the county, as applicable

After giving notice under Subsection (b) or (c) of this article (Sending certified letters, publishing notice in paper of general circulation, etc.)

A sale as required by Subsection (d) of this article is not required



Art. 18.17h Guide

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY

- (i) While **offering** the **property for sale under this article**, if a person designated by a municipality, county purchasing agent, or sheriff **considers any bid as insufficient**, the **person**, agent, or sheriff **may decline the bid and reoffer the property for sale**.
- (j) Chapters 72, 74, 75, and 76, Property Code, do not apply to unclaimed or abandoned property to which this article applies.

* No Guide

Finders Keepers

Texas does not have a law to address found or abandoned property being claimed by the person that delivered it to your agency

Refer to your department SOP, or ensure one is developed, to address a potential “Finder’s Keeper’s” claim

CCP Article 18.18 –
Gambling
Paraphernalia,
Prohibited
Weapon, Criminal
Instrument, and
Other Contraband

Art. 18.18. Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband

(a) **Following the final conviction** of a person **for possession of a gambling device or equipment, altered gambling equipment, or gambling paraphernalia**, for an offense involving a criminal instrument, for an offense involving an obscene device or material, for an offense involving child pornography, or for an offense involving a scanning device or re-encoder, **the court entering the judgment of conviction shall order** that the machine, device, gambling equipment or gambling paraphernalia, instrument, obscene device or material, child pornography, or scanning device or re-encoder **be destroyed or forfeited to the state. Not later than the 30th day after the final conviction** of a person **for an offense involving a prohibited weapon, the court** entering the judgment of conviction **on its own motion, on the motion of the prosecuting attorney in the case, or on the motion of the law enforcement agency** initiating the complaint **on notice to the prosecuting attorney** in the case **if the prosecutor fails to move for the order shall order that the prohibited weapon be destroyed or forfeited** to the law enforcement agency that initiated the complaint.



Art. 18.18. Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband

(a cont.)

If the court **fails to enter the order within the time required** by this subsection, **any magistrate in the county** in which the offense occurred **may enter the order**. **Following the final conviction** of a person **for an offense involving dog fighting, the court** entering the judgment of conviction **shall order that any dog-fighting equipment be destroyed or forfeited** to the state. Destruction of dogs, if necessary, must be carried out by a veterinarian licensed in this state or, if one is not available, by trained personnel of a humane society or an animal shelter. **If forfeited, the court shall order the contraband delivered to the state, any political subdivision of the state, or to any state institution or agency. If gambling proceeds were seized, the court shall order them forfeited to the state** and shall transmit them to the grand jury of the county in which they were seized for use in investigating alleged violations of the Penal Code, or to the state, any political subdivision of the state, or to any state institution or agency.



Art. 18.18a. Guide

The court entering the judgment of final conviction shall order the items named in 18.18a be destroyed or forfeited following final conviction for possession of those items.

The court has 30 days to order the items destroyed or forfeited.

You can request an order for destruction or forfeiture through the prosecuting attorney if the court does not order it destroyed or forfeited after 30 days, if it is a prohibited weapon.

Any magistrate in the county in which the offense occurred may enter the order if the court fails to do it within the time required by this subsection.

Art. 18.18a. Guide

The court entering the final judgment of conviction for dog fighting shall order any dog-fighting equipment be destroyed or forfeited to the state.

The court shall order contraband be delivered to the state, any political subdivision of the state, or to any state institution or agency, if forfeited.

The court shall order gambling proceeds be forfeited and they can be turned over to your political subdivision, if so ordered.

Art. 18.18. Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband

(b) If there is **no prosecution or conviction** following seizure, **the magistrate to whom the return was made shall notify in writing the person found in possession** of the alleged gambling device or equipment, altered gambling equipment or gambling paraphernalia, gambling proceeds, prohibited weapon, obscene device or material, child pornography, scanning device or re-encoder, criminal instrument, or dog-fighting equipment **to show cause why the property seized should not be destroyed or the proceeds forfeited. The magistrate, on the motion of the law enforcement agency seizing a prohibited weapon, shall order the weapon destroyed or forfeited to the law enforcement agency** seizing the weapon, **unless a person shows cause as to why the prohibited weapon should not be destroyed or forfeited.** A law enforcement agency shall make a motion under this section in a timely manner after the time at which the agency is informed in writing by the attorney representing the state that no prosecution will arise from the seizure.



Art. 18.18b. Guide

The magistrate originally notified of the seizure shall notify the person found in possession of the items seized under 18.18b, if there is no prosecution or conviction.

The notification must be in writing and tell the person to show cause why the property seized should not be destroyed or forfeited.

The magistrate, on the agencies request, shall order prohibited weapons be destroyed or forfeited to the law enforcement agency unless the owner shows cause as to why the prohibited weapon should not be destroyed or forfeited.

The agency shall make a motion to the magistrate under this section in a timely manner after being informed in writing by the attorney representing the state that no prosecution will arise from the seizure.

Art. 18.18. Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband

(c) **The magistrate shall** include in the notice a detailed description of the property seized and the total amount of alleged gambling proceeds; the name of the person found in possession; the address where the property or proceeds were seized; and the date and time of the seizure.

(d) **The magistrate shall** send the notice by registered or certified mail, return receipt requested, to the person found in possession at the address where the property or proceeds were seized. If no one was found in possession, or the possessor's address is unknown, the magistrate shall post the notice on the courthouse door.

Art. 18.18. Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband

(e) **Any person interested in the alleged** gambling device or equipment, altered gambling equipment or gambling paraphernalia, gambling proceeds, prohibited weapon, obscene device or material, child pornography, scanning device or re-encoder, criminal instrument, or dog-fighting equipment seized **must appear before the magistrate** on the 20th day following the date the notice was mailed or posted. **Failure to timely appear forfeits any interest** the person may have in the property or proceeds seized, **and no person after failing to timely appear may contest destruction or forfeiture.**

Art. 18.18. Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband

(f) **If a person timely appears** to show cause why the property or proceeds should not be destroyed or forfeited, **the magistrate shall conduct a hearing** on the issue and determine the nature of property or proceeds and the person's interest therein. **Unless the person proves** by a preponderance of the evidence **that the property or proceeds is not** gambling equipment, altered gambling equipment, gambling paraphernalia, gambling device, gambling proceeds, prohibited weapon, obscene device or material, child pornography, criminal instrument, scanning device or re-encoder, or dog-fighting equipment and that he is entitled to possession, **the magistrate shall dispose of the property or proceeds in accordance with Paragraph (a) of this article.**

Art. 18.18. Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband

- (g) For purposes of this article: **(Meanings are provided in the full text)**
- (1) "Criminal instrument"
 - (2) "Gambling device or equipment, altered gambling equipment or gambling paraphernalia"
 - (3) "Prohibited weapon"
 - (4) "Dog-fighting equipment"
 - (5) "Obscene device" and "obscene"
 - (6) "Re-encoder"
 - (7) "Scanning device"
 - (8) "Obscene material" and "child pornography"

CCP Article 18.181
– Explosive
Weapons and
Chemical
Dispensing Devices

Art. 18.181. Explosive Weapons and Chemical Dispensing Devices

(a) After seizure of an explosive weapon or chemical dispensing device, as these terms are defined in Section 46.01, Penal Code, a peace officer or a person acting at the direction of a peace officer shall:

- (1) Photograph the weapon in the position where it is recovered before touching or moving it;
- (2) Record the identification designations printed on a weapon if the markings are intact;
- (3) If the weapon can be moved, move it to an isolated area in order to lessen the danger to the public;
- (4) If possible, retain a portion of a wrapper or other packaging materials connected to the weapon;
- (5) Retain a small portion of the explosive material and submit the material to a laboratory for chemical analysis;
- (6) Separate and retain components associated with the weapon such as fusing and triggering mechanisms if those mechanisms are not hazardous in themselves;
- (7) Destroy the remainder of the weapon in a safe manner;
- (8) At the time of destruction, photograph the destruction process and make careful observations of the characteristics of the destruction;
- (9) After destruction, inspect the disposal site and photograph the site to record the destructive characteristics of the weapon; and
- (10) Retain components of the weapon and records of the destruction for use as evidence in court proceedings.

Art. 18.181. Explosive Weapons and Chemical Dispensing Devices

- (b) **Representative samples, photographs, and records made pursuant to this article are admissible in civil or criminal proceedings in the same manner and to the same extent as if the explosive weapon were offered** in evidence, regardless of whether or not the remainder of the weapon has been destroyed. No inference or presumption of spoliation applies to weapons destroyed pursuant to this article.

CCP Article 18.182
– Item Bearing
Counterfeit Mark

Art. 18.182. Item Bearing Counterfeit Mark

- (a) In this article, "counterfeit mark" and "protected mark" have the meanings assigned by Section 32.23, Penal Code.
- (b) **Following the conviction or placement on deferred adjudication community supervision of a person for an offense under Section 32.23, Penal Code, the court entering the judgment of conviction or order of deferred adjudication community supervision shall order that any item bearing or identified by a counterfeit mark seized in connection with the offense be:**
 - (1) **Forfeited to the owner of the protected mark, if prior to an order disposing of property under this article the owner of the protected mark requests the return of the item; or**
 - (2) **Destroyed.**

CCP Article 18.183
– Money Pending
Disposition
(Gambling)

Art. 18.183. Money Pending Disposition (Gambling)

- (a) **If money is seized by a law enforcement agency in connection with a violation of Chapter 47, Penal Code, the state or the political subdivision of the state that employs the law enforcement agency may deposit the money in an interest-bearing bank account** in the jurisdiction of the agency that made seizure or in the county in which the money was seized **until a final judgment is rendered** concerning the violation.
- (b) **If a final judgment is rendered** concerning a violation of Chapter 47, Penal Code, **money seized** in connection with the violation that has been placed in an interest-bearing bank account **shall be distributed according to this chapter, with any interest being distributed in the same manner** and used for the same purpose as the principal.

CCP Article 18.19 – Seized Weapons

Art. 18.19. Seized Weapons

- (a) **Weapons seized in connection with an offense involving the use of a weapon or an offense under Penal Code Chapter 46 shall be held by the law enforcement agency making the seizure, subject to the following provisions, unless:**
 - (1) **The weapon is a prohibited weapon identified in Penal Code Chapter 46, in which event Article 18.18 of this code applies; or**
 - (2) **The weapon is alleged to be stolen property, in which event Chapter 47 of this code applies.**
- (b) **When a weapon described in Paragraph (a) of this article is seized, and the seizure is not made pursuant to a search or arrest warrant, the person seizing the same shall prepare and deliver to a magistrate a written inventory of each weapon seized.**



Art. 18.19a&b. Guide

Hold

- Hold weapons seized from offenses in Chapter 46 PC

Follow

- If it is a prohibited weapon, follow Article 18.18 CCP

Follow

- If the weapon is alleged to be stolen property, follow Chapter 47 CCP

Notify

- If the weapon was not seized, as part of a search or arrest warrant, prepare and deliver a written inventory of each weapon seized to a magistrate

Art. 18.19. Seized Weapons

- (c) If there is **no prosecution or conviction** for an offense involving the weapon seized, the **magistrate** to whom the seizure was reported **shall, before the 61st day after the date the magistrate determines that there will be no prosecution or conviction, notify in writing the person** found in possession of the weapon **that the person is entitled to the weapon upon written request** to the magistrate. **The magistrate shall order the weapon returned to the person found in possession before the 61st day after the date the magistrate receives a request from the person. If the weapon is not requested before the 61st day after the date of notification, the magistrate shall, before the 121st day after the date of notification, order the weapon destroyed, sold at public sale by the law enforcement agency holding the weapon or by an auctioneer licensed under Chapter 1802, Occupations Code, or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the magistrate.**



Art. 18.19. Seized Weapons

(c. continued)

If the magistrate does not order the return, destruction, sale, or forfeiture of the weapon within the applicable period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction, sale, or forfeiture of the weapon from the magistrate. Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under this subsection. Proceeds from the sale of a seized weapon under this subsection shall be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.



Art. 18.19c. Guide

When there is no prosecution or conviction, the magistrate that received the inventory is required to notify the person in writing that they are entitled to the weapon, but they must request it back in writing

The magistrate should notify the person before the 61st day after determining there will be no prosecution or conviction and the person has 61 days from date of notification to request it back in writing. If they request it back, the magistrate should order it returned

If they do not request the weapon back in writing before the 61st day after being notified, the magistrate should order the weapon destroyed, forfeited to the agency or designated county forensic lab, sold at public sale or by an auctioneer licensed under Chapter 1802, Occupations Code, AND

Art. 18.19c. Guide (continued)

You may request an order of destruction, sale, or forfeiture of the weapon from the magistrate if they fail to order it within the applicable period prescribed

Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale

Proceeds from the sale should be transferred to the agency holding the weapon

And court costs to which a district court clerk is entitled under Article 59.05(f) and auction costs can be deducted prior to transferring the funds

Art. 18.19. Seized Weapons

- (d) **A person either convicted or receiving deferred adjudication** under Chapter 46, Penal Code, **is entitled to the weapon seized upon request to the court** in which the person was convicted or placed on deferred adjudication. However, **the court entering the judgment shall order the weapon destroyed, sold at public sale by the law enforcement** agency holding the weapon or by an auctioneer licensed under Chapter 1802, Occupations Code, **or forfeited to the state for use by the law enforcement agency** holding the weapon **or by a county forensic laboratory designated by the court** if:



Art. 18.19. Seized Weapons

(d. continued)

- (1) The person **does not request the weapon before the 61st day** after the date of the judgment of conviction or the order placing the person on deferred adjudication;
- (2) The person **has been previously convicted under Chapter 46**, Penal Code;
- (3) **The weapon is one defined as a prohibited weapon** under Chapter 46, Penal Code;
- (4) **The offense** for which the person is convicted or receives deferred adjudication **was committed in or on the premises of a playground, school, video arcade facility, or youth center**, as those terms are defined by Section 481.134, Health and Safety Code;
or
- (5) **The court determines** based on the prior criminal history of the defendant or based on the circumstances surrounding the commission of the offense **that possession of the seized weapon would pose a threat to the community or one or more individuals.**



Art. 18.19d. Guide

A person convicted or receiving deferred adjudication under Chapter 46 PC is entitled to the weapon seized upon request to the court hearing the case, however...

The court can only order the weapon destroyed, forfeited to the agency or designated county forensic lab, sold at public sale or by an auctioneer licensed under Chapter 1802, Occupations Code if:

- They fail to request the weapon before the 61st day after the date of judgment
- They have previously been convicted under Chapter 46 PC
- The weapon is prohibited
- The offense was committed at a playground, school, video arcade facility, or youth center Or, the court determines the weapon would pose a threat to the community or people

Art. 18.19. Seized Weapons

- (d-1) **Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under Subsection (d). Proceeds from the sale of a seized weapon under Subsection (d) shall be transferred,** after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, **to the law enforcement agency** holding the weapon.

Art. 18.19. Seized Weapons

- (e) **If the person found in possession of a weapon is convicted of an offense involving the use of the weapon, before the 61st day after the date of conviction the court entering judgment of conviction shall order destruction of the weapon, sale at public sale by the law enforcement agency holding the weapon or by an auctioneer licensed under Chapter 1802, Occupations Code, or forfeiture to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the court. If the court entering judgment of conviction does not order the destruction, sale, or forfeiture of the weapon within the period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction, sale, or forfeiture of the weapon from a magistrate. Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under this subsection. Proceeds from the sale of a seized weapon under this subsection shall be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.**



Art. 18.19e. Guide

The court hearing the case should order the weapon destroyed, forfeited to the agency or designated county forensic lab, sold at public sale or by an auctioneer licensed under Chapter 1802, Occupations Code before the 61st day if the person was convicted

If the court fails to follow through within 61 days, you can request an order of destruction, sale, or forfeiture from a magistrate

Proceeds from the sale should be transferred to the agency holding the weapon

Court costs to which a district court clerk is entitled under Article 59.05(f) and auction costs can be deducted prior to transferring the funds

Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale

CCP Article 18.191
– Firearm Seized
from Certain
Persons With
Mental Illness

Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

- (a) A law enforcement officer who seizes a firearm from a person taken into custody under Section 573.001, Health and Safety Code, and not in connection with an offense involving the use of a weapon or an offense under Chapter 46, Penal Code, shall immediately provide the person a written copy of the receipt for the firearm and a written notice of the procedure for the return of a firearm under this article.**



Art. 18.191a. Guide

Officers are required to provide a receipt for all firearm they seize from a person they take into custody under Section 573.001 HSC (Mental App/APAL)

The receipt must include the procedure for the return of a firearm

Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

- (b) **The law enforcement agency** holding a firearm subject to disposition under this article shall, as soon as possible, but **not later than the 15th day** after the date the person is taken into custody under Section 573.001, Health and Safety Code, **provide written notice of the procedure for the return of a firearm** under this article **to the last known address of the person's closest immediate family member** as identified by the person or reasonably identifiable by the law enforcement agency, **sent by certified mail, return receipt requested**. The written **notice must state the date by which a request for the return of the firearm must be submitted to the law enforcement agency** as provided by Subsection (h).



Art. 18.191b. Guide

You must provide written notice of the procedure for the return of a firearm, sent certified mail and return receipt requested, to the last known address of the person's closest immediate family member within 15 days

The notice must include the date by which a request for the return of the firearm must be submitted to you, which is 121 days

Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

- (c) **Not later than the 30th day** after the date a firearm subject to disposition under this article is seized, **the law enforcement agency** holding the firearm **shall contact the court in the county having jurisdiction to order commitment** under Chapter 574, Health and Safety Code, **and request the disposition of the case. Not later than the 30th day after the date of this request**, the clerk of the court shall advise the **requesting agency whether the person taken into custody was released** under Section 573.023, Health and Safety Code, **or was ordered to receive inpatient mental health services** under Section 574.034 or 574.035, Health and Safety Code.



Art. 18.191c. Guide

You need to contact the court handling the commitment within 30 days and request the disposition of the case

They have 30 days after the date of this request to advise you if the person taken into custody was released or ordered to receive inpatient mental health services

Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

- (d) **Not later than the 30th day after the date the clerk of the court informs a law enforcement agency holding a firearm subject to disposition under this article that the person taken into custody was released** under Section 573.023, Health and Safety Code, **the law enforcement agency shall:**
 - (1) **Conduct a check** of state and national criminal history record information to verify whether the person may lawfully possess a firearm under 18 U.S.C. Section 922(g); and
 - (2) **Provide written notice to the person by certified mail that the firearm may be returned to the person on verification** under Subdivision (1) **that the person may lawfully possess the firearm.**



Art. 18.191d. Guide

If the court says the person was released, you must provide written notification to them via certified mail that the firearm may be returned

You still need to conduct a criminal history check and make sure they may lawfully possess the firearm under 18 U.S.C. Section 922(g)

Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

- (e) **Not later than the 30th day after the date the clerk of the court informs a law enforcement agency holding a firearm subject to disposition under this article that the person taken into custody was ordered to receive inpatient mental health services under Section 574.034 or 574.035, Health and Safety Code, the law enforcement agency shall provide written notice to the person by certified mail that the person:**
 - (1) **Is prohibited from owning, possessing, or purchasing a firearm** under 18 U.S.C. Section 922(g)(4);
 - (2) **May petition the court** that entered the commitment order **for relief from the firearms disability** under Section 574.088, Health and Safety Code; and
 - (3) **May dispose of the firearm** in the manner provided by Subsection (f).



Art. 18.191e. Guide

If the court says the person was ordered to receive inpatient mental health services, you must provide written notification to them via certified mail within 30 days:

1. That they are prohibited from owning, possessing, or purchasing a firearm under 18 U.S.C. Section 922(g)(4)
2. That they may petition the court that entered the commitment order for relief from the firearms disability
3. And, that you can dispose of the firearm in the manner provided by Subsection (f)

Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

(f) **A person who receives notice under Subsection (e) may dispose of the person's firearm by:**



Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

(1) Releasing the firearm to the person's designee, if:

- (A) The law enforcement agency holding the firearm conducts a check of state and national criminal history record information and verifies that the designee may lawfully possess a firearm under 18 U.S.C. Section 922(g);
- (B) The person provides to the law enforcement agency a copy of a notarized statement releasing the firearm to the designee; and
- (C) The designee provides to the law enforcement agency an affidavit confirming that the designee:
 - (i) Will not allow access to the firearm by the person who was taken into custody under Section 573.001, Health and Safety Code, at any time during which the person may not lawfully possess a firearm under 18 U.S.C. Section 922(g); and
 - (ii) Acknowledges the responsibility of the designee and no other person to verify whether the person has reestablished the person's eligibility to lawfully possess a firearm under 18 U.S.C. Section 922(g); or



Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

- (2) **Releasing the firearm to the law enforcement agency** holding the firearm, **for disposition** under Subsection (h).



Art. 18.191f. Guide

If the person was ordered to receive inpatient mental health services, they can request the firearm be released to a designee

The designee must clear a criminal history check and be able to lawfully possess the firearm under 18 U.S.C. Section 922(g)

The designee must provide a copy of a notarized statement from the owner releasing the firearm to them

The designee must provide an affidavit confirming that they will not allow the person to access the firearm; and

That they acknowledge the responsibility to keep the firearm from anyone that may not lawfully possess a firearm under 18 U.S.C. Section 922(g)

They can also release the firearm to you under Subsection H



Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

- (g) **If a firearm subject to disposition under this article is wholly or partly owned by a person other than the person taken into custody under Section 573.001, Health and Safety Code, the law enforcement agency holding the firearm shall release the firearm to the person claiming a right to or interest in the firearm after:**



Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

(g. continued)

(1) **The person provides an affidavit confirming that the person:**

- (A) Wholly or partly owns the firearm;
- (B) Will not allow access to the firearm by the person who was taken into custody under Section 573.001, Health and Safety Code, at any time during which that person may not lawfully possess a firearm under 18 U.S.C. Section 922(g); and
- (C) Acknowledges the responsibility of the person and no other person to verify whether the person who was taken into custody under Section 573.001, Health and Safety Code, has reestablished the person's eligibility to lawfully possess a firearm under 18 U.S.C. Section 922(g); **and**



Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

(g. continued)

- (2) **The law enforcement agency holding the firearm conducts a check of state and national criminal history record information and verifies that the person claiming a right to or interest in the firearm may lawfully possess a firearm under 18 U.S.C. Section 922(g).**



Art. 18.191g. Guide

If the firearm is partially or wholly owned by another person, you have to release it to them

They must clear a criminal history check and be able to lawfully possess the firearm under 18 U.S.C. Section 922(g)

They must provide an affidavit confirming that they will not allow the person to access the firearm; and

That they acknowledge the responsibility to keep the firearm from anyone that may not lawfully possess a firearm under 18 U.S.C. Section 922(g)



Art. 18.191. Firearm Seized from Certain Persons With Mental Illness

- (h) **If a person to whom written notice is provided under Subsection (b) or another lawful owner of a firearm subject to disposition under this article does not submit a written request to the law enforcement agency for the return of the firearm before the 121st day after the date the law enforcement agency holding the firearm provides written notice under Subsection (b), the law enforcement agency may have the firearm sold by a person who is a licensed firearms dealer under 18 U.S.C. Section 923. The proceeds from the sale of a firearm under this subsection shall be given to the owner of the seized firearm, less the cost of administering this subsection. An unclaimed firearm that was seized from a person taken into custody under Section 573.001, Health and Safety Code, may not be destroyed or forfeited to the state.**



Art. 18.191h. Guide

If any lawful owner does not submit a written request for the return of the firearm within 121 days after you may have the firearm sold by a person who is a The proceeds of the sale must be given to the owner
An unclaimed firearm seized from a person taken into custody under Section 573.001, Health and Safety Code MAY NOT be destroyed or forfeited to the state

CCP Article 38.34 – Photographic Evidence In Theft Case

Art. 38.34. Photographic Evidence In Theft Case

- (a) In this article, "property" means any tangible personal property.
- (b) **A photograph of property** that a person is alleged to have **unlawfully appropriated with the intent to deprive the owner** of the property is admissible into evidence under rules of law governing the admissibility of photographs. **The photograph is as admissible in evidence as is the property itself.**
- (c) **The provisions of Article 18.16** concerning the bringing of stolen property before a magistrate for examination **are complied with if a photograph of the stolen property is brought before the magistrate.**
- (d) The defendant's rights of discovery and inspection of tangible physical evidence are satisfied if a photograph of the property is made available to the defendant by the state on order of any court having jurisdiction over the cause.

CCP Article 38.43 – Evidence Containing Biological Material

Art. 38.43. Evidence Containing Biological Material

(a) In this article, "**biological evidence**" means:

- (1) The **contents of a sexual assault examination kit**; or
- (2) **Any item that contains** blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material **that was collected as part of an investigation of an alleged felony offense or conduct constituting a felony offense that might reasonably be used to:**
 - (A) **Establish the identity of the person committing the offense** or engaging in the conduct constituting the offense; or
 - (B) **Exclude a person from the group of persons who could have committed the offense** or engaged in the conduct constituting the offense.

Art. 38.43. Evidence Containing Biological Material

- (b) **This article applies to** a governmental or public entity or an individual, including a **law enforcement agency**, prosecutor's office, court, public hospital, or crime laboratory, that is **charged with the collection, storage, preservation, analysis, or retrieval of biological evidence**.

Art. 38.43. Evidence Containing Biological Material

- (c) **An entity or individual described by Subsection (b) shall ensure that biological evidence, other than the contents of a sexual assault examination kit subject to Subsection (c-1), collected pursuant to an investigation or prosecution of a felony offense or conduct constituting a felony offense is retained and preserved:**
 - (1) **For not less than 40 years, or until any applicable statute of limitations has expired, if there is an unapprehended actor associated with the offense; or**

Art. 38.43. Evidence Containing Biological Material

(c continued)

- (2) In a case in which a **defendant has been convicted, placed on deferred adjudication community supervision, or adjudicated as having engaged in delinquent conduct and there are no additional unapprehended actors associated with the offense:**
 - (A) **Until the inmate is executed, dies, or is released on parole, if the defendant is convicted of a capital felony;**
 - (B) **Until the defendant dies, completes the defendant's sentence, or is released on parole or mandatory supervision, if the defendant is sentenced to a term of confinement or imprisonment in the Texas Department of Criminal Justice;**

Art. 38.43. Evidence Containing Biological Material

(c continued)

- (C) Until **the defendant completes the defendant's term of community supervision**, including **deferred adjudication community supervision**, if the defendant is placed on community supervision;
- (D) Until **the defendant dies, completes the defendant's sentence, or is released on parole, mandatory supervision, or juvenile probation**, if the defendant is committed to the Texas Juvenile Justice Department; or
- (E) Until **the defendant completes the defendant's term of juvenile probation**, including a term of **community supervision** upon transfer of supervision to a criminal court, **if the defendant is placed on juvenile probation**.

Art. 38.43. Evidence Containing Biological Material

(c-1) **An entity or individual described by Subsection (b) shall ensure that the contents of a sexual assault examination kit collected pursuant to an investigation or prosecution of a felony offense or conduct constituting a felony offense is retained and preserved for not less than 40 years, or until any applicable statute of limitations has expired, whichever period is longer. This subsection applies regardless of whether a person has been apprehended for or charged with committing the offense.**

Art. 38.43. Evidence Containing Biological Material

- (d) **The attorney representing the state, clerk, or other officer in possession of biological evidence described by Subsection (a) may destroy the evidence, but only if the attorney, clerk, or officer by mail notifies the defendant, the last attorney of record for the defendant, and the convicting court of the decision to destroy the evidence and a written objection is not received by the attorney, clerk, or officer from the defendant, attorney of record, or court before the 91st day after the later of the following dates:**
- (1) The date on which the attorney representing the state, clerk, or other officer receives proof that the defendant received notice of the planned destruction of evidence; or**
 - (2) The date on which notice of the planned destruction of evidence is mailed to the last attorney of record for the defendant.**

Art. 38.43. Evidence Containing Biological Material

- (e) To the extent of any conflict, this article controls over Article 2A.155. (Effective 2025)
- (f) The **Department of Public Safety** shall adopt standards and rules authorizing a **county with a population less than 100,000** to ensure the preservation of biological evidence by promptly **delivering the evidence to the Department of Public Safety for storage** in accordance with Section 411.053, Government Code, and department rules.

CCP Article 38.50 –
Toxicological
Evidence of Certain
Intoxication
Offenses

Art. 38.50. Toxicological Evidence Containing Biological Material

- (a) **In this article, "toxicological evidence" means a blood or urine specimen that was collected as part of an investigation of an alleged offense under Chapter 49, Penal Code.**
- (b) **This article applies to** a governmental or public entity or an individual, including a **law enforcement agency**, prosecutor's office, or crime laboratory, **that is charged with the collection, storage, preservation, analysis, or retrieval of toxicological evidence.**

Art. 38.50. Toxicological Evidence Containing Biological Material

- (c) **An entity** or individual described by Subsection (b) **shall ensure that toxicological evidence collected pursuant to an investigation or prosecution of an offense under Chapter 49, Penal Code, is retained and preserved, as applicable:**
- (1) **For the greater of two years or the period of the statute of limitations for the offense, if the indictment** or information charging the defendant, or the petition in a juvenile proceeding, **has not been presented or has been dismissed without prejudice;**
 - (2) **For the duration of a defendant's sentence or term of community supervision,** as applicable, if the defendant is convicted or placed on community supervision, or for the duration of the commitment or supervision period applicable to the disposition of a juvenile adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision; or
 - (3) **Until the defendant is acquitted or the indictment or information is dismissed with prejudice,** or, in a juvenile proceeding, until a hearing is held and the court does not find the child engaged in delinquent conduct or conduct indicating a need for supervision.

Art. 38.50. Toxicological Evidence Containing Biological Material

- (d) **A person from whom toxicology evidence was collected and, if the person is a minor, the person's parent or guardian, shall be notified of the periods for which evidence may be retained and preserved under this article. The notice must be given by:**
 - (1) **An entity or individual described by Subsection (b) that collects the evidence, if the entity or individual collected the evidence directly from the person or collected it from a third party; or**
 - (2) **The court, if the records of the court show that the person was not given the notice described by Subdivision (1) and the toxicological evidence is subject to the retention period under Subsection (c)(2) or (3).**

Art. 38.50. Toxicological Evidence Containing Biological Material

- (e) **The entity** or individual charged with storing toxicological evidence **may destroy the evidence on expiration of the applicable retention period:**
 - (1) Described by Subsection (c)(1); or
 - (2) Described by Subsection (c)(2) or (c)(3), provided that:
 - (A) Notice was given in accordance with this article; and
 - (B) **If applicable, the prosecutor's office gives written approval for the destruction under Subsection (h).**

Art. 38.50. Toxicological Evidence Containing Biological Material

- f) To the extent of any conflict between this article and Article 2a.115 (Effective 2025) or 38.43, this article controls.
- (g) **Notice** given under this article **must be given**:
 - (1) **In writing**, as soon as practicable, by hand delivery, e-mail, or first class mail to the person's last known e-mail or mailing address; or
 - (2) **If applicable, orally and in writing on requesting the specimen under Section 724.015, Transportation Code.**

Art. 38.50. Toxicological Evidence Containing Biological Material

- (h) **A prosecutor's office may require that an entity** or individual charged with storing toxicological evidence **seek written approval** from the prosecutor's office before destroying toxicological evidence subject to the retention period under Subsection (c)(2) or (c)(3) **for cases in which** the prosecutor's office **presented the indictment, information, or petition.**

CCP Article 47.01 – Subject to Order of Court

Art. 47.01. Subject to Order of Court

- (a) Except as provided by Subsection (b), **an officer who comes into custody of property alleged to have been stolen shall hold it subject to the order of the proper court only if the ownership of the property is contested or disputed.**
- (b) **An officer who comes into custody of property governed by Chapter 371, Finance Code, that is alleged to have been stolen shall hold the property subject to the order of the proper court regardless of whether the ownership of the property is contested or disputed.**

CCP Article 47.01a – Restoration When No Trial Is Pending

Art. 47.01a. Restoration When No Trial Is Pending

- (a) **If a criminal action relating to allegedly stolen property is not pending**, a district judge, county court judge, statutory county court judge, or justice of the peace having jurisdiction as a **magistrate in the county in which the property is held or in which the property was alleged to have been stolen or a municipal judge** having jurisdiction as a magistrate in the municipality in which the property is being held or in which the property was alleged to have been stolen **may hold a hearing to determine the right to possession of the property, upon the petition of an interested person, a county, a city, or the state.** Jurisdiction under this article is based solely on jurisdiction as a criminal magistrate under this code and not jurisdiction as a civil court. **The court shall:**

Art. 47.01a. Restoration When No Trial Is Pending

(a continued)

- (1) **Order the property delivered to whoever has the superior right to possession, without conditions;**
- (2) **On the filing of a written motion before trial by an attorney representing the state, order the property delivered to whoever has the superior right to possession, subject to the condition that the property be made available to the prosecuting authority should it be needed in future prosecutions; or**
- (3) **Order the property awarded to the custody of the peace officer, pending resolution of criminal investigations regarding the property.**

CCP Article 47.06 – Property Sold

Art. 47.06. Property Sold

If the property is not claimed within 30 days from the conviction of the person accused of illegally acquiring it, the same procedure for its disposition as set out in Article 18.17 of this Code shall be followed.

CCP Article 47.07 – Owner May Recover

Art. 47.07. Owner May Recover

The real owner of the property sold under the provisions of Article 47.06 may recover such property under the same terms as prescribed in Subsection (e) of Article 18.17 of this Code.

CCP Article 56A.306

- Procedures for
Transfer and
Preservation of
Evidence

Art. 56A.306. Procedures for Transfer and Preservation of Evidence

- (a) The department, consistent with Chapter 420, Government Code, shall develop procedures for the transfer and preservation of **evidence collected during a forensic medical examination for a sexual assault that was not reported to a law enforcement agency**, including procedures for:

Art. 56A.306. Procedures for Transfer and Preservation of Evidence

(a continued)

- (1) the transfer of the evidence to a crime laboratory or other suitable location designated by the public safety director of the department;
- (2) the preservation of the evidence by the entity receiving the evidence; and
- (3) the notification of the victim of the offense through the statewide electronic tracking system before a planned destruction of evidence under this article.

Art. 56A.306. Procedures for Transfer and Preservation of Evidence

- (a-1) The transfer and preservation of evidence collected during a forensic medical examination for a reported sexual assault must comply with the procedures under Sections 420.035(b) and (c) and 420.042(a), Government Code.
- (b) Subject to Subsection (c), **an entity receiving evidence collected during a forensic medical examination as described by this subchapter shall preserve the evidence until the earlier of:**
 - (1) **the fifth anniversary of the date on which the evidence was collected; or**
 - (2) **the date on which written consent to release the evidence is obtained** as provided by Section 420.0735, Government Code.

Art. 56A.306. Procedures for Transfer and Preservation of Evidence

- (c) **An entity receiving evidence** collected during a forensic medical examination **as described by this subchapter may destroy the evidence** on the expiration of the entity's duty to preserve the evidence under Subsection (b)(1) **only if notice of the planned destruction is entered into the statewide electronic tracking system and an objection is not received by the entity from the victim before the 91st day after the date on which the entity entered the notice** of the planned destruction of the evidence into the tracking system.

Art. 56A.306 Guide

If you receive evidence from a forensic medical examination for a sexual assault that was not reported to a law enforcement agency

Preserve the evidence until after the fifth anniversary of the date on which the evidence was collected, or the date on which written consent to release the evidence is obtained

Ensure tracking requirements are being met

Do not destroy the evidence unless notice of the planned destruction was entered into the statewide electronic tracking system and an objection was not received from the victim before the 91st day after the date on which the notice was entered into the tracking system

CCP Article 64.01 – Motion

Art. 64.01. Motion

(a) In this section, "biological material":

- (1) Means an item that is in possession of the state and that contains **blood, semen, hair, saliva, skin tissue or cells, fingernail scrapings, bone, bodily fluids, or other identifiable biological evidence that may be suitable for forensic DNA testing;** and
- (2) **Includes the contents of a sexual assault evidence collection kit.**

Art. 64.01. Motion

- (a-1) **A convicted person may submit to the convicting court a motion for forensic DNA testing of evidence** that has a reasonable likelihood of containing biological material. The motion must be accompanied by an affidavit, sworn to by the convicted person, containing statements of fact in support of the motion.

CCP Article 64.02 – Notice To State Response

Art. 64.02 – Notice To State Response

(a) On receipt of the motion, **the convicting court shall:**

- (1) Provide the attorney representing the state with a copy of the motion; and
- (2) **Require the attorney representing the state to take one of the following actions** in response to the motion not later than the 60th day after the date the motion is served on the attorney representing the state:
 - (A) **Deliver the evidence to the court, along with a description of the condition of the evidence; or**
 - (B) **Explain in writing to the court why the state cannot deliver the evidence to the court.**

CCP Article 64.03 – Requirements; Testing

Art. 64.03. Requirements; Testing

(a) A convicting court **may order forensic DNA testing under this chapter only if:**

(1) The court finds that:

(A) **The evidence:**

(i) **Still exists and is in a condition making DNA testing possible; and**

(ii) **Has been subjected to a chain of custody** sufficient to establish that it has not been substituted, tampered with, replaced, or altered in any material respect;

(B) There is a reasonable likelihood that the evidence contains biological material suitable for DNA testing; and

(C) Identity was or is an issue in the case; and

Art. 64.03. Requirements; Testing

(a continued)

- (2) The convicted person establishes by a preponderance of the evidence that:
 - (A) The person would not have been convicted if exculpatory results had been obtained through DNA testing; and
 - (B) The request for the proposed DNA testing is not made to unreasonably delay the execution of sentence or administration of justice.

Art. 64.03. Requirements; Testing

- (c) **If the convicting court finds in the affirmative** the issues listed in Subsection (a)(1) and the convicted person meets the requirements of Subsection (a)(2), **the court shall order that the requested forensic DNA testing be conducted.** The court may order the test to be conducted by:
- (1) The Department of Public Safety;
 - (2) A laboratory operating under a contract with the department; or
 - (3) On the request of the convicted person, another laboratory if that laboratory is accredited under Article 38.01.

Texas Government Code (GC)



GC Section 420.033 – Chain Of Custody

Sec. 420.033 – Chain Of Custody

Medical, **law enforcement**, department, and laboratory personnel **who handle evidence of a sexual assault or other sex offense under this chapter or other law shall maintain the chain of custody of the evidence from the time the evidence is collected until the time the evidence is destroyed.**

GC Section 420.034 – Statewide Tracking System

Sec. 420.034. Statewide Tracking System

- (a) For purposes of this section, **"evidence" means evidence collected during the investigation of a sexual assault or other sex offense, including:**
 - (1) Evidence from an **evidence collection kit used to collect and preserve evidence of a sexual assault or other sex offense; and**
 - (2) **Other biological evidence of a sexual assault or other sex offense.**
- (b) The department shall develop and implement a **statewide electronic tracking system for evidence collected in relation to a sexual assault or other sex offense.**

Sec. 420.034. Statewide Tracking System

(c) **The tracking system must:**

- (1) **Include the evidence collection kit and any other items collected during the forensic medical examination in relation to a sexual assault or other sex offense** and submitted for a laboratory analysis that is necessary to identify the offender or offenders, regardless of whether the evidence is collected in relation to an individual who is alive or deceased;
- (2) **Track the location and status of each item of evidence through the criminal justice process, including the initial collection of the item of evidence in a forensic medical examination, receipt and storage of the item of evidence at a law enforcement agency, receipt and analysis of the item of evidence at an accredited crime laboratory, and storage and destruction of the item of evidence after the item is analyzed;**

Sec. 420.034. Statewide Tracking System

(c continued)

- (3) **Allow** a facility or entity performing a forensic medical examination of a survivor, **law enforcement agency**, accredited crime laboratory, prosecutor, or other entity **providing a chain of custody for an item of evidence to update and track the status and location of the item**; and
- (4) Allow a survivor to anonymously track or receive updates regarding the status and location of each item of evidence collected in relation to the offense.

GC Section 420.042 – Analysis Of Evidence

Sec. 420.042. Analysis Of Evidence

- (a) A law enforcement agency that receives evidence of a sexual assault or other sex offense that is collected under this chapter or other law shall submit that evidence to a public accredited crime laboratory for analysis not later than the 30th day after the date on which that evidence was received.**

Sec. 420.042. Analysis Of Evidence

- (e) The **failure of a law enforcement agency to take possession of evidence of a sexual assault or other sex offense within the period required** by Section 420.035 or to submit that evidence within the period required by this section **does not affect the authority of:**
 - (1) **The agency to take possession of the evidence;**
 - (2) The agency **to submit the evidence** to an accredited crime laboratory for analysis;
 - (3) **An accredited crime laboratory to analyze the evidence** or provide the results of that analysis to appropriate persons; or
 - (4) The department **or a public accredited crime laboratory authorized under Section 420.043(b) to compare the DNA profile obtained from the biological evidence with DNA profiles in the databases** described by Section 420.043(a).

Sec. 420.042. Analysis Of Evidence

- (f) **Failure to comply** with the requirements under this section **does not affect the admissibility of the evidence** in a trial of the offense.
- (g) **A law enforcement agency that fails to submit evidence** of a sexual assault or other sex offense to a public accredited crime laboratory **within the period required** by this section **shall provide to the department written documentation of the failure, including a detailed explanation for the failure. The agency shall submit the documentation required** by this subsection **on or before the 30th day after the date on which the agency discovers that the evidence was not submitted** within the period required by this section.

GC Section
420.0432 – Survivor
Notification
Concerning
Database DNA
Match

Sec. 420.0432. Survivor Notification Concerning Database DNA Match

- (a) **If, with respect to a sexual assault or other sex offense, a match is identified under Section 420.043 between biological evidence contained in an evidence collection kit and a DNA profile contained in a database described by Subsection (a)(1) or (2) of that section, the law enforcement agency with jurisdiction over the offense shall, not later than the fifth business day after the law enforcement agency receives notification of the match, notify the survivor, as applicable, of:**

Sec. 420.0432. Survivor Notification Concerning Database DNA Match

(a continued)

- (1) the match, if disclosing the match would not interfere with the investigation or prosecution of the offense; or
 - (2) the estimated date on which the match is expected to be disclosed, if disclosing the match would interfere with the investigation or prosecution of the offense.
- (b) If a law enforcement agency is unable to notify a survivor under Subsection (a) within the period required by that subsection, the agency shall continue to make reasonable efforts to notify the survivor.

GC Section
420.0735 – Consent
For Release Of
Certain Evidence

Sec. 420.0735. Consent For Release Of Certain Evidence

(a) Consent for the release of evidence contained in an evidence collection kit must be in writing and signed by:

- (1) The survivor, if the survivor is 14 years of age or older;
- (2) The survivor's parent or guardian or an employee of the Department of Family and Protective Services, if the survivor is younger than 14 years of age; or
- (3) The survivor's personal representative, if the survivor is deceased.

Sec. 420.0735. Consent For Release Of Certain Evidence

- (b) For purposes of Subsection (a)(1), a written consent signed by an adult survivor with a guardian appointed under Title 3, Estates Code, is effective regardless of whether the adult survivor's guardian, guardian ad litem, or other legal agent signs the release. If the adult survivor with an appointed guardian agrees to the release but is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable or declines to sign the release, then the investigating law enforcement officer may sign the release.

Sec. 420.0735. Consent For Release Of Certain Evidence

- c) **Consent for release** under Subsection (a) **applies only to evidence contained in an evidence collection kit** and does not affect the confidentiality of any other confidential information under this chapter.
- (d) **The written consent must specify:**
 - (1) The **evidence covered** by the release;
 - (2) The **reason** or purpose **for the release**; and
 - (3) The **person to whom the evidence is to be released**.

Sec. 420.0735. Consent For Release Of Certain Evidence

- (e) **A survivor or other person authorized to consent may withdraw consent** to the release of evidence **by submitting a written notice of withdrawal** to the person or sexual assault program to which consent was provided. Withdrawal of consent does not affect evidence disclosed before the date written notice of the withdrawal was received.
- (f) **A person who receives evidence made confidential by this chapter may not disclose the evidence except to the extent that disclosure is consistent with the authorized purposes for which the person obtained the evidence.**
- (g) The reason or purpose for the release of evidence described by Subsection (d)(2) may be limited to permit only the acts of forensic DNA testing by the department in the manner provided by Section 420.0736, regardless of whether a report of the applicable offense is made to a law enforcement agency.

Texas Health and Safety Code



HSC Section
481.152 – Seizure,
Summary
Forfeiture, And
Destruction, Or
Other Disposition
Of Controlled
Substance Plants

Sec. 481.152. Seizure, Summary Forfeiture, And Destruction, Or Other Disposition Of Controlled Substance Plants

(a) **Controlled substance plants are subject to seizure and summary forfeiture to the state if:**

- (1) the plants have been planted, cultivated, or harvested in violation of this chapter;
- (2) the plants are wild growths; or
- (3) the owners or cultivators of the plants are unknown.

(b) Subsection (a) does not apply to unharvested peyote growing in its natural state.

Sec. 481.152. Seizure, Summary Forfeiture, And Destruction, Or Other Disposition Of Controlled Substance Plants

- (c) If a person who occupies or controls land or premises on which the plants are growing fails on the demand of a peace officer to produce an appropriate registration or proof that the person is the holder of the registration, the officer may seize and summarily forfeit the plants.
- (d) **If a controlled substance plant is seized and forfeited under this section, a court may order the disposition of the plant under Section 481.159, or the department, a criminal justice agency, or a peace officer may summarily destroy the property under the rules of the department or dispose of the property in lieu of destruction as provided by Section 481.161.**

HSC Section
481.153 – Seizure,
Summary
Forfeiture, And
Destruction, Or
Other Disposition
Of Controlled
Substance Property

Sec. 481.153. Seizure, Summary Forfeiture, And Destruction, Or Other Disposition Of Controlled Substance Property

- (a) Controlled substance property that is manufactured, delivered, or possessed in violation of this chapter is subject to seizure and summary forfeiture to the state.**
- (b) If an item of controlled substance property is seized and forfeited under this section, a court may order the disposition of the property under Section 481.159, or the department, a criminal justice agency, or a peace officer may summarily destroy the property under the rules of the department or dispose of the property in lieu of destruction as provided by Section 481.161.**

HSC Section 481.154 – Rules

Sec. 481.154. Rules

- (a) **The director may adopt reasonable rules and procedures, not inconsistent with the provisions of this chapter, concerning:**
 - (1) **Summary forfeiture and summary destruction of controlled substance property or plants;**
 - (2) Establishment and operation of a secure storage area;
 - (3) Delegation by a law enforcement agency head of the authority to access a secure storage area; and
 - (4) **Minimum tolerance for and the circumstances of loss or destruction during an investigation.**

Sec. 481.154. Rules

(b) The rules for the destruction of controlled substance property or plants must require:

- (1) More than one person to witness the destruction of the property or plants;**
- (2) The preparation of an inventory of the property or plants destroyed; and**
- (3) The preparation of a statement that contains the names of the persons who witness the destruction and the details of the destruction.**

(c) A document prepared under a rule adopted under this section must be completed, retained, and made available for inspection by the director.

HSC Section
481.159 –
Disposition Of
Controlled
Substance Property
Or Plant

Sec. 481.159. Disposition Of Controlled Substance Property Or Plant

- a) **If a district court orders the forfeiture of a controlled substance property or plant under Chapter 59, Code of Criminal Procedure, or under this code, the court shall also order a law enforcement agency** or a criminal justice agency to which the law enforcement agency transferred the property or plant for analysis and storage to:
 - (1) **Retain the property or plant for official law enforcement purposes**, including use in the investigation of offenses under this code;
 - (2) **Deliver the property or plant to a government agency for official purposes**;
 - (3) Deliver the property or plant **to a person authorized by the court to receive it**;
 - (4) Deliver the property or plant **to a person authorized by the director to receive it**; or
 - (5) **Destroy the property or plant** that is not otherwise disposed of in the manner prescribed by this subchapter.

Sec. 481.159. Disposition Of Controlled Substance Property Or Plant

- (b) The district court may not require the department to receive, analyze, or retain a controlled substance property or plant forfeited to a law enforcement agency other than the department.

Sec. 481.159. Disposition Of Controlled Substance Property Or Plant

- (c) In order to ensure that a controlled substance property or plant is not diluted, substituted, diverted, or tampered with while being used in the investigation of offenses under this code, law enforcement agencies using the property or plant for this purpose shall:**
 - (1) Employ a qualified individual to conduct qualitative and quantitative analyses of the property or plant before and after their use in an investigation;**
 - (2) Maintain the property or plant in a secure storage area accessible only to the law enforcement agency head and the individual responsible for analyzing, preserving, and maintaining security over the property or plant; and**

Sec. 481.159. Disposition Of Controlled Substance Property Or Plant

(c continued)

(3) Maintain a log documenting:

- (A) The date of issue, date of return, type, amount, and concentration of property or plant used in an investigation; and
- (B) The signature and the printed or typed name of the peace officer to whom the property or plant was issued and the signature and the printed or typed name of the individual issuing the property or plant.

Sec. 481.159. Disposition Of Controlled Substance Property Or Plant

- (d) A law enforcement agency may contract with another law enforcement agency to provide security that complies with Subsection (c) for controlled substance property or plants.
- (e) A law enforcement agency may adopt a written policy with more stringent requirements than those required by Subsection (c). The director may enter and inspect, in accordance with Section 481.181, a location at which an agency maintains records or controlled substance property or plants as required by this section.

Sec. 481.159. Disposition Of Controlled Substance Property Or Plant

- f) If a law enforcement agency uses a controlled substance property or plant in the investigation of an offense under this code and the property or plant has been transported across state lines before the forfeiture, the agency shall cooperate with a federal agency in the investigation if requested to do so by the federal agency.
- (g) Under the rules of the department, a law enforcement agency head may grant to another person access to a secure storage facility under Subsection (c)(2).

Sec. 481.159. Disposition Of Controlled Substance Property Or Plant

- (h) **A county, justice, or municipal court may order forfeiture of a controlled substance property or plant, unless the lawful possession of and title to the property or plant can be ascertained. If the court determines that a person had lawful possession of and title to the controlled substance property or plant before it was seized, the court shall order the controlled substance property or plant returned to the person, if the person so desires. The court may only order the destruction of a controlled substance property or plant that is not otherwise disposed of in the manner prescribed by Section 481.160.**

Sec. 481.159. Disposition Of Controlled Substance Property Or Plant

(i) If a **controlled substance property or plant** seized under this chapter was **forfeited to an agency for the purpose of destruction or disposition under Section 481.161 in lieu of destruction or for any purpose other than investigation**, the property or plant **may not be used in an investigation unless a district court orders disposition under this section and permits the use of the property or plant in the investigation.**

HSC Section
481.160 –
Disposition Of
Excess Quantities

Sec. 481.160. Disposition Of Excess Quantities

- (a) **If a controlled substance property or plant is forfeited under this code or under Chapter 59, Code of Criminal Procedure, the law enforcement agency that seized the property or plant or to which the property or plant is forfeited or a criminal justice agency to which the law enforcement agency transferred the property or plant for analysis and storage may summarily destroy the property or plant without a court order, or otherwise dispose of the property or plant in lieu of destruction in accordance with Section 481.161, before the disposition of a case arising out of the forfeiture if the agency ensures that:**

Sec. 481.160. Disposition Of Excess Quantities

(a continued)

- (1) **At least five random and representative samples are taken** from the total amount of the property or plant **and a sufficient quantity is preserved** to provide for discovery by parties entitled to discovery;
- (2) **Photographs are taken that reasonably depict the total amount** of the property or plant; and
- (3) **The gross weight or liquid measure of the property or plant is determined**, either by actually weighing or measuring the property or plant or by estimating its weight or measurement after making dimensional measurements of the total amount seized.

Sec. 481.160. Disposition Of Excess Quantities

- (b) If the property consists of **a single container of liquid**, taking and **preserving one representative sample complies with Subsection (a)(1)**.
- (c) **A representative sample, photograph, or record made under this section is admissible in civil or criminal proceedings** in the same manner and to the same extent as if the total quantity of the suspected controlled substance property or plant was offered in evidence, regardless of whether the remainder of the property or plant has been destroyed or otherwise disposed of. An inference or presumption of spoliation does not apply to a property or plant destroyed or otherwise disposed of under this section.

Sec. 481.160. Disposition Of Excess Quantities

- (d) If hazardous waste, residuals, contaminated glassware, associated equipment, or by-products from illicit chemical laboratories or similar operations that create a health or environmental hazard or are not capable of being safely stored are forfeited, **those items may be disposed of under Subsection (a) or may be seized by and summarily forfeited to a law enforcement agency and destroyed by the law enforcement agency** or by a criminal justice agency to which the law enforcement agency transferred the items for analysis and storage **without a court order before the disposition of a case** arising out of the forfeiture if **current environmental protection standards are followed**.

Sec. 481.160. Disposition Of Excess Quantities

- (e) **A law enforcement agency seizing and destroying or disposing of materials described in Subsection (d) shall** ensure that photographs are taken that reasonably depict the total amount of the materials seized and the manner in which the materials were physically arranged or positioned before seizure.

HSC Section
481.161 –
Disposition Of
Controlled
Substance Property
Or Plant In Lieu Of
Destruction

Sec. 481.161. Disposition Of Controlled Substance Property Or Plant In Lieu Of Destruction

- (a) **Controlled substance property or plants subject to summary destruction or ordered destroyed by a court** may be disposed of in accordance with this section.
- (b) A law enforcement agency or criminal justice agency **may transfer** the controlled substance property or plants **to a crime laboratory to be used for the purposes of laboratory research, testing results validation, and training of analysts.**

Sec. 481.161. Disposition Of Controlled Substance Property Or Plant In Lieu Of Destruction

- (c) The crime laboratory to which the controlled substance property or plants are transferred under Subsection (b) shall destroy or otherwise properly dispose of any unused quantities of the controlled substance property or plants.
- (d) This section does not apply to evidence described by Section 481.160(d).
- (e) The director may adopt rules to implement this section.

Texas Penal Code (PC)



PC Chapter 12 – Punishments

Chapter 12. Punishments

Sec. 12.01. Punishment In Accordance With Code

Sec. 12.02. Classification of Offenses

Sec. 12.03. Classification of Misdemeanors

Sec. 12.04. Classification of Felonies

Sec. 12.21. Class A Misdemeanor

Sec. 12.22. Class B Misdemeanor

Sec. 12.23. Class C Misdemeanor

Sec. 12.31. Capital Felony

Sec. 12.32. First Degree Felony

Sec. 12.33. Second Degree Felony

Sec. 12.34. Third Degree Felony

Sec. 12.35. State Jail Felony

Subchapter D. Exceptional Sentences

PC Chapter 37 – Perjury and Other Falsification

Sec. 37.09. Tampering With or Fabricating Physical Evidence

- (a) A person commits an offense if, knowing that an investigation or official proceeding is pending or in progress, he:
 - (1) alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding; or
 - (2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation or official proceeding.

Sec. 37.09. Tampering With or Fabricating Physical Evidence

- (b) This section shall not apply if the record, document, or thing concealed is privileged or is the work product of the parties to the investigation or official proceeding.
- (c) An offense under Subsection (a) or Subsection (d)(1) is a felony of the third degree, unless the thing altered, destroyed, or concealed is a human corpse, in which case the offense is a felony of the second degree. An offense under Subsection (d)(2) is a Class A misdemeanor.
- (c-1) It is a defense to prosecution under Subsection (a) or (d)(1) that the record, document, or thing was visual material prohibited under Section 43.261 that was destroyed as described by Subsection (f)(3) of that section.

Sec. 37.09. Tampering With or Fabricating Physical Evidence

(d) A person commits an offense if the person:

- (1) knowing that an offense has been committed, alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in any subsequent investigation of or official proceeding related to the offense; or
- (2) observes a human corpse under circumstances in which a reasonable person would believe that an offense had been committed, knows or reasonably should know that a law enforcement agency is not aware of the existence of or location of the corpse, and fails to report the existence of and location of the corpse to a law enforcement agency.

(e) In this section, "human corpse" has the meaning assigned by Section 42.08

PC 48.05 – Prohibited Camping

PC 48.05. Prohibited Camping

- (i) If the person is arrested or detained solely for an offense under this section, a peace officer enforcing this section shall ensure that all of the person's personal property not designated as contraband under other law is preserved by:**
 - (1) Permitting the person to remove all the property from the public place at the time of the person's departure; or
 - (2) Taking custody of the property and allowing the person to retrieve the property after the person is released from custody.**

- (j) A fee may not be charged for the storage or release of property under Subsection (i)(2).



Where do I find the rules and procedures that have been adopted by “The Director” under HSC Sec. 481.154(a)?

OFFICE of the SECRETARY of STATE



Texas Administrative Code

Title 37 Public Safety and Corrections

Part 1 Texas Department of Public
Safety

Chapter 13 Controlled Substances

Subchapter G – Forfeiture and
Destruction

TAC Title 37, Part 1, Chapter 13, Subchapter G

§13.151 - **Subchapter Definitions**

§13.152 - Summary Forfeiture

§13.153 - Item Legally Worthless as Criminal Evidence

§13.154 - **Destruction Authority - Controlled Substance Property or Plant**

§13.155 - **Destruction Authority - Other Item**

§13.156 - **Destruction Authority - Court Order**

§13.157 - **SOP for Destruction by Laboratory or Agency - Security Control**

§13.158 - **Manner of Destruction - Security Control**

§13.159 - **Two-Witness Rule - Security Control**

§13.160 - Destruction Inventory - Security Control

§13.161 - **Witness Responsibility - Security Control**

§13.162 - Laboratory Retesting for Possible Tampering - Security Control

§13.163 - **Destruction Documentation - Security Control**

§13.164 - **Document Maintenance, Inspection, and Transmittal - Security Control**

§13.165 - Communication with Director (Crime Lab Service)

§13.151. Definitions

- (1) Abusable volatile chemical
- (2) **Excess quantity**
- (3) **Hazardous material**
- (4) **Item**
- (5) Laboratory
- (6) Lawful possession
- (7) Simulated controlled substance
- (8) SOP

§13.151(2). Definition - Excess Quantity

- (2) **Excess quantity**--Unless otherwise modified under §13.157(d) of this title (relating to SOP for Destruction By Laboratory or Agency--Security Control), more than:
- (A) **One kilogram of bulk dry evidence**, such as powder;
 - (B) **500 milliliters of bulk liquid evidence**, such as a chemical precursor or liquid controlled substance;
 - (C) **200 dosage or abuse units of an item**, such as tablets, capsules, liquids, or other items so measured;
 - (D) **250 grams of bulk packaged marihuana**;
 - (E) **Five individual controlled substance plants**, such as marihuana or peyote; or
 - (F) **Five miscellaneous items of drug or inhalant paraphernalia**.

§13.151(3). Definition - Hazardous Material

(3) **Hazardous material**--An item that:

- (A) **Creates a health or environmental hazard or prohibits safe storage** because of its nature and quantity; or
- (B) **Meets the hazardous waste criteria of the United States Environmental Protection Agency (EPA)**, because of its nature, including its corrosivity, ignitability, reactivity, toxicity, or other hazardous characteristic.

§13.151(4). Definition - Item

- (4) **Item**--Controlled substance property, controlled substance plant, simulated controlled substance, volatile chemical or related inhalant paraphernalia, or abusable glue, aerosol paint, or related inhalant paraphernalia, as those terms are used in the Texas Health and Safety Code, Chapters 481 - 485.

§13.154. Destruction Authority - Controlled Substance Property or Plant

- (a) **Destruction with or without court order. A laboratory, law enforcement agency, or peace officer may destroy controlled substance property, or a controlled substance plant covered by this section:**
 - (1) **With a court order under the authority of that order; or**
 - (2) **Without a court order under the authority of one of the summary destruction provisions of the Act, Subchapter E (HSC 481).**

§13.154. Destruction Authority - Controlled Substance Property or Plant

(b) Statutory sources. A laboratory, **law enforcement agency, or peace officer may destroy without a court order:**

- (1) a **controlled substance plant under** the authority of the Act, **§481.152(d)**;
- (2) **an item of controlled substance property** under the authority of the Act, **§481.153(b)**; or
- (3) **an excess quantity of certain items** under the authority of the Act, **§481.160**.

(c) Subchapter applies. The documentation and security provisions of this subchapter apply to destruction of an item of controlled substance property or plant under this section, except where provided otherwise in a court order of destruction

§13.155. Destruction Authority – Other Item

- (a) **Destruction with or without court order.** A laboratory, law enforcement agency, or peace officer **may destroy certain miscellaneous items** covered by this section:
- (1) With a court order under the authority of that order; or
 - (2) Without a court order under the authority of **one of the summary destruction provisions of HSC 482-485.**

§13.155. Destruction Authority – Other Item

(b) Statutory sources. A laboratory, **law enforcement agency, or peace officer may destroy without a court order:**

- (1) A simulated controlled substance** under the authority of the Texas Health and Safety Code, **§482.004; or**
- (2) An abusable volatile chemical or inhalant paraphernalia** under the authority of the Texas Health and Safety Code, **§485.037.**

(c) **Dangerous drug. At the direction of the Texas State Board of Pharmacy,** a law enforcement agency or peace officer **may destroy without a court order a dangerous drug** under the authority of the Texas Health and Safety Code, **§483.074.**

§13.156. Destruction Authority – Court Order

- (a) Statutory authority. **A court may issue an order of destruction for an item that:**
 - (1) Is **controlled substance property or plant** under the authority of the Act, §481.159; or
 - (2) **Was stolen or acquired in any other manner that made the acquisition a penal offense** under the authority of the **Texas Code of Criminal Procedure, Chapter 47**.
- (b) **Security provisions required by the court.** A laboratory, law enforcement agency, or peace officer carrying out a court order of destruction **must comply with the documentation and security provisions of the order, if any.**
- (c) **No security provisions required by the court.** If the court order is silent about the manner of destruction, or if it does not specify or direct another manner of destruction inconsistent with this subchapter, the laboratory, law enforcement agency, or peace officer **must comply with the documentation and security provisions of this subchapter.**

§13.157. SOP For Destruction by Lab or Agency – Security Control

- (a) SOP required. Before allowing anyone, whether peace officer or civilian, **to destroy an item under this subchapter**, a laboratory or law enforcement agency **must adopt a written SOP for the destruction of the kind of item sought to be destroyed**.
- (b) Compliance required. A laboratory or law enforcement agency **must require that each person engaged in destruction under this subchapter must strictly follow each SOP**. A written **SOP may exceed a minimum requirement contained within this subchapter**.

§13.157. SOP For Destruction by Lab or Agency – Security Control

- (c) Generally. In order to minimize the likelihood of pilferage or other unlawful diversion, **an SOP must include requirements that are reasonably likely to:**
 - (1) **Uncover the occurrence of** a discrepancy, loss, theft, or other potential diversion; and
 - (2) **Identify and destroy the excess quantity of an item**, in order to reduce the size of an exhibit while preserving its evidentiary value.
- (d) Modify definition of "excess quantity." **With the express approval of each appropriate prosecuting authority**, an **SOP may increase or decrease the amount of an item necessary to meet the definition of an "excess quantity"** under that SOP.

§13.157. SOP For Destruction by Lab or Agency – Security Control

(e) Specifically. An **SOP must include** a requirement that:

- (1) **A specific person or category of persons must seek destruction authorization for an item after it exceeds the maximum limits for item storage established by the SOP, including the duration and amount;**
- (2) **A specific person or category of persons must make an immediate report to a supervisor of an unusual or suspicious incident or probable breach of security reasonably related to potential discrepancy, loss, theft, or other diversion;**

§13.157. SOP For Destruction by Lab or Agency – Security Control

(e continued) An **SOP must include** a requirement that:

- (3) **A supervisor must make a thorough investigation of the incident**, including laboratory reanalysis if necessary; and
- (4) **A specific person or category of persons must contact the submitting peace officer, the submitting law enforcement agency, or the office of the prosecutor responsible for the case to seek:**
 - (A) Written authorization to destroy all or part of a particular exhibit; or
 - (B) Blanket written authorization to destroy all or part of each exhibit that meets certain criteria.

§13.158. Manner of Destruction – Security Control

- (a) Destruction by anyone. **A person may accomplish routine destruction of an item** under this subchapter **by burning in a suitable incinerator or by another method as long as the** person performs the destruction in:
- (1) A safe and responsible manner;**
 - (2) Compliance with all relevant federal, state, and local laws; and**
 - (3) Compliance with all requirements of the Texas Commission on Environmental Quality and the EPA.**

§13.158. Manner of Destruction – Security Control

- (b) Private contract. **If a laboratory, law enforcement agency, or peace officer contracts with a private entity to destroy the item, the private contractor must:**
 - (1) **Hold a controlled substances registration number** from the director and DEA; and
 - (2) **Obtain full permitting from the EPA** as a hazardous waste transportation, storage, or disposal facility, as appropriate.

§13.158. Manner of Destruction – Security Control

- (c) Destruction by officer. **The director recommends but does not require that an individual peace officer should not destroy hazardous material, unless that officer possesses the special expertise required to handle the material safely and lawfully.**

§13.159. Two Witness Rule – Security Control

- (a) Destruction by anyone. A laboratory, **law enforcement agency, or peace officer may not destroy an item under this subchapter without at least two individuals present to witness the actual destruction. One witness must be:**
 - (1) A supervisor; or
 - (2) Another individual expressly designated by a supervisor to witness that specific destruction incident.

§13.159. Two Witness Rule – Security Control

- (b) Destruction by laboratory. **If a laboratory destroys the item, destruction must comply with:**
- (1) The **security provisions of this chapter for a controlled substances registrant;** and
 - (2) The **documentation and security provisions of this subchapter that reference a laboratory.**

§13.159. Two Witness Rule – Security Control

- (c) Destruction by agency or officer. **If a law enforcement agency or peace officer destroys the item:**
 - (1) **No two individuals may serve as the sole witnesses to consecutive destruction incidents; and**
 - (2) The director recommends but does not require both of the two witnesses should be peace officers from different law enforcement agencies.

§13.161. Witness Responsibility – Security Control

- (a) Generally. For purposes of accountability, **at least two of the witnesses to a destruction under this subchapter must, during a process conducted immediately before the physical destruction of an item:**
 - (1) **Examine each item** in a manner **sufficient to complete the destruction** inventory required by this subchapter;
 - (2) **Compare that destruction inventory with each previous inventory of the item**, including one that may have been made as part of an evidence submission form, a laboratory analysis, or as part of the destruction authorization;
 - (3) **Examine each package for the integrity or breach** of the package or seal;
 - (4) **Refuse to destroy an item that reasonably appears to have been tampered with** or to be at variance with its purported count or weight; and
 - (5) Ensure destruction of each item as soon as reasonably possible.

§13.161. Witness Responsibility – Security Control

(b) Suspicious incident. **Each witness must:**

- (1) **Investigate a suspicious incident or probable breach** of security, including a discrepancy, loss, theft, or other potential diversion of an item to be destroyed; or
- (2) **Report the incident or breach** to an appropriate law enforcement agency or peace officer for investigation.

(c) Registrant security provisions may also apply. The registrant security provisions of this chapter apply if a witness to destruction under this subchapter is also registered individually as a controlled substances registrant or employed by a registrant. If so, the witness is responsible for making a written report to the director through the Narcotics Regulation Bureau of a probable breach of security under those provisions.

§13.163. Destruction Documentation – Security Control

- (a) Contemporaneous written statement. **At or immediately after the time of a destruction** under this subchapter, **one of the witnesses to destruction must complete a written statement containing** a detailed description of the destruction of the item, including all the relevant information required by this subchapter.
- (b) Private contract. **If a laboratory, law enforcement agency, or peace officer contracts with a private entity to destroy the item, the witnesses need not be present during the actual physical destruction of each item** by the private contractor. **A written statement** under this subsection **must document the status and handling of the item up to the point the** laboratory, agency, or officer **turned it over to the private contractor for destruction** under the contract.

§13.163. Destruction Documentation – Security Control

(c) Contents of statement. **A statement may incorporate other documents by reference and must contain:**

- (1) **Relevant seizure information**, including the seizing law enforcement agency or peace officer, the date and location of seizure, and the authority for seizure;
- (2) **The destruction authority**, including the name, position, and reason given by the individual authorizing destruction;
- (3) **The manner of transportation** to the destruction site, including the names of each individual transporting an item;

§13.163. Destruction Documentation – Security Control

(c continued)

- (4) **An inventory of the items destroyed**, including the nature, kind, and quantity of the item;
- (5) **The witnesses**, including the name, title, agency, and signature of each witness;
- (6) **The date and location of destruction**;
- (7) **Manner of destruction**; and
- (8) **Each unusual or suspicious event that occurred during the destruction incident.**

§13.164. Document Maintenance, Inspection, and Transmittal – Security Control

- (a) Generally. The laboratory, law enforcement agency, or peace officer who destroys an item under this subchapter **must maintain the original destruction documents** in a readily retrievable form after the date of destruction.
- (b) Available to Director for inspection. The destroying laboratory, law enforcement agency, or peace officer **must make the original destruction documents available for announced or unannounced inspection by the director.**
- (c) Copy upon request. **If the director requests a copy** of the destruction documentation, a laboratory, law enforcement agency, or peace officer destroying an item subject to this subchapter **must provide the copy to the director within seven days.**

§13.164. Document Maintenance, Inspection, and Transmittal – Security Control

- (d) Destruction standard operating procedure (SOP). A laboratory or law enforcement agency adopting a written destruction SOP under this subchapter must:
 - (1) Maintain the original copy of the SOP;
 - (2) Make the original available for announced or unannounced inspection by the director or a member of the department; and
 - (3) Provide the copy to the director under this section in the same manner as another destruction document.

United States Code (18 USC)



18 U.S. Code § 922. Unlawful acts

- (d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person:**

18 U.S. Code § 922. Unlawful acts

(d. continued)

1. Is under indictment for, or convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
2. Is a fugitive from justice
3. Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, codified at 21 U.S.C. § 802);
4. Has been adjudicated as a mental defective or has been committed to any mental institution;

18 U.S. Code § 922. Unlawful acts

(d. continued)

5. Who is an illegal alien;
6. Who has been discharged from the Armed Forces under dishonorable conditions;
7. Who has renounced his or her United States citizenship;
8. Who is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; or
9. Who has been convicted of a misdemeanor crime of domestic violence

18 U.S. Code § 922 Guide

Run a criminal history check on everyone before releasing a firearm or ammunition to them

Have a process and SOP in place to satisfy the requirements under 18 U.S. Code § 922d

Have a form with the questions to 18 U.S. Code § 922d for them to complete



ATF Form 4473, question 21 (a-k) is a great place to see how the ATF questions people when they purchase a firearm

18 U.S. Code § 924 - Penalties

18 U.S. Code § 924. Penalties

(a)

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

Resources

Texas Statutes <https://statutes.capitol.texas.gov>

- Alcoholic Beverage Code
- Administrative Code
- Code of Criminal Procedure
- Government Code
- Penal Code

Texas Secretary of State [https://texreg.sos.state.tx.us/public/readtac\\$ext.viewtac](https://texreg.sos.state.tx.us/public/readtac$ext.viewtac)

- Texas Administrative Code

Resources

Texas DPS www.dps.texas.gov/section/crime-laboratory/publications

- Crime Laboratory Division Manual (PDF)
- Health and Safety Program (PDF)

Texas DPS www.dps.texas.gov/section/crime-records/appendix-k-offense-codes

- **Version 19 Offense Codes (XLS)**
- **Changes to Version 19 (XLS)**
- **Version 19 Offense Codes - Alpha Order (PDF)**
- **Version 19 Offense Codes - Code Order (PDF)**
- **Version 19 Offense Codes - Statute Order (PDF)**

ATF Form 4473 Information and Download

www.atf.gov/firearms/atf-form-4473-firearms-transaction-record-revisions

The End



Our contact information
is on the website



www.tapeit.net

