

**The Bill Blackwood  
Law Enforcement Management Institute of Texas**

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**The Property Room:  
The Department's Black Hole**

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**A Leadership White Paper  
Submitted in Partial Fulfillment  
Required for Graduation from the  
Leadership Command College**

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**By**

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## **ABSTRACT**

Police property rooms are still being ignored and not given the attention that is needed to properly store and maintain these areas of the police department. Without the needed attention, this area of the police department could come back and haunt the chief and the workers in the property room. If property is not available for court, the case could be lost. If property is missing, someone could get indicted. A Dallas Police Department detective stated that “evidence for several of his cases could not be found and the cases fell apart. Ballistic evidence in an unsolved homicide investigation has gone missing” (Eiserer, 2007, p. 28).

Police departments must have an officer for the disposal of property in their property room to correctly maintain and document that properties disposal. This paper looks at whether departments can afford to have an officer in their property room, it will look at city court orders, county/district court orders, and non-disposable, long term storage items. These steps need to be taken in all police departments that maintain a property room anywhere in the country.

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## INTRODUCTION

In the field of criminal justice, nothing was more ignored or neglected than the police property room. Some property rooms have items dating back to the beginning of the police department. Officers are called on to investigate crime scenes and often collect items to be examined for fingerprints or biological evidence. That evidence and the all the abandoned/found property brought to the police department are stored, sometimes for decades, in the police property room. Police departments should have an officer for the disposal of property that has been stored in their property room and properly document that property's destruction.

Recently, it has come to light that these property rooms are not as secure as the prosecutors and judges would like. Property rooms need not only physical security but also security in the form of "checks and balances". In an article from the New York Times, reporter Holl (2006) wrote about a New Jersey police officer who had been on the police force for 18 years and was found to have taken five handguns and multiple evidence bags containing cocaine, marijuana, heroin, and a pile of money from nearly 50 cases from the Irvington Police Department (Holl, 2006, p.2).

Because stories like this are becoming more commonplace, police property rooms have become more important to the chiefs of police who are supposed to be watching over them. Property control officers are starting to get more training in the proper operation of these property rooms. This will help cut down on misplaced property and lost cases.

There are only a few Federal or State statutes that delineate how police departments are to dispose of property after it is no longer needed for court or the

statute of limitations has run out on a crime. One of the only guides that a property control officer in Texas has is the Texas Code of Criminal Procedure Article 18.17 and 18.18 (C.C.P., 2008, p. 402) and the Texas Health and Safety Codes section 481.153 (H.S.C. p.152).

Article 18.17 tells advises that “abandoned or unclaimed property 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” (“Disposition,” 2013, p.1). That designated person then must notify the owner, if known, and then the owner has 90 days to claim their property. Section 481.153 deals with the destruction of controlled substances. The rules for this section state that more than one person shall witness the destruction, there needs to be an inventory of the disposed property, and to prepare a statement that contains the names of the persons who witnessed the destruction (“Summary,” 2007, p.1477).

Latta (2011) has written on property handling, and he gives a detailed instruction on the processing of property that can be generalized in any state. Doran (1994) stated that “administrative requirements include proper reporting and the control and audit of property control operations” (p.3). These requirements are most often included in the department’s policy and procedures manual. All departments should have a standard operations policy for their property room. Departments should also do annual or semi - annual audits on their property rooms or personnel.

It is time for all police departments, small, medium, and large, to get into the game. Police chiefs and sheriffs need to all have an officer in their property rooms securing and maintaining these areas to make sure that all property records are up to

date and that it can be found for court when it is needed or for disposal when the court is done with it or the suspect has served their entire sentence. Police departments should have an officer for the disposal of property in their property room to correctly maintain and document that properties disposal.

## **POSITION**

There is property in the property rooms of America that is no longer needed and if something is not done to alleviate this problem, there could be cases lost in court or even worse, departments could be sued. Departments need to have an active property disposal officer. Many property rooms seem to be just storage closets where property is placed and never seems to be disposed of. Using an officer who is already working that day to divert some of his/her time to property disposal would help start to alleviate this problem. Sometimes, the officer will need to dedicate more time to the property room than others, such as during an audit or in the beginning, when the room needs to be caught up from years of neglect.

Secondly, these officers need to be trained in proper disposal methods. Officers need to have some sort of RMS to document where the property is. The department needs to also invest some money on a barcode system to make it easier to locate property and to manage it. This system is also very helpful when it comes time to do an audit on the property room. An audit should be done at least once a year and whenever property room personnel change or head administrator (i.e. sheriff or chief) is replaced. The training is not mandatory yet but organizations like Texas Association of Property, Evidence, and Inventory Technicians (TAPEIT) have training programs that offer basic and advance certificates in property room management. (Vasquez, 2012, p.1). Having

a bar-coding system is quite a bit of work in the beginning but after the initial bar coding is done, the next audit is much, much easier.

Departments need to make plans now for the storage of long term evidence such as DNA or evidence where the defendant received a long term sentence such as 20 to 30 years in prison and the property must be maintained for challenges to their conviction. Some long term cases can be disposed of when the statute of limitation runs out on a crime. The property room officer can also check to make sure the suspect does not get out early (such as parole or probation) or sometimes they pass away in prison. Long term needs for the property room are essential to keeping a well maintain property room.

## **COUNTER POSITION**

There are still those department heads who think that there is no need to have an officer for the destruction of property because they do not have the money to pay an officer for that job. Having an officer who can maintain the property room would be better than creating and funding a new position just to handle the property room. Dimond (2012) stated, "it costs a mountain of taxpayer money just to manage all this property and to divert trained officers from law enforcement to mere clerk duty seems like a waste of a valuable resource" (p. 35).

On the other hand, these administrators are living behind the times and need to look at the departments that are being sued for lost or stolen property and how much money these cities are paying out. It would be much cheaper for the department to get and keep their property room up to date and well-organized, with an active destruction program. Amy Ward is suing her former police department because she was fired for

reporting violations of policy in her department's property room. In her lawsuit, Ward said she was disciplined for reporting violations and yet the four officials "stood silent and took no action against the officers, including the foregoing, who had possession of evidence seized in prior investigations and who failed to account for the whereabouts of previously seized evidence including firearms, personal property, drugs and cash" (Brady-Lunny, 2013, p. 1).

Some chiefs and sheriffs think that there is no need to have an officer for the destruction of property because that person could be better used on patrol. Because of shrinking budgets, they want all the personnel they can get on the streets. CALEA ("Property," 2012) stated, "there has been a discernible movement away from the traditional assignment of sworn personnel staffing the property room. Many agencies now have either a blend of both sworn and civilian staff, or the property function has been totally civilianized" (p. 84).

Another point of view suggests an officer could be used in the property room one day and week or one to two hours a day and still have time to do patrol duties. Having an officer work part time in middle to small sized departmental property rooms would be sufficient but larger property rooms will need a full time staff. There are many, many stories of civilians in property rooms where monies and drugs go missing such as in Plantation, Florida. \$225,000 is missing from the room where cops store confiscated property. Police identified a civilian employee as a suspect, but the State Attorney's Office will not prosecute (Huriash, 2014). Police officers who are on the street and collecting the evidence have a stake in making sure that property is there when the case goes to court.



There are still some police departments that think that it is allowable for property to be stored forever and not take the necessary steps to plan for the long term storage of property. This occurs when the suspect has been given a long sentence or DNA evidence that needs to be maintained until the suspect's death or completion of a sentence. In Houston, the police department took three years and spent \$13.2 million dollars on their new facility (Moore, 2011, p.1).

In contrast, there are those managers who are not in touch with the problems that an unmanaged property room can cause. Colorado Springs Police Department says that "at the current rate of growth we estimate the Evidence Unit may begin to run out of space in critical areas in 2015. We recommend planning, begin now, for possible facility expansion" (Office of the City Auditor, 2013, p.1). An active disposal program would help get rid of all the property that can be disposed of and save room for other items.

## **RECOMMENDATION**

The recommendation of this paper is for police management to make sure that they have a property room with an active disposal system. They have to take the time to do the follow up and audits necessary to accomplish the task of a well maintained property room management. Property rooms need to be continually monitored to make sure that stay up to date.

Department heads need to use "city" court orders for the items, including unclaimed/abandoned property and cases where charges were never filed through a county or district court. This would also include items that were used in misdemeanor class "C" charges through the municipal court. Department heads need to use the

disposal request forms for their county and district courts along with the case disposition form (LNQ9 in Harris County) to get their disposal orders in front of the judge with jurisdiction over the case to get an order for disposal. Copies of the forms used in Harris County are included in the appendixes of this paper. Information to complete these forms can usually be found within the case. Department heads need to also plan for the items with long terms storage for property that is being held until a person completes a long sentence 25-35 years or more and the other area is that of storage for DNA. Shelves within the property room can be designated as long term storage. These items should be stored with a termination date so they can be reviewed at that time.

Before anyone can look at the disposal of property from the property room, they need to look at how it is stored in the room and what kind of record management system (RMS) is being used. There are many books on proper property storage. The annual conference for TAPE IT also has classes about storage. There are also many RMS systems that can be used. The person responsible for the operation of the property room needs to look into the best system for their department.

The person who manages the property room has to be an organized person. The person needs to be a little obsessive compulsive in their management of this room. The room itself needs to be able to be organized. There needs to be adjustable shelves, preferable metal, so they can handle the weight of the property and will not contaminate the property below it if something should leak.

A records management system is crucial to the proper running of a property room. There needs to be way to log in each item and a way to track that item as it goes through the courts before it can be disposed of. One of the best innovations in law

enforcement is the barcoding system for use in the property room. This system is much more accurate than older systems that just documented that a piece of evidence had been logged in. Barbour and Huestis (1990) advised that “the computer tracks the item from one location in the property room (room 2, bin A, shelf 3) to court or to an individual. The computer can automatically date, time stamp, and track the transaction as the item moves through the process” (p. 51).

If a department is not into the digital age yet, this might be difficult. There have been property rooms that have logged all their property in ledger form and tracked it that way. Property rooms that started before the computer revolution may be managed this way. Once the room is useable and there is some sort of tracking system, then there needs to be documentation for disposal of that property.

The first area of property room disposal to be looked at is those items needed for municipal court. These items include unclaimed/abandoned property cases where charges were never filed through a county or district court. This can also include items that were used in misdemeanor class “C” charges through the municipal court.

In the case of found property, “The Law enforcement agency is generally required to notify the owner (if his/her identity is reasonably ascertainable) that it possesses the property and where it may be claimed” (IAPE, 2002, Standard 12). Article 18.17 of the Texas code of Criminal Procedure goes a little farther when talking about abandoned or unclaimed property. It states that “property held unclaimed for more than 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” (“Disposition,” 2013, p. 549). The code also says that if a piece of property has a fair market value

above \$500.00 and the owner is unknown, then the seizing agency must advertise in a paper of general circulation, the general description of the item being held and the name and address of the officer holding the item. If the person does not claim the property in 90 days, then the city/county may dispose of the property. Appendix E shows a copy of a form use the disposal of property through the municipal court. Some agencies dispose of all their property through their municipal courts.

The next area of property disposal to look at is the cases that have been filed through the county and district criminal courts. When disposing of this property, there are several ways to start. A person could go bin by bin, oldest to newest, or largest to smallest. If the department has a RMS that alerts the property custodian when pieces had reached their statute of limitations, then this would be a good way to start.

Once the property room custodian has devised their method of destruction, then it is time to start. For property rooms that are out of control, sometimes it is best to start with the largest items, so that the property room custodian has room to get to the other items. Some property room custodians have to move to their safes next because this is an area that can get out of control quickly.

The first step in property disposal is to pull up the cases and find out who was filed on in the case. Custodians will usually need the name and date of birth for all the defendants that were filed on. In Harris County, getting to the disposition of a case is a little easier because their system is all digital on the Justice Information Management System (JIMS). With the JIMS system, a person can run the name and date of birth and find the criminals history with Harris County. Then they need to find which case was the one that they are looking for a disposition on. Then a person can pull up the

case and see how it is proceeding through the court. The last page of the case is usually the LQY9 form. This form shows the disposition of the case and whether the suspect has served his/her time or if they are still on probation or still serving their sentence and how much time they receive from the court or jury. If they are still serving their sentence or probation, the custodian can note this in the RMS system so they will know when to revisit the case for a final disposition.

If the suspect in the case has served his/her time and there is a final disposition, then the custodian can start the process to dispose of that property. The suspect in this case has 60 days from the final disposition to request their property back through the court. Once this time is up, the property room custodian can submit the LQY9 form and a form similar to Appendix A for property, Appendix B for a prohibited weapon, Appendix C for a weapon, Appendix D for narcotics and Appendix E for Justice of the Peace or City court orders.

According to Latta and Rush (1998), “the documentation dealing with drugs and the destruction of drugs is probably the most critical in the evidence function. Anytime drugs or narcotics have been pulled from the active inventory and placed into an interim location, they can be a target for theft” (p. 52). Accordingly, this must be an area of dual control or put into a locked safe to protect it from theft.

These forms need to be filled out then notarized before being sent to the district attorney’s office. If the property room has a high volume disposal operation, the custodian may need to just mail these in when there are complete or someone could hand deliver them if they have the time. It can take days to months to get the completed form back from the court. Once these are received, it is time to try and find

the piece that is connected with that form. Hopefully, it is documented somewhere on that form the bin or area where that piece is located.

Now that the custodian has the completed court order and they have found the piece, they need to dispose of the property either by disposal, donating it, or converting it to city use. Disposal can be as easy as making it unusable to the destruction of gun or drugs. Drug disposal used to be very difficult because the drugs had to be disposed of at an EPA approved facility. Now there have many advancements in this area, such as drug destruction barrels, and the terminator recycles the exhaust through filters so there is no toxins released into the air. There are still only a few foundries that will dispose of guns in the Houston area. The one used by most departments only allows for each department to melt their weapons twice a year. This works out well for most agencies because it takes that long to process all the court orders needed to do a melt.

When the property disposal has been completed, the property room custodian and the witness can sign the document and have it notarized. The property room custodian needs to make copies of all the court orders and retain these for the department's records. This can create a storage problem so many agencies has gone to digital records such as DVD's or Microfiche. The signed, notarized, completed form is then returned to the district attorney's officer so it can be filed with the district clerk's office and the rest of the case file.

The last items to be looked at in this paper are those that do not fit as nicely as all other property. One of the areas that needs to be taken into consideration is that of long terms storage for property that is being held until a person completes a long sentence 25-35 years or more. The other area is that of storage for evidence with DNA.

Dworaczyk (2000) stated that “deoxyribonucleic acid or DNA can be used to identify individuals from samples of blood, semen, saliva, skin, or hair” (p. 2). The Department of Public Safety (DPS) was directed by the Texas legislature to establish and maintain a computerized DNA database. This was to help federal state and local agencies investigate and prosecute offenses in which biological evidence is recovered. This is beginning to be a big area of investigations.

According to McCown (2009), “in capital murder cases, biological material evidence must be preserved until the defendant is executed, dies, or is released on parole, whichever is earlier. Evidence containing biological material may be hanging around an evidence room for a very long time” (p.3). So if there is DNA evidence in the property room, the custodian might have to maintain it much longer than they had first planned.

Along with DNA evidence, the property room custodian must plan for long term storage of items until that person completes their sentence. Sometimes the person with that sentence has quite a bit of property related to it so there needs to be planning for long term storage for the property. This property needs to be stored in a chronological order so that as sentence reaches its end, that property is next in-line to be disposed of.

Hopefully this paper will convince everyone involved with the operation of the property room that police departments must have an officer for the disposal of property and that the items that have been stored in their property room are properly documented. The most important item that needs to be heeded is that they need someone to get their destruction process started, and there needs to be checks and balances to make sure the destruction is being done properly. They also need to have

a plan in place to store items that will be with them for most or all of their careers. The chiefs and sheriffs need to implement at least some of the ideas in this paper and start getting their property room in order.



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**APPENDIX A**

Cause No. \_\_\_\_\_

THE STATE OF TEXAS

§

DISTRICT/COUNTYVS.

§

COURT NO.

§

§

§

HARRIS COUNTY, TEXAS**INVENTORY OF ABANDONED PROPERTY AND REQUEST FOR ORDER OF THE COURT  
UNDER ARTICLE 18.17 CODE OF CRIMINAL PROCEDURE**

Affiant, \_\_\_\_\_, on behalf of \_\_\_\_\_, states that the property listed below is in the possession of said agency. Further, the property was seized by a peace officer in connection with an investigation of a criminal offense. The criminal case involving the listed property was assigned to the above referenced Court, where the defendant received (assert either defendant's sentence or dismissal).

**INSTRUCTION TO AFFIANT:** Please check any of the following categories that apply. The defendant has:

- (1) \_\_\_\_\_ been executed; (2) \_\_\_\_\_ died; (3) \_\_\_\_\_ completed his/her sentence; (4) \_\_\_\_\_ been released on parole or mandatory supervision; (5) \_\_\_\_\_ signed a written waiver of his/her rights to have evidence preserved; (6) \_\_\_\_\_ received notice of the intent to destroy evidence as described in the State's motion to destroy; or (7) \_\_\_\_\_ the defendant's criminal charge resulted in a dismissal. **Note to affiant: If any of the above categories apply to the defendant you may strike out the paragraph immediately below that discusses the presence of biological material.**

**PRESENCE OF BIOLOGICAL MATERIAL:** Affiant further states that the listed property (\_\_\_\_\_ is) (\_\_\_\_\_ is not) known to contain biological material that if subjected to scientific testing would more likely than not: (A) establish the identity of the person committing the offense; or (B) exclude a person from the group of persons who could have committed the offense.

**INVENTORY OF PROPERTY****METHOD OF DISPOSAL**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Pursuant to Article 18.17, Texas Code of Criminal Procedure, this affiant asserts to the court that: (1) \_\_\_\_\_ no owner of the listed property can be identified; or (2) \_\_\_\_\_ notice of intent to dispose of the property was sent to \_\_\_\_\_ (allege owner) on \_\_\_\_\_ (allege date), that no response has been received, and that over ninety days have elapsed since the notice issued. This affiant requests that the State of Texas, by and through her assistant district attorney, move for a court order authorizing destruction of the above listed abandoned property by the above referenced law enforcement agency or for the property to be converted to agency use. Sufficient documentation as to the ultimate disposition of the property will be retained by the agency.

DATED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

Affiant

(Type or Print Name)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

SIGNED: \_\_\_\_\_

Notary Public for the State of Texas

THE STATE OF TEXAS Cause No. §  
 VS. §  
 §  
 §  
 DISTRICT/COUNTY  
 COURT NO.  
 HARRIS COUNTY, TEXAS

MOTION TO DESTROY OR DISPOSE OF PROPERTY

COMES NOW, the State of Texas, by and through the undersigned assistant district attorney, and requests that the Court grant an order to destroy or convert to agency use the abandoned or unclaimed property listed in the attached inventory pursuant to Article 18.17, Texas Code of Criminal Procedure. The State, upon the affidavit of the affiant in the attached inventory, states to the Court that the listed property is in possession of the agency listed in the attached inventory and that the property was seized in connection with a criminal offense as described in the inventory.

**INSTRUCTION TO ASSISTANT DISTRICT ATTORNEY: STRIKE OUT THE ENTIRE SHADED SECTION IF THE DEFENDANT'S CASE WAS DISMISSED.**

Pursuant to Article 38.43, Texas Code of Criminal Procedure, if a defendant is convicted, evidence known to contain biological material must be preserved until the defendant is executed, dies, completes his sentence, is released on parole or mandatory supervision, or has received notice of intent to destroy the evidence and no objections were made within 90 days. The defendant in this case has (select one):

- \_\_\_\_\_ Been executed;  
 \_\_\_\_\_ Died;  
 \_\_\_\_\_ Completed his/her sentence;  
 \_\_\_\_\_ Been released on parole or mandatory supervision;  
 \_\_\_\_\_ Executed a written waiver of his/her rights to have said evidence preserved; or

\_\_\_\_\_ The defendant, the defendant's last attorney of record and the convicting court were duly noticed of the planned destruction of all evidence, whether it is known to contain biological material or not, that was collected and/or seized during the investigation of the above referenced offense. Said notice was sent by:

(A) \_\_\_\_\_ certified mail on \_\_\_\_\_ (date) and received by the defendant on \_\_\_\_\_ (date), and proof of defendant's receipt of the notice was received by the prosecutor on \_\_\_\_\_ (date) and no written objections were made by either defendant, last attorney of record, or the convicting court within 90 days from the later of the following dates; (1) the date the notice was mailed to the defendant's last attorney of record; or (2) the date the prosecutor received proof that notice was received by the defendant; or

(B) \_\_\_\_\_ said notice was hand delivered to the defendant and to his attorney on \_\_\_\_\_ (date), and no written objections were made by either defendant, last attorney of record, or the convicting court within 90 days from the date the notice was served on the defendant and his attorney.

Pursuant to Article 18.17, the State requests that the property be disposed of as requested in the attached inventory. Sufficient documentation as to the ultimate disposition of the property will be retained by said agency.

Respectfully Submitted,

\_\_\_\_\_  
 (Type or Print Name)

Assistant District Attorney  
 Harris County, Texas

Cause No.

THE STATE OF TEXAS

§

DISTRICT/COUNTY

§

COURT NO.VS.

§

§

§

HARRIS COUNTY, TEXAS**DESTRUCTION ORDER**\_\_\_\_\_  
HAVING FOUND that the defendants case was dismissed; or\_\_\_\_\_  
HAVING FOUND that all notice requirements of Article 38.43 of the Texas Code of Criminal Procedure have been complied with, and that no written objection to the planned destruction of evidence has been received by this Court; or\_\_\_\_\_  
HAVING FOUND that the defendant has:\_\_\_\_\_  
Been executed;\_\_\_\_\_  
Died;\_\_\_\_\_  
Completed his/her sentence;\_\_\_\_\_  
Been released on parole or mandatory supervision; or\_\_\_\_\_  
Executed a written waiver of his/her rights to have said evidence preserved,

And that all requirements of Article 38.43 of the Texas Code of Criminal Procedure have been complied with;

IT IS HEREBY ORDERED that pursuant to Article 18.17 of the Texas Code of Criminal Procedure, the property described in the attached inventory shall be disposed of as described in the inventory. Sufficient documentation as to the ultimate disposition of the property shall be retained by said agency.

\_\_\_\_\_  
Presiding Judge

County Court at Law No. \_\_\_\_\_

\_\_\_\_\_  
District Court**RETURN**

I HEREBY CERTIFY, under oath, that upon the above authority, the listed agency has disposed of the property as requested in the inventory. Documentation of the ultimate disposition of said controlled substance(s) will be retained by said agency.

SIGNED: \_\_\_\_\_

\_\_\_\_\_  
(Type or Print Name)

Date &amp; Time: \_\_\_\_\_

Witness: \_\_\_\_\_

Sworn and subscribed before me the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20 .

SIGNED: \_\_\_\_\_

**Notary Public for the State of Texas**

**APPENDIX B**

Cause No. \_\_\_\_\_

THE STATE OF TEXAS

§

DISTRICT/COUNTY

§

COURT NO.VS.

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§

§

HARRIS COUNTY, TEXAS**AFFIDAVIT FOR THE DESTRUCTION OF PROHIBITED WEAPONS PURSUANT TO ARTICLE 18.18(a)**

Affiant, \_\_\_\_\_, states that the weapons listed below are in the possession of the \_\_\_\_\_. The affiant states that the weapons are prohibited weapons as defined by section 46.05 of the Texas Penal Code.

**INSTRUCTION TO AFFIANT:** Please check any of the following categories that apply. The defendant has:

- (1) \_\_\_\_\_ been executed; (2) \_\_\_\_\_ died; (3) \_\_\_\_\_ completed his/her sentence; (4) \_\_\_\_\_ been released on parole or mandatory supervision; (5) \_\_\_\_\_ signed a written waiver of his/her rights to have evidence preserved; (6) \_\_\_\_\_ received notice of the intent to destroy evidence as described in the State's motion to destroy; or (7) \_\_\_\_\_ the defendant's criminal charge resulted in a dismissal. **Note to Affiant: If any of the above categories apply to the defendant you may strike out the paragraph immediately below that discusses the presence of biological material.**

**PRESENCE OF BIOLOGICAL MATERIAL:** Affiant further states that the listed property ( \_\_\_\_\_ is) ( \_\_\_\_\_ is not) known to contain biological material that if subjected to scientific testing would more likely than not: (A) establish the identity of the person committing the offense; or (B) exclude a person from the group of persons who could have committed the offense.

**Inventory of Prohibited Weapons:**

Weapon No. 1: \_\_\_\_\_

Serial No.: \_\_\_\_\_

Weapon No. 2: \_\_\_\_\_

Serial No.: \_\_\_\_\_

Affiant requests that the State of Texas, by and through her assistant district attorney, move for a destruction order authorizing destruction of the above listed weapons pursuant to Article 18.18(a) because the above referenced defendant has been finally convicted in the above referenced cause number, in this court, for an offense involving the listed prohibited weapons. Sufficient documentation as to the ultimate disposition of the prohibited weapons will be retained by the agency.

DATED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

Affiant

\_\_\_\_\_ (Type or Print Name)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_.

SIGNED: \_\_\_\_\_

Notary Public for the State of Texas

Cause No.

THE STATE OF TEXAS

§  
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§  
§DISTRICT/COUNTY  
COURT NO.

VS.

HARRIS COUNTY, TEXAS

**MOTION TO DESTROY PROHIBITED WEAPONS**

COMES NOW the State of Texas, by and through the undersigned assistant district attorney, and respectfully petitions this Court to order destruction of the weapons described in the preceding inventory in accordance with Article 18.18(a) of the Texas Code of Criminal Procedure. The State provides the Court with the attached affidavit to support the State's motion for destruction pursuant to Article 18.18(a) of the Texas Code of Criminal Procedure.

Pursuant to Article 38.43, Texas Code of Criminal Procedure, if a defendant is convicted, evidence known to contain biological material must be preserved until the defendant is executed, dies, completes his sentence, is released on parole or mandatory supervision, or has received notice of intent to destroy the evidence and no objections were made within 90 days. The defendant in this case has (select one):

\_\_\_\_\_ Been executed;

\_\_\_\_\_ Died;

\_\_\_\_\_ Completed his/her sentence;

\_\_\_\_\_ Been released on parole or mandatory supervision;

\_\_\_\_\_ Executed a written waiver of his/her rights to have said evidence preserved; or

\_\_\_\_\_ The defendant, the defendant's last attorney of record and the convicting court were duly noticed of the planned destruction of all evidence, whether it is known to contain biological material or not, that was collected and/or seized during the investigation of the above referenced offense. Said notice was sent by: (A) \_\_\_\_\_ certified mail on \_\_\_\_\_ (date) and received by the defendant on \_\_\_\_\_ (date), and proof of defendant's receipt of the notice was received by the prosecutor on \_\_\_\_\_ (date) and no written objections were made by either defendant, last attorney of record, or the convicting court within 90 days from the later of the following dates; (1) the date the notice was mailed to the defendant's last attorney of record; or (2) the date the prosecutor received proof that notice was received by the defendant; or

(B) \_\_\_\_\_ said notice was hand delivered to the defendant and to his attorney on \_\_\_\_\_ (date), and no written objections were made by either defendant, last attorney of record, or the convicting court within 90 days from the date the notice was served on the defendant and his attorney.

The State moves for the destruction of the weapons described in the attached affidavit pursuant to Article 18.18(a) because the above referenced defendant, the person from whom the weapon was seized, has been finally convicted for an offense involving the listed prohibited weapons.

Respectfully Submitted,

\_\_\_\_\_

(Type or Print Name)  
Assistant District Attorney  
Harris County, Texas

Cause No.

THE STATE OF TEXAS

§

DISTRICT/COUNTY

§

COURT NO.

§

VS.

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HARRIS COUNTY, TEXASDESTRUCTION ORDER

\_\_\_\_\_ HAVING FOUND that all notice requirements of Article 38.43 of the Texas Code of Criminal Procedure have been complied with, and that no written objection to the planned destruction of evidence has been received by this Court; or

\_\_\_\_\_ HAVING FOUND that the defendant has:

- \_\_\_\_\_ Been executed;  
 \_\_\_\_\_ Died;  
 \_\_\_\_\_ Completed his/her sentence;  
 \_\_\_\_\_ Been released on parole or mandatory supervision; or  
 \_\_\_\_\_ Executed a written waiver of his/her rights to have said evidence preserved;

And that all requirements of Article 38.43 of the Texas Code of Criminal Procedure have been complied with;

IT IS ORDERED that the above-described weapons be destroyed by the requesting law enforcement agency and that notice of the destruction is to be provided to this Court.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 Presiding Judge  
 County Court at Law No. \_\_\_\_\_  
 \_\_\_\_\_ District Court

RETURN

**I HEREBY CERTIFY, under oath, that upon the above authority, the \_\_\_\_\_ has destroyed the weapons described above by \_\_\_\_\_ (state method). Documentation of the ultimate disposition of said property will be retained by said agency.**

SIGNED: \_\_\_\_\_

\_\_\_\_\_  
 (Type or Print Name)

Date & Time: \_\_\_\_\_ Witness: \_\_\_\_\_

Sworn and subscribed before me the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_.

SIGNED: \_\_\_\_\_  
 Notary Public for the State of Texas



**APPENDIX C**

Cause No. \_\_\_\_\_

THE STATE OF TEXASVS.

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DISTRICT/COUNTYCOURT NO.HARRIS COUNTY, TEXASAFFIDAVIT FOR THE DESTRUCTION OF WEAPONS**PURSUANT TO ARTICLE 18.19(d)**

Affiant, \_\_\_\_\_, states that the weapons listed below are in possession of the \_\_\_\_\_. The affiant states that the weapons were seized in connection with an offense involving the use of the weapons or an offense under Penal Code Chapter 46.

**INSTRUCTION TO AFFIANT:** Please check any of the following categories that apply. The defendant has:

(1) \_\_\_\_\_ been executed; (2) \_\_\_\_\_ died; (3) \_\_\_\_\_ completed his/her sentence; (4) \_\_\_\_\_ been released on parole or mandatory supervision; (5) \_\_\_\_\_ signed a written waiver of his/her rights to have evidence preserved;

(6) \_\_\_\_\_ received notice of the intent to destroy evidence as described in the State's motion to destroy; or

(7) \_\_\_\_\_ the defendant's criminal charge resulted in a dismissal. **Note to Affiant: If any of the above categories apply to the defendant you may strike out the paragraph immediately below that discusses the presence of biological material.**

**PRESENCE OF BIOLOGICAL MATERIAL:** Affiant further states that the listed property (\_\_\_\_ is)

(\_\_\_\_ is not) known to contain biological material that if subjected to scientific testing would more likely than not: (A) establish the identity of the person committing the offense; or (B) exclude a person from the group of persons who could have committed the offense.

**Inventory of Weapons:**Weapon No. 1: Serial No.: Weapon No. 2: Serial No.: 

Affiant requests that the listed weapons be destroyed or forfeited to the requesting law enforcement agency pursuant to Article 18.19(d) of the Texas Code of Criminal Procedure because the person from whom the weapon was seized, the above referenced defendant, was convicted or received deferred adjudication for an offense under Chapter 46, Penal Code, and:

- \_\_\_\_\_ (1) the defendant did not request the return of 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 defendant has been previously convicted under Chapter 46 of the Texas Penal Code;
- \_\_\_\_\_ (3) the weapon is one defined as a prohibited weapon under the Chapter 46 of the Texas Penal Code;
- \_\_\_\_\_ (4) the offense for which the defendant was convicted or received deferred adjudication was committed in or on the premises of a playground, school, video arcade facility, or youth center, as defined by Section 481.134, Health and Safety Code; or
- \_\_\_\_\_ (5) Pursuant to Article 18.19(e) of the Texas Code of Criminal Procedure, the person found in possession of the weapon, the above referenced defendant, was convicted of an offense involving **the use** of the weapon.

DATED: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
 Affiant (Type or Print Name)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D.  
 20\_\_\_\_\_.

SIGNED: \_\_\_\_\_  
 Notary Public for the State of Texas

Cause No.

THE STATE OF TEXAS

§

DISTRICT/COUNTY

§

COURT NO.VS.

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HARRIS COUNTY, TEXASMOTION TO DESTROY WEAPON PURSUANT TO ARTICLE 18.19(d)

COMES NOW the State of Texas, by and through the undersigned assistant district attorney, and pursuant to Article 18.19(d) of the Texas Code of Criminal Procedure, petitions this Court to ORDER DESTRUCTION of the weapon described in the attached affidavit or FORFEITURE of the weapon to the requesting law enforcement agency.

Pursuant to Article 38.43, Texas Code of Criminal Procedure, if a defendant is convicted, evidence known to contain biological material must be preserved until the defendant is executed, dies, completes his sentence, is released on parole or mandatory supervision, or has received notice of intent to destroy the evidence and no objections were made within 90 days. The defendant in this case has (select one):

\_\_\_\_\_ Been executed;

\_\_\_\_\_ Died;

\_\_\_\_\_ Completed his/her sentence;

\_\_\_\_\_ Been released on parole or mandatory supervision;

\_\_\_\_\_ Executed a written waiver of his/her rights to have said evidence preserved; or

\_\_\_\_\_ The defendant, the defendant's last attorney of record and the convicting court were duly noticed of the planned destruction of all evidence, whether it is known to contain biological material or not, that was collected and/or seized during the investigation of the above referenced offense. Said notice was sent by:

(A) \_\_\_\_\_ certified mail on \_\_\_\_\_ (date) and received by the defendant on \_\_\_\_\_ (date), and proof of defendant's receipt of the notice was received by the prosecutor on \_\_\_\_\_ (date) and no written objections were made by either defendant, last attorney of record, or the convicting court within 90 days from the later of the following dates; (1) the date the notice was mailed to the defendant's last attorney of record; or (2) the date the prosecutor received proof that notice was received by the defendant; or

(B) \_\_\_\_\_ said notice was hand delivered to the defendant and to his attorney on \_\_\_\_\_ (date), and no written objections were made by either defendant, last attorney of record, or the convicting court within 90 days from the date the notice was served on the defendant and his attorney.

The State moves for destruction or forfeiture to the law enforcement agency because the person from whom the weapon was seized, the above referenced defendant, was convicted or received deferred adjudication for an offense under Chapter 46, Penal Code, and:

\_\_\_\_\_ (1) the defendant did not request the return of 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 defendant has been previously convicted under Chapter 46 of the Texas Penal Code;

\_\_\_\_\_ (3) the weapon is one defined as a prohibited weapon under the Chapter 46 of the Texas Penal Code;

- \_\_\_\_\_ (4) the offense for which the defendant was convicted or received deferred adjudication was committed in or on the premises of a playground, school, video arcade facility, or youth center, as defined by Section 481.134, Health and Safety Code; or
- \_\_\_\_\_ (5) Pursuant to Article 18.19(e) of the Texas Code of Criminal Procedure, the person found in possession of the weapon, the above referenced defendant, was convicted of an offense involving **the use** of the weapon.

Respectfully Submitted,

\_\_\_\_\_

\_\_\_\_\_  
(Type or Print Name)  
Assistant District Attorney  
Harris County, Texas

Cause No.

THE STATE OF TEXAS

§

DISTRICT/COUNTY

§

COURT NO.VS.

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HARRIS COUNTY, TEXASDESTRUCTION ORDER

\_\_\_\_\_ HAVING FOUND that all notice requirements of Article 38.43 of the Texas Code of Criminal Procedure have been complied with, and that no written objection to the planned destruction of evidence has been received by this Court;  
or

HAVING FOUND that the defendant has:

\_\_\_\_\_ Been executed;

\_\_\_\_\_ Died;

\_\_\_\_\_ Completed his/her sentence;

\_\_\_\_\_ Been released on parole or mandatory supervision; or

\_\_\_\_\_ Executed a written waiver of his/her rights to have said evidence preserved;

And that all requirements of Article 38.43 of the Texas Code of Criminal Procedure have been complied with;

IT IS ORDERED that the above-described weapons be destroyed by the requesting law enforcement agency and that notice of the destruction is to be provided to this Court.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 20 .

\_\_\_\_\_  
Presiding Judge  
County Court at Law No. \_\_\_\_\_  
\_\_\_\_\_ District Court

RETURN

**I HEREBY CERTIFY, under oath, that upon the above authority, the \_\_\_\_\_ has destroyed the weapons described above by \_\_\_\_\_ (state method). Documentation of the ultimate disposition of said property will be retained by said agency.**

SIGNED: \_\_\_\_\_

\_\_\_\_\_  
(Type or Print Name)

Date & Time: \_\_\_\_\_ Witness: \_\_\_\_\_

Sworn and subscribed before me the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20 .

SIGNED: \_\_\_\_\_  
Notary Public for the State of Texas

**APPENDIX D**

Cause No. \_\_\_\_\_

THE STATE OF TEXAS

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DISTRICT/COUNTYVS.

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COURT NO.

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HARRIS COUNTY, TEXAS**INVENTORY OF SEIZED CONTROLLED SUBSTANCES AND REQUEST FOR DESTRUCTION ORDER UNDER CHAPTER 481 OF THE TEXAS CONTROLLED SUBSTANCES ACT**

Affiant, \_\_\_\_\_, states that the \_\_\_\_\_ possesses the controlled substances listed below. Further, the controlled substances \_\_\_\_\_ were seized in connection with an offense under Chapter 481 of the Texas Controlled Substances Act and the seizure is described in offense report number \_\_\_\_\_. The criminal case involving the listed controlled substances was assigned to the above referenced Court, where the defendant received \_\_\_\_\_ (assert either defendant's sentence or dismissal).

**INSTRUCTION TO AFFIANT:** Please check any of the following categories that apply. The defendant has:

- (1) \_\_\_\_\_ been executed; (2) \_\_\_\_\_ died; (3) \_\_\_\_\_ completed his/her sentence; (4) \_\_\_\_\_ been released on parole or mandatory supervision; (5) \_\_\_\_\_ signed a written waiver of his/her rights to have evidence preserved; (6) \_\_\_\_\_ received notice of the intent to destroy evidence as described in the State's motion to destroy; or (7) \_\_\_\_\_ the defendant's criminal charge resulted in a dismissal. **Note to Affiant: If any of the above categories apply to the defendant you may strike out the paragraph immediately below that discusses the presence of biological material.**

**PRESENCE OF BIOLOGICAL MATERIAL:** Affiant further states that the listed property ( \_\_\_\_\_ is) ( \_\_\_\_\_ is not) known to contain biological material that if subjected to scientific testing would more likely than not: (A) establish the identity of the person committing the offense; or (B) exclude a person from the group of persons who could have committed the offense.

**Inventory of Controlled Substances seized in connection with above referenced case:**Item 1: Item 2: Item 3: Item 4: 

Pursuant to Subchapter E of Chapter 481, Texas Controlled Substances Act, affiant requests that the State of Texas, by and through her assistant district attorney, move for a destruction order authorizing destruction of the above listed controlled substances by the above referenced law enforcement agency. Sufficient documentation as to the ultimate disposition of the controlled substances will be retained by the agency.

DATED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

Affiant

(Type or Print Name)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_.

SIGNED: \_\_\_\_\_

Notary Public for the State of Texas

Cause No.

THE STATE OF TEXAS

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DISTRICT/COUNTYCOURT NO.VS.

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HARRIS COUNTY, TEXASMOTION TO DESTROY CONTROLLED SUBSTANCES

COMES NOW, the State of Texas, by and through the undersigned assistant district attorney, and requests an order authorizing destruction of the controlled substances listed in the preceding inventory, pursuant to Subchapter E of Chapter 481 of the Texas Controlled Substances Act. The State, based upon the attached affidavit, states to the Court that the items listed in the affiant's attached inventory were seized in connection with an offense under Chapter 481, Texas Controlled Substances Act and:

\_\_\_\_\_ the defendant was convicted or placed on deferred adjudication; or

\_\_\_\_\_ the criminal charge against the defendant was dismissed.

**INSTRUCTION TO ASSISTANT DISTRICT ATTORNEY: STRIKE OUT THE ENTIRE SHADED SECTION IF THE DEFENDANT'S CASE WAS DISMISSED.**

Pursuant to Article 38.43, Texas Code of Criminal Procedure, if a defendant is convicted, evidence known to contain biological material must be preserved until the defendant is executed, dies, completes his sentence, is released on parole or mandatory supervision, or has received notice of intent to destroy the evidence and no objections were made within 90 days. The defendant in this case has (select one):

\_\_\_\_\_ **Been executed;**

\_\_\_\_\_ **Died;**

\_\_\_\_\_ **Completed his/her sentence;**

\_\_\_\_\_ **Been released on parole or mandatory supervision;**

\_\_\_\_\_ **Executed a written waiver of his/her rights to have said evidence preserved; or**

\_\_\_\_\_ **The defendant, the defendant's last attorney of record and the convicting court were duly noticed of the planned destruction of all evidence, whether it is known to contain biological material or not, that was collected and/or seized during the investigation of the above referenced offense. Said notice was sent by: (A) \_\_\_\_\_ certified mail on \_\_\_\_\_ (date) and received by the defendant on \_\_\_\_\_ (date), and proof of defendant's receipt of the notice was received by the prosecutor on \_\_\_\_\_ (date) and no written objections were made by either defendant, last attorney of record, or the convicting court within 90 days from the later of the following dates; (1) the date the notice was mailed to the defendant's last attorney of record; or (2) the date the prosecutor received proof that notice was received by the defendant; or**

**(B) \_\_\_\_\_ said notice was hand delivered to the defendant and to his attorney on \_\_\_\_\_ (date), and no written objections were made by either defendant, last attorney of record, or the convicting court within 90 days from the date the notice was served on the defendant and his attorney.**

Pursuant to Subchapter E of Chapter 481 of the Texas Controlled Substances Act, the State requests that the listed agency be ordered to destroy the controlled substances listed in the attached Inventory of Controlled Substances. Sufficient documentation as to the ultimate disposition of said controlled substances will be retained by said agency.

Respectfully Submitted,

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(Type or Print Name)

Assistant District Attorney

Harris County, Texas



Cause No.

THE STATE OF TEXAS

§

DISTRICT/COUNTY

§

COURT NO.

§

VS.

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HARRIS COUNTY, TEXAS

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**DESTRUCTION ORDER**

\_\_\_\_\_ HAVING FOUND that the defendants case was dismissed; or

\_\_\_\_\_ HAVING FOUND that all notice requirements of Article 38.43 of the Texas Code of Criminal Procedure have been complied with, and that no written objection to the planned destruction of evidence has been received by this Court; or

\_\_\_\_\_ HAVING FOUND that the defendant has:

\_\_\_\_\_ Been executed;

\_\_\_\_\_ Died;

\_\_\_\_\_ Completed his/her sentence;

\_\_\_\_\_ Been released on parole or mandatory supervision; or

\_\_\_\_\_ Executed a written waiver of his/her rights to have said evidence preserved;

And that all requirements of Article 38.43 of the Texas Code of Criminal Procedure have been complied with;

IT IS HEREBY ORDERED that pursuant to Subchapter E of Chapter 481 of the Texas Controlled Substances Act, the controlled substances described in the Inventory of Controlled Substances shall be destroyed by the requesting agency. Sufficient documentation as to the ultimate disposition of the controlled substances shall be retained by said agency.

\_\_\_\_\_  
Presiding Judge

County Court at Law No. \_\_\_\_\_

\_\_\_\_\_ District Court

**RETURN**

I HEREBY CERTIFY, under oath, that upon the above authority, the \_\_\_\_\_ (name of law enforcement agency) has destroyed the controlled substances described in the above motion and order by \_\_\_\_\_ (state method of destruction). Documentation of the ultimate disposition of said controlled substance(s) will be retained by said agency.

SIGNED: \_\_\_\_\_

\_\_\_\_\_  
(Type or Print Name)

Date & Time: \_\_\_\_\_

Witness: \_\_\_\_\_

Sworn and subscribed before me the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20 .

SIGNED: \_\_\_\_\_

Notary Public for the State of Texas

## Appendix E

Case # 96-3420  
Officer W. Wright  
Date: 07/22/2009

On this date, I reviewed this case and found that the suspect has completed their sentence. The property is illegal contraband and should be disposed of. Attached is the paperwork to the Hedwig Village Municipal Court for disposal of this property.

Property: A) 24 - FIRECRACKERS (BIG BOMB BRAND)