

CHAPTER 10
DISPOSAL OF CONTROLLED SUBSTANCES

REVISED SEPTEMBER 2025

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CHAPTER 10

DISPOSAL OF CONTROLLED SUBSTANCES

1. INTRODUCTION. This chapter is intended to provide information and instruction for the disposal process of controlled substances. All controlled substances in the custody of the Department shall be disposed of in a manner consistent with current applicable statutes and departmental policy.

NOTE: All employees are to ensure the highest level of safety when handling controlled substances throughout this process. Employees shall use appropriate personal protective equipment as necessary. Certain aspects of the disposal process are governed by sections of the Health and Safety Code (HSC), Penal Code (PC), and the California Code of Regulations (CCR). Pertinent sections include, but are not limited to, Sections 11470 to 11495 HSC, Section 1536 PC, and Title 22, Section 66261.4 CCR.

2. DEFINITIONS. A controlled substance, pursuant to Section 11007 HSC, is a drug, substance, or immediate precursor that is listed in any schedule in Sections 11054 to 11058 HSC.

NOTE: Over-the-counter and prescription medications which are not listed in any schedule in Sections 11054 to 11058 HSC, may be safely disposed of by discarding them in the trash. Disposal of these items shall be witnessed, and the witness should be a supervisor. The witness shall sign the chain of possession of the corresponding evidence records management systems (RMS) case file indicating observance of the disposal.

3. PREPARING ITEMS FOR PENDING DESTRUCTION. Controlled substance disposals, also known as drug destructions, are scheduled events that occur a few times per year. Therefore, the organization of items that will be sent for disposal must be efficiently managed on a continuous basis. Controlled substances booked as contraband that have no criminal charges associated with them may immediately be entered into the disposal process. Controlled substances with criminal charges pending must wait until the case has been adjudicated before beginning the disposal process. Once a case containing controlled substances has been identified as being ready for destruction, the evidence officer shall follow the procedures outlined in this chapter.

a. Items Pending Destruction Storage Location. Once an item is ready for destruction, it shall be pulled from its location and placed in a separate location that is exclusively for controlled substances that are pending destruction. **The item shall not be opened or removed from its packaging.** This new storage location may simply be a separate box labeled as such. Additionally, the corresponding

evidence RMS case file shall be updated at this time to indicate its current disposition as pending destruction. The evidence officer should use a CHP 37, Controlled Substances for Destruction, form to make a running list of the items in the pending destruction box(es).

NOTE: The destruction of hazardous materials (e.g., syringes, blood-covered items), vape pens, vape cartridges, and batteries can be included in the destruction if included in the scope of work provided by the waste disposal company. These items must be packaged separately from controlled substances. The Division coordinator will provide packaging requirements to the Areas for specific items.

NOTE: Should an incinerator facility be located for the drug destruction, certain incinerator facilities customarily charge based upon the substance being destroyed. Marijuana is charged at a lower rate than other substances through some incinerator facilities. Confirm with the incinerator facility being used of any direction regarding separating the substances. In the event marijuana is charged at a lower rate, two pending destruction boxes should be maintained: one box will contain marijuana and other cannabis substances, and the second box will contain all other substances. If a packaged item of evidence contains both marijuana and other substances, it will be placed into the pending destruction box containing other substances.

4. **PREPARING DOCUMENTATION.** The disposal of controlled substances requires the following documents to be prepared: a CHP 37, a court order, a declaration for the court, and a CHP 37B, Controlled Substances Security Document, prepared with the date of transportation. Contact the Internal Affairs Section (IAS), Evidence Unit, or Division Property and Evidence Program Coordinator for a sample court order and/or declaration. However, courts may differ on the preferred language for the court order and declaration. Areas shall use the court's desired format.

a. **CHP 37, Controlled Substances for Destruction.** A CHP 37 shall be used to list the items being sent for destruction. The CHP 37 should be prepared using the current revision of the form located on the CHP Intranet site ➤ Forms ➤ CHP Forms.

(1) Each item being sent shall have its own line entry. Do not add the weights of similar substances together and make a single line entry. Paraphernalia which is eligible to be disposed of in the drug destruction shall be listed on the CHP 37.

b. **Court Order.** A court order is required for the destruction of controlled substances, including items not used as evidence (refer to Sections 11473 and 11473.5 HSC).

NOTE: If the controlled substance and/or any other items for the case were obtained in connection with a search warrant, a separate court order for disposal is required for each case the evidence is connected with prior to disposal (refer to Section 1536 PC). Contact the IAS, Evidence Unit, or Division Property and Evidence Program Coordinator for a sample motion to release items seized by a search warrant.

c. Declaration for the Court. Prepare a declaration for court requesting the court issue an order for destruction of the items listed on the CHP 37.

5. PREPARATION AND PACKAGING OF CONTROLLED SUBSTANCES.

a. Opening Items. **Items shall not be opened or removed from their packaging during this process.**

b. Two-Person Rule. A two-person rule shall be used when packaging controlled substances for destruction. One person shall be the primary evidence officer, and the second person should be a supervisor. If a supervisor is not available, the second person should be the backup evidence officer. The evidence officer and supervisor or backup evidence officer shall confirm all information for the item, as detailed in the evidence RMS case file, matches the information listed on the CHP 37 and that proper adjudication paperwork, if applicable, is uploaded into the evidence RMS case file as the item is placed into the box.

(1) It is not necessary for the packaging and sealing of controlled substances to be completed all at once. It is acceptable and recommended to package and seal a box as the items pending destruction box becomes full.

c. Sealing a Completed Box. Once a box is full, and after verifying the contents using the "Two-Person Rule," the box shall be sealed using strapping tape. A strip of blue serialized evidence tape shall be placed across the seal with the initials and ID number of the evidence officer and supervisor or backup evidence officer, and the date written across the tape and seal. Multiple blue serialized evidence tapes strips may be necessary depending on the type of box used, such as boxes with top and bottom openings (refer to Figure 10-1) or boxes with lids (refer to Figure 10-2), in order to adequately prevent tampering. All serial numbers from the blue evidence tape shall be notated on the CHP 37. The evidence officer and supervisor or backup evidence officer shall initial each page of the CHP 37 and sign and date the signature page of the CHP 37 indicating the items were personally packaged and sealed.

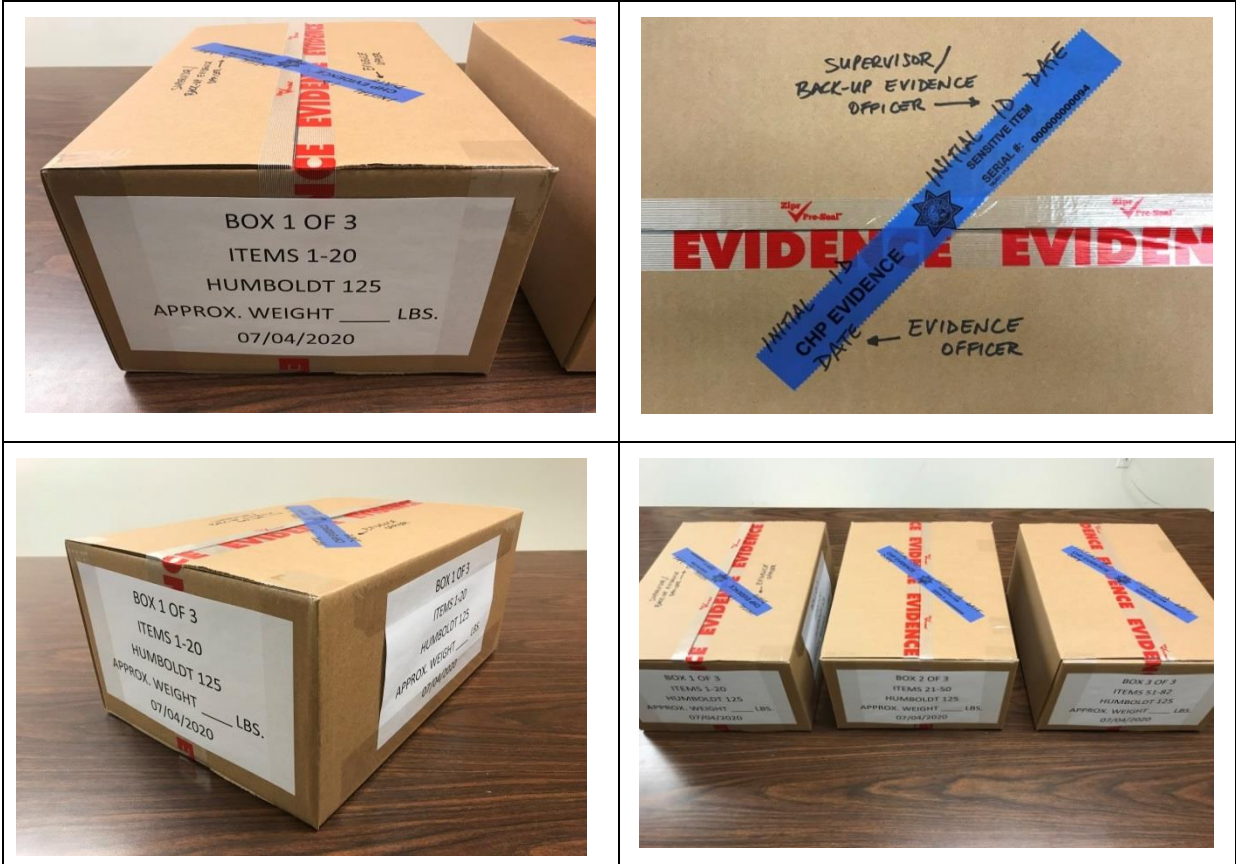


Figure 10-1
Examples of Sealed and Labeled Boxes



Figure 10-2
Examples of Sealed and Labeled Boxes—Lid

d. Weighing and Labeling a Completed Box. Each box shall be marked on at least two sides with the Area name, Area number, packaged weight of the box, and date packaged. If using more than one box, number each box and include the item numbers contained therein based on the corresponding CHP 37 (e.g., Box 1 of 2—Items 1-15, Box 2 of 2—Items 16-27) (refer to Figure 10-1). The packaged weight of the box is taken after all items are placed in the box and the box has been sealed. The measurement of the weight should be taken to the nearest 1/10th of a pound.

e. Items too Large to be Packaged in a Box. If an item was booked in a container that is too large to be placed in a box with the other items for destruction, the item may be left as-is and be considered its own box. These large items should be listed at either the beginning or end of the CHP 37 and each shall be listed as a separate box number. The item must be labeled with the same required information described in this paragraph (refer to Figure 10-3). If the item is already sealed with blue serialized evidence tape, then the serial number shall be written on the CHP 37. If the item is not already sealed with blue serialized evidence tape, due to packaging guidelines prior to the introduction of the blue serialized evidence tape, it shall be sealed at this time and the evidence officer and supervisor or backup evidence officer shall write their initials, ID number, and date across the seal and include the serial number on the CHP 37.

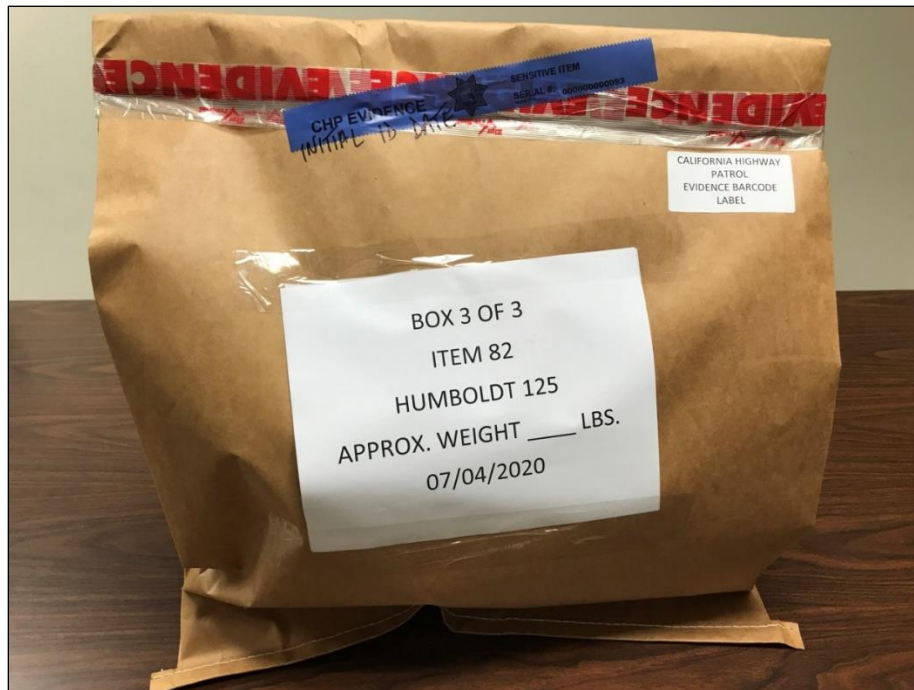


Figure 10-3
Example of Labeling a Bag—Not Included in a Box

f. Compromised Seal.

(1) If the integrity of the seal on a box is broken at any time prior to a scheduled drug destruction event, an inventory **shall** immediately be conducted by the evidence officer and a supervisor. If a discrepancy is found, the supervisor shall notify the Area commander. If, after completion of the inventory, no discrepancy is found, reseal the container with strapping tape, place a new strip of blue serialized evidence tape where appropriate (refer to Figures 10-1 through 10-3), and notate the incident and serial number on the corresponding CHP 37 in the remarks/notes section.

(2) On the day of a scheduled drug destruction, if the integrity of the seal on a box is broken at any time prior to arrival at the drug destruction site, an inventory **shall** immediately be conducted by the Division coordinator or the Division Property and Evidence Coordinator, and a supervisor. If a discrepancy is found, the supervisor shall notify the corresponding Area and Division commanders. The Division commander shall cause an investigation to be initiated. If, after completion of the inventory, no discrepancy is found, reseal the container with strapping tape, place a new strip of blue serialized evidence tape where appropriate (refer to Figures 10-1 through 10-3), and notate the incident and serial number on the corresponding CHP 37 in the remarks/notes section.

6. DRUG DESTRUCTION.

a. Drug Destruction Coordination. Prior to the coordination of a drug destruction, contact the IAS, Evidence Unit, or Division Property and Evidence Program Coordinator for a current list of drug destruction options that are recommended for the destruction of controlled substances, ensuring the destruction is conducted according to required protocol. Pursuant to 21 CFR § 1317.90—Methods of destruction, the U.S. Department of Justice, Drug Enforcement Administration (DEA) requires that controlled substances are rendered non-retrievable, meeting Federal, State, tribal, and local laws and regulations. The Division Property and Evidence Program Coordinator shall be utilized for the coordination of the drug destruction, if necessary.

b. Drug Destruction Options. In-state drug destruction by a waste management company is required to be registered with the DEA as a designated reverse waste distributor. The waste management company shall provide a Form DEA-41, Registrant Record of Controlled Substances Destroyed, signed by two employees that witnessed the destruction of the controlled substances and indicates the method by which it was destroyed. The Form DEA-41 and the CHP 37 shall be signed by someone other than the transporting employees (e.g., Division Drug Coordinator, Division Property and Evidence Program Coordinator, authorized

employee witness of the waste management company). Out-of-state drug destruction options are continually being reviewed. Contact IAS, Evidence Unit, or Division Property and Evidence Program Coordinator for a current list of companies approved for controlled substance destruction.

c. Incineration Facilities. Contact the IAS, Evidence Unit, or Division Property and Evidence Program Coordinator for a current list of incineration facilities that are currently accepting appointments for the burning of controlled substances.

d. Division Responsibilities. Divisions will coordinate the collection of controlled substances from Areas and schedule the drug destruction for the entire Division. If necessary, multi-Division drug destructions are authorized. However, each Division is responsible for obtaining a separate X Number from their Division. The Division coordinators or Division Property and Evidence Coordinators are responsible for the following:

(1) Establishing a destruction timetable for each Division. A drug destruction should be conducted at a minimum of twice per year.

(1) Division coordinators shall notify the IAS, Evidence Unit, and Division Property and Evidence Program Coordinator by e-mail when an appointment for a drug destruction has been arranged.

(2) Establishing a drug destruction date and making an appointment with the waste destruction company.

(3) Coordinating with Areas for the delivery or pick up of their controlled substances and hazardous waste.

(4) Ensure Areas provide a copy of the CHP 37 and court order(s) in addition to the original documents.

(5) Reviewing the documents (CHP 37 and court order[s]) and packaging (signed seals and use of blue serialized evidence tape) at the collection point to ensure compliance with requirements.

(6) Providing a signed receipt to Area personnel when Area personnel transfer custody of their boxes to Division personnel. Contact the IAS, Evidence Unit, or Division Property and Evidence Program Coordinator for a sample of the receipt.

(7) Arranging for transportation to the drug destruction site.

(8) Providing appropriate security during the drug destruction.

(9) Returning the original copies of the CHP 37s to the Areas after signatures witnessing the destruction by the waste destruction company and Division drug coordinator are completed.

(10) Providing each Area with a Form DEA-41 completed by the waste disposal company.

(11) Arranging for payment to the waste destruction company by submitting all necessary paperwork to the Division X Number coordinator.

e. Area Coordination of an Independent Drug Destruction. In rare cases, an Area may need to coordinate its own drug destruction if unable to wait until the next Division drug destruction is scheduled. Notification shall be made to the Division coordinator and/or Division Property and Evidence Program Coordinator prior to initiating the independent drug destruction. If this is necessary, the Area will be responsible for following protocol outlined in this chapter.

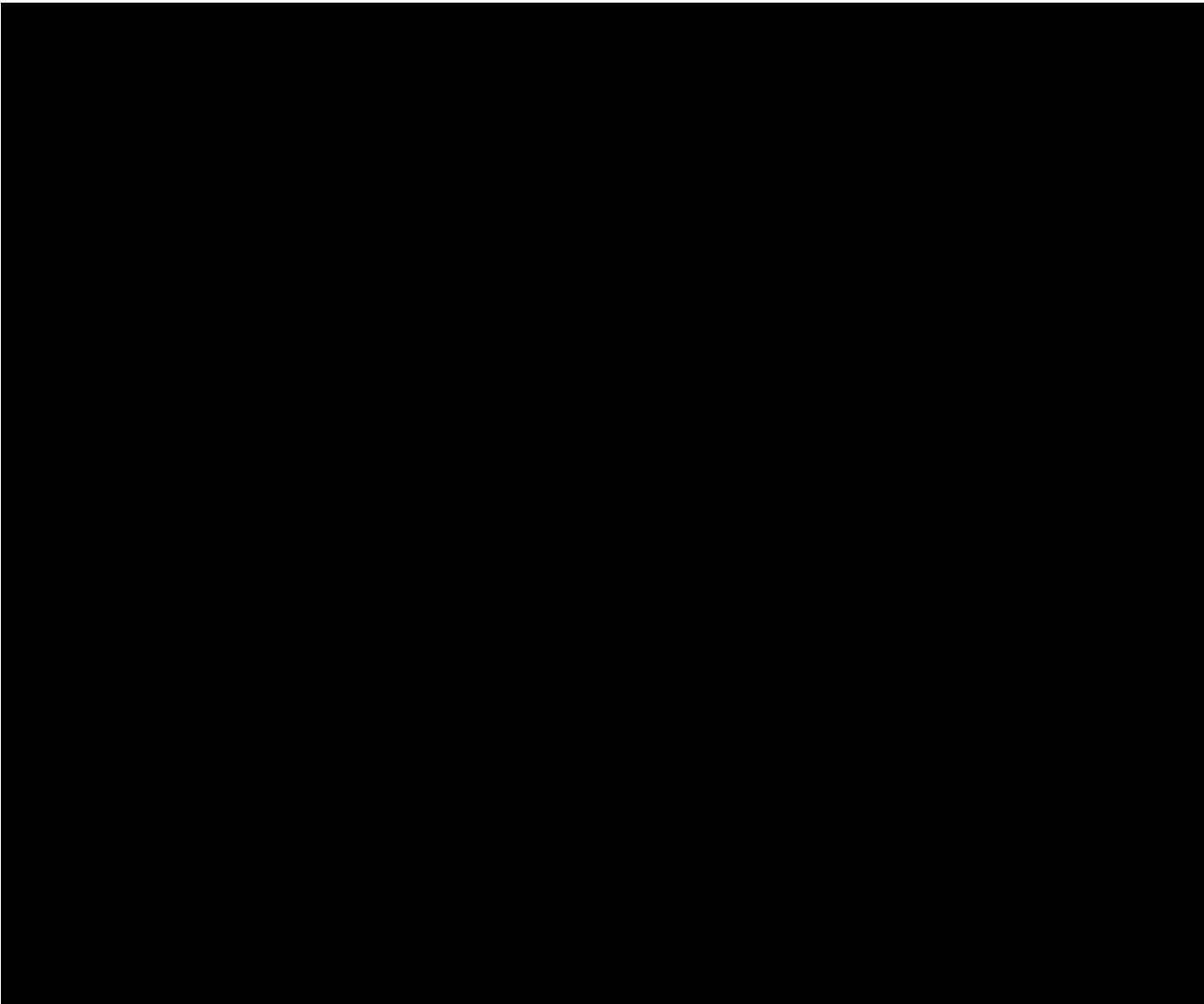
7. TRANSPORTATION OF CONTROLLED SUBSTANCES. Any time there is a transfer of custody of packaged and sealed items during any stage of the transportation process, those individuals taking possession shall confirm the serial numbers listed on the CHP 37 match those of the sealed boxes and document the transfer on the signature page of the CHP 37. Each transfer of custody shall require two signatures and ID numbers even if one of the signing individuals continues along to the next stage of transportation.

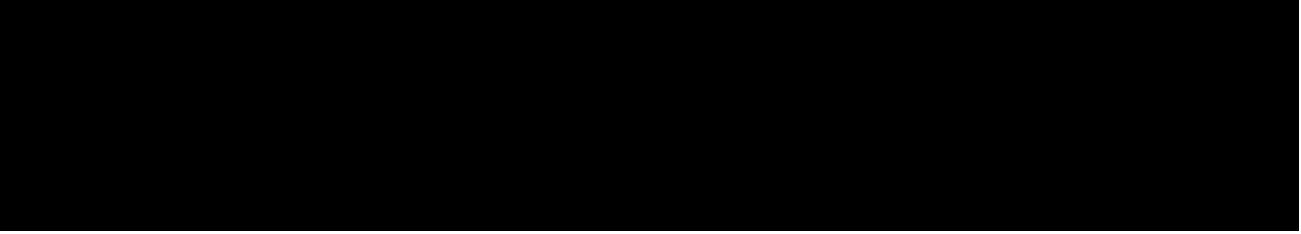
a. CHP 37B, Controlled Substances Security Document. A CHP 37B shall accompany any controlled substances during transportation for destruction. Use of the CHP 37B meets the requirements of Title 22, Section 66261.4 CCR. The CHP 37B is available in electronic format on the CHP Intranet site ➤ Forms ➤ CHP Forms.

8. SECURITY DURING TRANSPORTATION. The following are minimum security requirements.



9. SECURITY AT THE DESTRUCTION SITE. The following are the minimum-security requirements. These guidelines may not be appropriate for each destruction site. The criteria are to be adapted for the physical layout and security needs of each facility.





a. Retention of Disposal Documents. Areas shall maintain the CHP 37, Form DEA-41, court order, declaration, case adjudication, and any other supporting documentation related to the disposal for five years from the date of destruction.

11. SECTION 11479 HEALTH AND SAFETY CODE. Section 11479 HSC provides that, following seizure by a law enforcement agency, controlled substances in excess of 10 pounds, or 2 pounds for growing or harvested cannabis, may be destroyed without a court order so long as certain requirements are satisfied. This exception to obtaining a court order for the destruction of controlled substances is primarily used in conjunction with the seizure of a clandestine laboratory. Areas shall not enact the destruction of controlled substances detailed in this statute without Division approval and consultation with the IAS, Evidence Unit, or Division Property and Evidence Program Coordinator.

12. OTHER ITEMS FOR DESTRUCTION. With the concurrence of the waste disposal company, drug paraphernalia, biological hazardous waste (e.g., bloody clothing, blood samples, sharps needles and containers), and vape pens, cartridges, and batteries may also be destroyed at the time of the drug destruction. Areas must refer to their waste disposal company's guidelines to determine what the company will accept and confirm that it is included in the scope of work. Due to the higher costs utilizing the waste disposal companies, documents, CDs, and DVDs shall be destroyed locally by using the Area crisscross paper shredder.

13. INSPECTION OF A DRUG DESTRUCTION. The IAS, Evidence Unit, reserves the right to conduct an inspection of any Division's drug destructions to ensure the integrity of the process. Should an inspection be conducted, it will be unannounced and occur at the destruction site. The inspection will include testing randomly selected items and inspecting, evaluating, and assessing such topics as documents, packaging, and seals. If a discrepancy is discovered during testing of a controlled substance, the Division commander shall be notified immediately.

14. METHOD OF PAYMENT FOR DISPOSAL SERVICES.

a. X Number. The X Number Program is the preferred method of payment for disposal services. Refer to HPM 11.1, Administrative Procedures Manual, Chapter 23, Delegation of X Number Contract Authority, for instructions.