



STATE OF KANSAS

## Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

**Curt T. Schneider**  
Attorney General

May 8, 1978

ATTORNEY GENERAL OPINION NO. 78-157

Mr. Gene M. Olander  
District Attorney  
Suite 212, Courthouse  
Topeka, Kansas 66603

Re: Property Seized--Disposition Of--Topeka Police Department

Synopsis: Seized or abandoned property not connected with District Court proceedings which remain in the custody of the Topeka Police Department or other City Department for a period of three (3) months and remains unclaimed may be sold at public auction as provided by Topeka City Ordinance #13781.

Property seized by the Topeka Police Department which is or may be used as evidence in a District Court proceeding comes under the jurisdiction of the District Court and the disposition of such property shall be governed by K.S.A. 22-2512.

\* \* \*

Dear Mr. Olander:

You have inquired as to the impact of K.S.A. 22-2512 and Topeka City Ordinance #13781 upon the disposition of property seized by the Topeka Police Department which may be used as evidence in the District Court.

Topeka City Ordinance #13781, subsection 3, provides in part, "all unclaimed or confiscated property of any nature which shall have been in custody of the Police Department for a period of three (3) months . . . the City is hereby authorized to sell at public auction . . ."

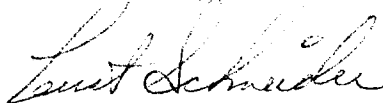
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The ordinance refers to unclaimed, lost, abandoned, or confiscated property which shall have been in the custody of the Topeka Police Department or any Department of the City for three months. This ordinance thus speaks only to those situations in which the property remains in the possession of the Topeka Police Department or a City Department. Your inquiry concerns property which is the subject of a prosecution or which may be used as evidence in a prosecution in District Court. Such property would come under the jurisdiction of the District Court for purposes of disposition under K.S.A. 22-2512.

K.S.A. 22-2512 specifies that, "Property seized under a search warrant or validly seized without a warrant shall be safely kept by the officer seizing the same unless otherwise directed by the magistrate, and shall be so kept as long as necessary for the purposes of being produced as evidence on any trial . . . When property seized is no longer required as evidence, it shall be disposed of as follows . . . (3) Property which is unclaimed or the ownership of which is unknown shall be sold at public auction to be held by the sheriff and the proceeds . . . shall be paid into the county general fund."

Therefore, property seized by the Topeka Police Department and held in their custody for prosecution as evidence in a district court case shall be disposed of according to K.S.A. 22-2512. Seized or abandoned property not connected with District Court proceedings which remains in the custody of the Topeka Police Department or other City Department for a period of three (3) months and remains unclaimed may be sold at public auction as provided by Topeka City Ordinance #13781.

Sincerely,

  
CURT T. SCHNEIDER  
Attorney General

CTS:DLW:AFR:jj