

OFFICE OF CHIEF OF POLICE  
OAKLAND POLICE DEPARTMENT

MEMORANDUM

TO: All Personnel

DATE: 12 Dec 11

SUBJECT: Revision of Departmental General Order H-10,  
PROPERTY CLEARANCE AND DISPOSAL (Rev. 19 Aug 96)

The subject order has been revised to update Departmental policy and procedures for the release and disposal of physical evidence, currency, and other property that comes into the custody of the Department during an investigation or at the request of a private person.

Special Order 8145 is hereby canceled.

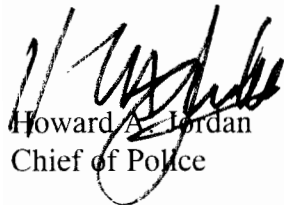
The Evaluation Coordinator for this order shall be the Bureau of Field Operations 1 Deputy Chief, who, without further notice, shall forward the required report to the Chief of Police on or by 12 Jun 12.

The Evaluation Coordinator shall receive, review and document the acceptance or rejection of all comments and/or recommendations received prior to submitting his/her six-month evaluation report.

The Evaluation Coordinator shall forward a copy of the six-month evaluation report, along with the comments/recommendations received, to the Research and Planning Division, Policy and Publication Development Unit to be maintained in the appropriate Departmental General Order archive folder.

Personnel shall acknowledge receipt, review, and understanding of this directive in accordance with the provisions of DGO A-1, DEPARTMENTAL PUBLICATIONS.

By order of

  
Howard A. Jordan  
Chief of Police

Date Signed: 12/12/11



DEPARTMENTAL  
GENERAL  
ORDER

H-10

Index as:

Property Clearance and Disposal

Effective Date:  
12 Dec 11

Evaluation Coordinator:  
Police Property Supervisor

Evaluation Date:  
12 Jun 11

Automatic Revision Cycle:  
3 Years

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## PROPERTY CLEARANCE AND DISPOSAL

The purpose of this order is to set forth Departmental policy and procedures for the release and disposal of physical evidence, currency, and other property that comes into the custody of the Department during an investigation or at the request of a private person.

### I. PROPERTY INCLUDED IN THIS ORDER

The Property and Evidence Unit shall retain custody of evidence or property until one of the following dispositions occurs:

A. Evidence

1. Adjudicated;
2. Presented to the DA and not charged;
3. Statute of limitations has been reached;
4. It is determined that no crime has been committed; or
5. Cases not presented to the DA and filed.

Evidence may be disposed of sooner than the statute of limitations in accordance with the provisions of "Administrative Kill" protocols in Part IV, I of this order.

- B. Found/Lost/Abandoned Property - Items classified on the Property Record as found property (e.g., items which have been lost or abandoned and are not connected with any known or suspected offense).

- C. Safekeeping - Items identified on the Property Record as having been taken into custody for safekeeping (e.g., property that is connected with a known or suspected offense but will not be used as evidence).
- D. Items submitted for destruction at the request of a private person.

## **II. PROPERTY EXCLUDED FROM THIS ORDER**

- A. The disposition of evidence and/or property for the following items shall be excluded from the provisions of this order:
  - 1. All evidence and/or property related to a homicide shall be retained until released by court order, District Attorney or Major Crimes Unit investigator.
  - 2. Firearms and other weapons (See DGO H-4 and H-9); and
  - 3. Any evidence or property not in the custody of the PEU (e.g., narcotics and drugs, worthless documents and latent print lift cards, vehicles, and bicycles).
  - 4. Evidence subject to court jurisdiction shall only be released or disposed of pursuant to a Court Order to include the following:
    - a. Property obtained by search warrant (Part III, B);
    - b. Property allegedly stolen or embezzled and the defendant claims to own it (Penal Code Section 1413); or
    - c. Property brought for presentation in court and subsequently released to the custody of the court.

## **III. INVESTIGATOR'S RESPONSIBILITIES**

- A. When property is obtained pursuant to a search warrant, the assigned investigator shall prepare and submit a Request and Order for Release of Property to the court to release the evidence back to the Department.

- B. The investigator shall prepare and forward a Property Release (TF-1008) AND a Property Release Notice postcard (TF-787) to the PEU with instructions regarding when the property may be released or disposed.

Form Instructions	When to forward forms to PEU
<ul style="list-style-type: none"> <li>• Check Release upon adjudication</li> <li>• Check Destroy upon adjudication</li> </ul>	After the case is presented to the DA and charged
For future disposition <ul style="list-style-type: none"> <li>• Enter Future Process Date</li> </ul>	<ul style="list-style-type: none"> <li>• Upon determining not to present to the DA for charging; or</li> <li>• After the case is presented to the DA and charged; or</li> <li>• When the statute of limitations has been reached; or</li> <li>• Future date when statute of limitations expires.</li> </ul>
For immediate disposition <ul style="list-style-type: none"> <li>• Check Auction</li> <li>• Check Destroy</li> </ul>	<ul style="list-style-type: none"> <li>• No evidentiary value</li> <li>• Contraband</li> <li>• No known owner or finder</li> <li>• Abandoned</li> </ul>
<ul style="list-style-type: none"> <li>• Check Release to owner or other</li> <li>• Check Forward to City Treasurer</li> </ul>	<ul style="list-style-type: none"> <li>• Known owner or finder</li> <li>• Currency with no known owner or finder</li> <li>• Abandoned</li> <li>• Negotiable instruments</li> </ul>

- C. The investigator shall be responsible for notifying the PEU of any change of instructions regarding the disposition of the property.
- D. The investigator shall retain a copy of the Property Release form, and the Request and Order for Release of Property (if applicable) in the case file.
- E. Investigators shall ensure that evidence and/or property is photographed, as necessary, before being released.

**IV. PROPERTY & EVIDENCE UNIT RESPONSIBILITIES**

- A. Evidence
1. Items described on the Property Record as prospective evidence shall be released to the rightful owner if:
    - a. The person presents a Property Release form endorsed by the investigator or the PEU has the Property Release on file, and the person presents valid personal identification.

- b. In the case of stolen or embezzled property, the owner must also present the investigator with satisfactory proof of ownership.
2. PEU personnel shall contact the authorizing investigator to verify the release of property when the Property Release is not brought to the PEU by OPD personnel, or in the event the release instructions are inconsistent, illegible, or otherwise confusing.
3. PEU personnel shall ensure the investigator obtains a Request and Order for Release of Property from the court to release the evidence back to the Department for property obtained pursuant to a search warrant.

**B. Property Held for Safekeeping**

Items described on the Property Record deposited for safekeeping shall be released to the rightful owner if the investigator has authorized such release on a Property Release and the person presents valid personal identification.

**NOTE:** Firearms Held for Safekeeping (See Property Record, Property Receipt and Release form – TF-1084 for instructions)

**C. Found Property**

Items described on the Property Record as found property include both abandoned and lost articles. If the owners of found property can be identified, the PEU personnel shall mail the owner a Property Release Notice to inform them how to claim their property. Property shall be released to owner with reasonable proof of ownership.

Notices shall be mailed to the finder<sup>1</sup> in cases where the owner is not identified and the property found is eligible for release.

The dollar value of the found property increased to over \$100 before there is any obligation of the finder to report the found property to law enforcement pursuant to Civil Code Section 2080.1.

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<sup>1</sup> Pursuant to Civil Code Section 2080.3, property not claimed by the owner may not be claimed by the finder if the property was found in the course of public agency employment.

D.      Contraband

Property that is illegal to possess shall be released only for use in court. Upon adjudication, contraband that remains in Departmental custody may be released for law enforcement purposes to the Training Section, or other unit or outside agency with the approval of the Chief of Police. Otherwise, contraband shall be destroyed.

E.      Money/Currency and Negotiable Instruments

Money/currency and other negotiable instruments described on the Property Record as evidence, in safekeeping, or found, shall be returned to the rightful owner (or finder) in accordance with procedures set forth in Part IV, (A, 1), B-C above, as appropriate.

F.      Biological Evidence

1.      In unsolved/unadjudicated homicide cases, designated sexual assault cases, and cases involving the death penalty, biological evidence shall be stored in a frozen state for as long as practical.
2.      Evidence shall remain stored in a frozen state (for as long as practical) upon request by the assigned OPD investigator, DAI, DDA, or Criminalist:
  - a.      For unsolved/unadjudicated cases beyond the statute of limitations; or
  - b.      For solved/adjudicated cases.

G.      Property Not Claimed by the Owner or Finder

1.      Property (except for money and negotiable instruments) that is not claimed by the owner or finder shall be released from Departmental custody for sale by the appropriate agency if it has market value, or destroyed if it does not.
  - a.      Unclaimed cash and negotiable instruments shall be deposited in the City Treasury.
  - b.      Unclaimed foreign cash shall be exchanged for United States currency and deposited in the City Treasury.

2. It shall be the responsibility of the PEU to release unclaimed property in accordance with current state statutes, municipal ordinances, and Department policy.

H. Timeliness

In all cases, final disposition of found, recovered, and evidentiary property shall be accomplished within six (6) months after all legal requirements have been satisfied.

I. "Administrative Kill" Criteria

The Police Property Supervisor shall ensure that all items to be disposed meet the criteria prior to disposal. The Police Property Supervisor shall not interpret this order to mean that all items that fit these criteria must be destroyed and shall use his/her discretion when determining what items may be destroyed.

Evidence and property may be disposed of when associated with a case that fits one (1) of the two (2) following criteria:

1. Any case that is not charged or being actively investigated and meets one (1) of the following criteria:
  - a. Misdemeanor/infraction case one (1) year old or older whose statute of limitations is one (1) year as defined by California Penal Code section 802, except for firearm related cases;
  - b. Felony property crime two (2) years or older whose statute of limitations is three (3) years as defined by California Penal Code Section 801;
  - c. Felony property crime two (2) years or older whose statute of limitations is four (4) years as defined by California Penal Code Section 801;
  - d. Health and Safety Code case two (2) years or older whose statute of limitation is three (3) years as defined by California Penal Code Section 800;



- e. Health and Safety Code case two (2) years or older whose statute of limitation is six (6) years as defined by California Penal Code Section 800.

**OR**

- 2. Any case that has been adjudicated that is **not** a sex crime, firearm related case, kidnapping (207-209 PC), first degree burglary (459 PC), robbery (211 PC), assault with a deadly weapon (245 PC), shooting at a dwelling or vehicle (246 PC), or attempted murder or murder (664/187 PC or 187 PC) **and** meets one (1) of the following criteria:
  - a. Misdemeanor/infracton case whose statue of limitation is one (1) year as defined by California Penal Code section 802.
  - b. Felony case whose statue of limitations is three (3) years as defined by California Penal Code Section 801.
  - c. Felony case whose statute of limitations is four (4) years as defined by California Penal Code Section 801.
  - d. Health and Safety Code whose statute of limitation is six (6) years as defined by California Penal Code Section 800.

**V. DIVERSION OF UNCLAIMED PROPERTY**

- A. Unclaimed property designated for auction/sale or destruction shall not be diverted for use by Departmental personnel, an outside agency, or a private person without the written approval of the Chief of Police.
- B. When a case disposition is determined to be one of the classifications enumerated in Part I, A-D, the following types of property, when there is no owner or finder, may be released or diverted to the Training Section, other unit or outside agency at the discretion of the PEU Supervisor without the written approval of the Chief of Police:
  - 1. **Ammunition** – (e.g., Rangemaster, Criminalistics Division, Alameda County Bomb Disposal Unit);

2.      **Sports equipment** – (e.g., POA, Police Athletics League);
  3.      **Hand tools and tool boxes** – (e.g., Personnel requiring such items in the performance of their duties);
  4.      **Clothing, luggage/backpacks, walking aids** – (e.g., Donate to charitable organizations authorized by the Chief of Police. When counterfeit apparel is donated, the items shall only be distributed to charitable organizations not reselling donated items); and
  5.      **Prohibited weapons (12020 PC)** – (e.g., Training Section or other unit authorized by the Chief of Police).
- C.      Unit Commanders/managers may forward descriptions of items suitable for Departmental use to the PEU where they shall be filed until unclaimed property that fits the description becomes available for sale or destruction.
- D.      The PEU Supervisor shall notify the Unit Commander/manager when such unclaimed property becomes available.
- E.      If the item is suitable for Departmental use, the Unit Commander/manager shall contact the Criminal Investigation Division (CID) to determine whether a CLETS and LRMS inquiry was performed to ensure the property to be diverted is not stolen.
- F.      If the item is clear for release, the Unit Commander/manager shall forward a memorandum through the chain-of-command to the Chief of Police requesting that the article be diverted from sale or destruction and assigned to his/her organizational unit.
- G.      Upon COP approval, the original memorandum shall be forwarded to the PEU.
- H.      PEU Supervisor shall verify the property information, release only the property on the request memorandum, and document the release on the Property Record.

Verify:

1.      The correct RD number;

2. The description and serial number of the item(s) being released;
  3. The name and serial number of the member/employee to whom the property is released; and
  4. The date, time, and serial number of the Police Property Specialist releasing the item(s).
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- I. The person receiving the property shall sign the Property Record and memorandum;
  - J. The PEU Supervisor shall attach a copy of the memorandum to the Property Record and file the original memorandum.
  - K. The receiving person shall deliver the property and copy of the memorandum to the requesting Unit Commander/manager.

By order of

  
Howard A. Jordan  
Chief of Police

Date Signed: 12/12/11