Proposed City Ordinance Change

Chapter 34, Article VII
“Disposal of Abandoned, Unclaimed, or Other Property”
AGENDA

1. GOAL

2. BACKGROUND
   A. Past
      i. Issues
      ii. Reasons
   B. Present
      i. Issues
      ii. Reasons
   C. Corrective Actions
      i. Accomplished
      ii. Pending
3. PROPOSED ORDINANCE CHANGE
   A. Current Ordinance
   B. Proposed Ordinance
   C. Comparison

4. EFFECTS OF CHANGING THE ORDINANCE?
   A. Benefits
   B. Drawbacks

5. RESTATED GOAL

6. QUESTIONS / DISCUSSION
1. GOAL

The Houston Police Department requests City Council approve the proposed changes to City Ordinance Chapter 34, Article VII, “Disposal of Certain Property”, in order to align the ordinance with State law (Article 18.17 of the Code of Criminal Procedure).
2. BACKGROUND

Old HPD Property Division
A. Past

i. Issues
   a. Evidence Accountability
   b. Overcrowding

ii. Reasons
   a. Poor processes & procedures
   b. Cumbersome & burdensome requirements
“City Municipal Code, Article VII, Chapter 34 is overly demanding...”

“The Department’s ability to dispose of property and evidence is one of the most complex and cumbersome systems that we have ever observed...”
After numerous, well publicized negative incidents associated with the Goliad facility and the Crime Lab, the City commissioned “The Bromwich Report”.

The report was complete in 2007 and spurred construction of a new facility the same year.

On June 19, 2009, the new facility opened among assurances that the mistakes of the past would not be repeated.
2. BACKGROUND (cont.)

New HPD Property Division
B. Present

i. Issues
   a. Evidence Accountability
   b. Overcrowding

ii. Reasons
   a. Poor processes & procedures
   b. Cumbersome & burdensome requirements
General Storage
98 % Full
iii. Corrective Actions

a. Accomplished

✓ Evidence Management System installed at all investigative divisions
✓ Property Disposition Officer at all investigative divisions
✓ Harris County District Attorney monthly report regarding case dispositions
✓ State Law passed regarding Class C Prisoner property

b. Pending

✓ Initiatives with Harris County District Attorney (eliminate misdemeanor overcrowding)
3. PROPOSED ORDINANCE CHANGE

A. Current Ordinance
   i. Chapter 34, Article VII
      “Disposal of Certain Property”

B. Proposed Ordinance
   i. Chapter 34, Article VII
      “Disposal of Abandoned, Unclaimed, or Other Property”
C. Comparison

i. Ordinance is intended to comply with State Law

(see Sec. 34-175(a). “All abandoned property shall be disposed of in a manner consistent with Article 18.17 of the Code of Criminal Procedure”)

ii. Current Ordinance conflicts with State Law, Proposed Ordinance complies with Law.

a. Definitions (“abandoned property”)

b. Time Frames (30 days vs 90 days, etc.)

c. Notification Method

d. Requirements for Property Hearing
C. Comparison (continued)

Examples of Conflicts: Definitions

CITY ORDINANCE: Abandoned property means articles held by police department for a period of not less than **90 days** . . .

STATE LAW: Unclaimed or abandoned property not held as evidence which shall be unclaimed for a period of **30 days** . . .
### C. Comparison (continued)

#### Examples of Conflicts: Time Frames

<table>
<thead>
<tr>
<th>City Ordinance</th>
<th>Owner Known</th>
<th>Owner Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>No Fair Market Value</strong></td>
<td>Any Fair Market Value</td>
<td>Value under $500</td>
</tr>
<tr>
<td><strong>Value over $500</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>90 days</strong></td>
<td>Contact Made: 180 days + Property Hearing</td>
<td>Exhaust all contact efforts</td>
</tr>
<tr>
<td><strong>No Contact Made:</strong></td>
<td>270 days</td>
<td>No Contact Made: 270 days</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>State Law</th>
<th>Owner Known</th>
<th>Owner Unknown</th>
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<tbody>
<tr>
<td><strong>Value under $500</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Value over $500</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>210 days</strong></td>
<td>Contact Made:</td>
<td>30 days</td>
</tr>
<tr>
<td><strong>30 days</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>120 days</strong></td>
<td>No Contact Made: 224 days</td>
<td></td>
</tr>
</tbody>
</table>
C. Comparison (continued)

Examples of Conflicts: Notification Methods

**CITY ORDINANCE:** Notice shall be in writing by the police department as follows:

- By personal delivery
- By United States Mail to best available address
- If notice given by mail, and if property value of $100 or more, it shall be given by certified mail.

**STATE LAW:**

- Owner Known: Mail a notice to the last known address of the owner by certified mail.
- Owner Unknown: Newspaper
CITY ORDINANCE:

i. Property is not considered abandoned until “a court of competent jurisdiction has determined that the identity of the actual owner of the property cannot be determined”

(Property Hearing)

ii. Prior to a Property Hearing, there must be newspaper a postings for property valued over $500

STATE LAW:

Does not require a Property Hearing prior to disposing of Unclaimed or Abandoned Property

HOUSTON MUNICIPAL COURTS:

“This is a win-win for HPD and MCD. We are supportive of the changes…”

Barbara E. Hartle, Director and Presiding Judge
CURRENT CITY ORDINANCE: Abandoned & Found Property

Abandoned and Found Property

Owner Known

Exhaust All Efforts To Locate Owner Or Persons With Property Interests. Via Certified Mail and/or Phone Calls.

Confirmed Contact or Response

Complete the Disposition Form and Submit It To The Property Room. “Release To Owner”

If Not Picked Up Within 90 Days. Dispose Of Property As “By City Ordinance”.

Owner Unknown

Exhaust All Efforts To Determine Ownership

Owner Determined

Fair Market Value Is Under $500

Complete the Disposition Form and Submit It To The Property Room. “By City Ordinance”

If Not Picked Up Within 90 Days. Dispose Of Property As By “By City Ordinance”.

Owner Undetermined

Fair Market Value Is $500 Or More

Complete the Disposition Form and Submit It To The Property Room. “Release To Owner”

If Not Picked Up Within 90 Days. Dispose Of Property As By “By City Ordinance”.

Confirmation of Response

No Confirmed Contact or Response After 90 Days

Any Fair Market Value

Post In Paper

Response In 90 Days

Verify Ownership

Complete the Disposition Form and Submit It To The Property Room. “Release To Owner”

If Not Picked Up Within 90 Days. Dispose Of Property As By “By City Ordinance”.

No Response In 90 Days

Request For Property Hearing

Complete the Disposition Form and Submit It To The Property Room. “As Ordered By Court”
STATE LAW: Abandoned & Found Property

Abandoned Property
State Statute (C.C.P.- 18.17)

Owner Known
- Held for 30 days with no attempt to claim by owner
  - Notices to owner
    - Certified letter, allowing 90 days to claim
    - No valid address found, or letters returned as undeliverable. Post in newspaper of general circulation allowing 90 days to claim
  - Verify Ownership
    - Complete the disposition form, submit to Property Division
    - If no contact with owner after 90 days
      - Complete the disposition form, submit to Property Division, dispose of property.
      - If not picked up within 90 days, dispose of property

Owner Unknown
- Held for 30 days with no attempt to claim by owner
  - Owner determined
    - If value is under $500.00, complete the disposition form, submit to Property Division, dispose of property. Items may be sold and proceeds deposited.
    - If no contact with owner, dispose of property
  - Owner Undetermined
    - If value is over $500.00, post in newspaper of general circulation, allowing 90 days to claim
    - If no contact with owner, dispose of property
iii. Section 34-173 “Disposition of Stolen Property”

Both Current and Proposed Ordinances already comply with State law

(Code of Criminal Procedure, Chapter 47)
Evidence Property: Suspect Not Arrested

No Arrest

Still Within Statute Of Limitation
- HOLD

Beyond Statute Of Limitation
- Contact Concerned Division For Authorization To Dispose Of Evidence Property.
  - Owner Known
    - Exhaust All Efforts To Locate Owner Or Persons With Property Interests. Via Certified Mail and/or Phone Calls.
      - Confirmed Contact or Response
        - Complete the Disposition Form and Submit It To The Property Room. “Release To Owner”
          - If Not Picked Up Within 90 Days, Dispose Of Property. “By City Ordinance”
        - No Confirmed Contact or Response After 90 Days
          - Any Fair Market Value
            - Post In Paper
              - Response In 90 Days
                - Verify Ownership
                  - Complete the Disposition Form and Submit It To The Property Room. “Release To Owner”
                    - If Not Picked Up Within 90 Days, Dispose Of Property. “By City Ordinance”
                - No Response In 90 Days
                  - Request For Property Hearing
                    - Complete the Disposition Form and Submit It To The Property Room. “As Ordered By Court”
          - Fair Market Value Is $500 Or Over
          - Fair Market Value Is Under $500
    - Owner Unknown
      - Determine The Fair Market Value
        - Fair Market Value Is $500 Or Over
          - Complete the Disposition Form and Submit It To The Property Room. “By City Ordinance”
        - Fair Market Value Is Under $500
4. EFFECTS OF CHANGING THE ORDINANCE?

A. BENEFITS
   i. Ordinance will be aligned with State law
      (Dallas, Ft. Worth, Austin, San Antonio)
   ii. HPD’s General Orders can be updated
   iii. Increased effectiveness & efficiency
        (time, manpower, money)
        a) Houston Police Department
        b) Houston Municipal Courts
   iv. HPD’s Property Division – Increased available space
   v. Better Customer Service to our Houston Residents

HOW MUCH? 12,782 items in HPD’s Property Division.

B. DRAWBACKS
   - None! - It doesn’t cost anything. - It saves money.
5. RESTATED GOAL

The Houston Police Department requests City Council approve the proposed changes to City Ordinance Chapter 34, Article VII, “Disposal of Certain Property”, in order to align the ordinance with State law (Article 18.17 of the Code of Criminal Procedure).
6. QUESTIONS / DISCUSSION

Thank You!