



GENERAL ORDERS: Chapter 22.2

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APPROVED BY: Chief Dana Wingert

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Disposition of Property

I. Policy

The procedures for the disposition of found, confiscated, and seized property will be in accordance with Chapters 80.39 and 809 of the State Code of Iowa. The department will attempt to return property to owners where possible and practical, and otherwise dispose of property in a timely manner as allowed under the State Code of Iowa.

II. Procedures

A. General

1. Only authorized employees can release property, to a designee, from the custody of the Property and Evidence Section. An authorized employee shall be the person:
 - a. Assigned to investigate the case, or
 - b. Initiating the case, if no investigator is assigned, or
 - c. With supervisory oversight on the case or as designated by such supervisor
2. In general, the release of property may only be authorized for the following reasons and requirements:
 - a. Documented inter-agency reasons (i.e. court, lab exams/analysis, transfer to another police department, etc.)
 - b. Return to the lawful owner or designee
 - c. Lawful auction or conversion to City use
 - d. Lawful destruction
3. Property held as evidence cannot be released to the owner without approval of the case assigned investigator.
4. Property held as evidence shall be evaluated for disposal at regular intervals or when officers are notified by the property management system.
 - a. Evaluation should include the court case status, along with any appeal process considerations, including post-conviction relief.
 - b. The property should be returned to the rightful owner after evaluation, when appropriate.
 - c. If the rightful owner is unknown or fails to recover the property within 90 days after being given notice, an authorized employee shall direct the Property and Evidence Section to dispose of the property consistent with the following guidelines.

III. Personal Property

A. General

1. Defined as property that is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department and which the department does not own. This does not include abandoned motor vehicles or seizable property described in Section IV – Seized Property.

2. The department shall maintain receipt and disposition records for all property processed under this section.
- B. Owner known
1. If the owner or lawful custodian of the property is known or can be readily identified, the department shall notify them by certified mail to their last known address, as to the location of the property.
 2. The property may be released to a person if they do all of the following:
 - a. Appear at the location where the property is located
 - b. Provide proper identification
 - c. Demonstrate ownership or lawful possession of the property to the satisfaction of the department
- C. Owner unknown
1. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. A published notice may contain multiple items.
 2. After 90 days following the mailing or publication of the notice, or if the owner or lawful custodian of the property is unknown or cannot be readily determined, or the department has not turned the property over to the owner, the department may dispose of the property in any lawful way, such as:
 - a. Selling the property at public auction with proceeds going to the general fund of the city
 - b. Retaining the property for department use
 - c. Giving the property to another agency of government
 - d. Giving the property to an appropriate charitable organization
 - (1) Shall be approved by the Chief of Police or designee
 - e. Destroying the property

IV. Seized property

- A. General
1. Defined as property taken or held by the department without the consent of the person, if any, who had possession or a right to possession of the property at the time it was taken into custody.
 - a. Seizable property includes that which is relevant in a criminal prosecution or investigation, possession is prohibited by law or defined by law to be forfeitable property or property which if not seized poses an imminent danger to the person's health, safety or welfare.
 2. Seized property does not include property taken into custody solely for safekeeping purposes or property taken into custody with the consent of the owner or person who had possession at the time of the taking.
 - a. If consent to the taking of the property was given by the person in possession of the property and later withdrawn or found to be insufficient, the property shall then be returned or the property shall be deemed seized as of the time of demand and refusal.
- B. Owner known
1. Seized property shall be returned to the owner if:
 - a. The property is no longer required as evidence or for use in an investigation
 - b. The owner's possession is not prohibited by law
 - c. A forfeiture claim has not been filed on behalf of the department or any other government agency
 2. If the property is over \$500 in value, the owner shall be notified by personal service or by restricted certified mail, return receipt requested.
 - a. Refusal of restricted certified mail shall be construed as receipt of notice.

3. If the property is \$500 or under, the owner shall be notified by personal service or by regular mail.
 4. Any person having an ownership right must file a written claim within 30 days from the date of receipt of the notice and must take possession of the property within 30 days of the expiration of the period of time for filing a written claim.
 5. If no written claim is filed within 30 days, or if the claimant does not take possession of the property within 30 days of expiration of the period of time for filing written claims, the property shall be deemed abandoned and disposed of accordingly.
 6. The department shall not release the property to any party until the expiration of the date for filing claims.
 7. In the event of more than one claim, all claims shall be filed with the Clerk of Court for a judicial determination and review.
 - a. Upon filing of a claim and following a hearing by the court, property which has been seized shall be returned to the person who has demonstrated a right to possession unless one of the following is true:
 - (1) The possession of the property by the claimant is prohibited by law
 - (2) There is a forfeiture notice on file which has not been resolved in favor of the claimant
 - (3) The state has demonstrated that the property is needed as evidence in a criminal investigation or prosecution
- C. Owner unknown or property deemed abandoned
1. If the property is over \$500 value, forfeiture proceedings shall be initiated pursuant to Iowa Code Chapter 809A and paperwork sent to the Vice and Narcotics Control Section Forfeiture Coordinator. If the court does not order forfeiture to the State of Iowa, the department shall become the owner of the property and may dispose of it in any reasonable manner.
 2. If the property is \$500 or under in value, the department shall become the owner of the property and may dispose of it in any reasonable manner.
 3. In the event that a citizen who turns over found property to the department expresses an interest in claiming the property and no owner can be found, the request will be noted conspicuously in the report and in the property management system, with the citizen's personal contact information.
 - a. The citizen will be referred to the Polk County Auditor's Office. The citizen will be provided or mailed a copy of the property report. Specific procedures for this type of claim are covered under [Iowa Code Chapter 556F](#).
- D. Firearms and ammunition
1. Firearms or ammunition may be released to the owner, provided they can possess them legally. A criminal history and NCIC check on the firearm and the party claiming it shall be done to ensure they are not prohibited from possessing it. Cases involving domestic abuse and mental health may require the claimant to get a court order before returning the firearm. In all cases, the party claiming the firearm is required to display a current picture ID.
 2. Unclaimed or forfeited firearms or ammunition shall be turned over to the Iowa Department of Public Safety (DPS). The department may then make a request to the DPS to retain the firearm(s) and/or ammunition for approved departmental use.
- E. Property claims by department employees
1. Any employee or the immediate family member of an employee of the police department shall be prohibited from purchasing either directly or indirectly any property that has been forfeited to the department due to a criminal investigation. This shall include any property forfeited to other law enforcement agencies where the department was involved (i.e. joint investigation) or to any investigative task forces in which the department participates.