

MONROE COUNTY SHERIFF'S OFFICE GENERAL ORDER

CHAPTER: 054-C		TITLE: DISPOSITION OF PROPERTY AND EVIDENCE
EFFECTIVE DATE:	PAGES: 8	AMENDED/REVIEWED:
REFERENCE: CFA 27.13M, 27.15M, 28.02M CALEA 84.1.1 84.1.7		RESCINDS:
 SHERIFF OF MONROE COUNTY		

PURPOSE:

The purpose of this General Order is to establish guidelines and responsibilities for the disbursement or disposal of evidence and seized, found or recovered property. **[CFA 27.13M, CFA 27.15M, 28.02M]**

DISCUSSION:

The Monroe County Sheriff's Office will maintain evidence, as well as seized, found and recovered property in accordance with this policy and Florida Law. The return of property to its rightful owner will be in a timely manner.

PROCEDURE:

- A. Prompt disposition of property, both evidentiary and non-evidentiary, is necessary to prevent an overload of the property management system and reduces the requirement for additional storage space and prevent owners of the use of their property. Final disposition of found, recovered and evidentiary property is accomplished within six months after legal requirements have been satisfied. [CALEA 84.1.7]
- B. The disposition of all evidentiary property for felony and misdemeanor cases rests with the case agent with the exception of the release of any property/ evidence mandated by judicial order. The review process used to determine the disposition of all evidentiary property is an accelerated review process within the SMARTCOP System Evidence Module. **Felony cases are reviewed at three years and misdemeanor cases are reviewed at 2 years.**
- C. Found, abandoned, and recovered property which is not evidence will be disposed of, by the Property and Evidence Division, in accordance with applicable state statutes.
 - 1. The case agent taking custody of found property will make every effort to determine the owner(s). Found property that is surrendered to the Evidence Division must be retained 90 days and advertise for public viewing before disposal.

2. The deputy shall list the finder's name on the property receipt and list the *Person Type* as "Finder".
 3. All Found Property shall be entered into the SMARTCOP system by the case agent or designee to include the finders name and contact information.
 4. All found currency and coin, with the exception of collectable coins, will be turned over to the Finance Division for deposit **at the end of the applicable state statute for retention**. These funds are not part of the budgeted operating funds of the Sheriff's Office.
- D. Safekeeping property may consist of personal property item(s) that need safeguarding as a result of the owner's infirmity, accident, public safety or arrest.
1. The deputy taking custody of safekeeping property will list the owners name on the property receipt and ensure the status of the property is listed as safekeeping.
 2. All Safekeeping Property shall be entered into the SMARTCOP system by the case agent or designee to include the owners name and contact information.
 3. Safekeeping property surrendered to the Evidence Division will be considered unclaimed property and disposed of 60 days after notification has been made in writing to the listed owner and the property has been advertised.
The case agent may request that the item is held past 60 days, the request must be in writing to the Evidence Division.
 4. If the owner of the property is incarcerated, he/she may complete a written authorization letter that authorizes a designee to retrieve the property.
- E. Property seized as evidence, with certain exceptions, is considered to be "unclaimed evidence" if not claimed within 60 days following the completion of prosecution, including any appeals. The case agent will determine ownership of property seized and notify the Evidence Division of the owner's information for notification prior to disposal.
1. The final disposition of evidentiary property that is turned in to the Evidence Division depends upon many factors. Information used to determine the disposition of evidence may be gathered from the case agent, the State Attorney's Office, the Clerk's Office and/or other relevant sources. **[CALEA 84.1.1]**
 2. Generally in cases where a photograph of evidentiary property will suffice for court purposes, the property will be photographed with the owner and released by means of the correct release form.
 3. The Case Agent is responsible for notifying the owner of any property/evidence being held by the Sheriff's Office and shall contact the Evidence Division to authorize the release of the property/evidence directly to the owner or their authorized representative, as soon as possible, providing that all evidence handling procedures have been met and there is no compelling law enforcement reason to retain it, for example:
 - a. The property/evidence consists of contraband
 - b. Property/evidence is being held pending civil forfeiture proceedings.
 - c. Whenever the property/evidence is better evidence than a photograph.

4. The case agent may only authorize the release of property held as evidence to the owner or an authorized representative provided that a photograph has been taken for evidence purposes if the property may be used in court.
5. If the property still has evidentiary value, and it can be returned to the owner, the case agent should advise the Evidence Division in writing of the items that can be released and to whom they are to be released.
6. When the case agent is aware that the property no longer has any evidentiary value, the case agent must provide written authorization to the Evidence Division indicating that the property can be disposed or returned to owner.
7. If a case agent or designee is contacted by someone requesting the release of property, that member should take the following action:
 - a. Contact the Evidence Custodian to ascertain if they have the property in question and if there is a release on file for that property.
 - b. If there is a proper release on file, the person seeking the property should contact the Evidence Custodian and present proper identification to receive it.
 - c. If there is no release on file, the Case Agent will then provide the Evidence Division with a written release.
 - d. Unless provided notification from the case agent, a third party may be authorized for release of property from another. If a third party is seeking the property be released to them, and there is a release on file for the owner to receive the property, then the third party must present a notarized letter from the owner authorizing them to pick up such property along with proper identification.
 - e. If the item for release is a firearm all requirement in FSS 790 and 741 must be satisfied prior to release, a court order may be required in some cases.

F. Temporary and Permanent Release of Property/ Evidence to Case Agent or Authorized Representative

1. The temporary or permanent release of any Property/Evidence from the Evidence Division will be documented in the SMARTCOP system change of custody record. Additionally, an acknowledging signature and payroll ID number will be required on the property/ evidence receipt form.
2. When property and evidence is temporarily released from the Evidence Division to any division within the agency for processing and/or court, the release will be documented in the SMARTCOP system change of custody record. Additionally, an acknowledging signature and payroll ID number will be required on the Property/ Evidence receipt to ensure chain of custody is recorded along with the reason the property is being removed from the Evidence Division, along with the date and time the property is removed. **[CALEA 84.1.1]**
3. Property/ Evidence release from the Evidence Division for investigative purposes or as court exhibits not needed for trial shall be returned without unreasonable delay.

4. Property required as trial evidence will be held at the Evidence Division until the trial period. Whenever property/evidence is entered at trial and retained by the court, the member authorized for custody of the property/ evidence shall have the clerk of the court sign the property receipt form and return the receipt to the Evidence Division within 48 hours. If the required documentation is not received the case agent or designee will remain as the responsible party for this item in the SMARTCOP system. **[CALEA 84.1.1]**
 - a. In misdemeanor criminal cases, it is the responsibility of the submitting member or case agent to sign out any evidence required for trial from Evidence. If the evidence is not retained by the court and the case has been disposed of, the member will return the evidence to the Evidence Division for disposal.
 - b. In felony cases, depending upon the amount and size of the evidence held and depending upon the prosecutorial requirements determined by the State Attorney's Office, evidence may be conveyed by the submitting member, the case agent or by an Investigator from the State Attorney's Office. It is mandatory the submitting or case agent sign out the evidence for court completing a change of custody receipt. When the evidence to be taken to court includes controlled substances in quantities that would constitute "distribution" amounts, or large amounts of jewelry or currency, the submitting member, the case agent or an investigator from the State Attorney's Office will only convey such evidence to court
 - c. If the evidence is returned after the close of normal business day, it will be placed in the evidence locker with the appropriate documentation attached to the evidence.
6. Members of the evidence Division periodically send emails concerning the disposition of inactive criminal cases. **[CALEA 84.1.1]**
 - a. The reviews are sent to the case agent for review. When the assigned case agent is no longer a member of the unit or agency, the supervisor in charge of the unit will review the case for disposition.
 - b. The information listed on the disposal requests pertains strictly to the specific defendant(s) listed and the specific charges listed. If there are more defendants or more charges that the evidence in question, the case agent needs to note the names of the other defendants and the status of those cases if known on the disposal request form.
 - c. The responsible member should mark the appropriate action the Evidence Custodians/Technicians should take with the evidence held. If the property is to continue to be held, the member must provide an explanation, such as "Other charges are pending" or listing the name(s) of any other defendants pending. If the property is to be returned to an owner, the member must list the owner's name and means of contact.
7. No intoxicating liquor seized on a search warrant from any place other than a private dwelling can be returned to a claimant unless the claimant secures a court order directing the return. [F.S. 933.14(2)]
8. Any firearm taken by any officer with a search warrant can only be returned to a claimant pursuant to a court order from a circuit, county court judge, or at the conclusion of the state statute for retention and with the lead LEO case agent review. Any firearm taken without a search warrant upon a view by an

officer of a breach of the peace can only be returned to a claimant pursuant to a court order. [F.S. 933.14(3)]

- a. Any person(s) requesting firearms be returned must be checked through NCIC/FCIC and local systems for Felony Convictions, Domestic Violence Orders and active Warrants and meet the release requirements as listed in FSS 790 and 741.
 - b. If any of these checks come back positive, the person(s) will be informed that the Legal Division will need to review all paperwork submitted which is to include proof of ownership, court orders as well as the person(s) criminal history.
 - c. Depending on the case, a court order may be required to release the firearm to the claimant or requesting party. i.e. cases resulting in death of the listed owner.
9. Unless a prosecution in a criminal case has begun within the time limits specified in FSS 775.15, any evidence seized in that case will be disposed of. If prosecution is considered to have begun, if a suspect has been arrested but the trial is still pending, or if there is an active warrant for the suspect on the original charge or on a "failure to appear" on the original charge.
- a. The time limitations for most crimes are as follows:
 - 1) Capital or Life Felonies - no time limit
 - 2) First Degree Felonies - 4 years
 - 3) Second and Third Degree Felonies - 3 years
 - 4) First Degree Misdemeanors - 2 years
 - 5) Second Degree Misdemeanors - 1 year
 - b. Time limits exceptions for specific crimes are as follows:
 - 1) Antitrust, FSS 542.21, .542.26 - 4 years
 - 2) Campaign finance violations, FSS 106.28 – 2 years
 - 3) Incompetence to stand trial, effect, FSS 916.14, 916.145 - 2 years
 - 4) Insurance company stock acquisition proceedings, violations, FSS 628.461, 628.4516, 629.401 - 5 years
 - 5) Pest control violations, FSS 482.183 - 3 years
 - 6) Public officers and employees, misconduct in office, FSS 775.125 - 2 years
 - 7) Racketeering, FSS 895.05 - 5 years
 - 8) Securities violations, FSS 517.302, 775.15 - 5 years
 - 9) Sexual offenses involving children, FSS 775.15 - no time limit
 - 10) State, Department of; matters within jurisdiction, FSS817.155 - 5 Years
10. Often the case agents may not know the status of a case in the court system or the case agent is no longer employed by the Monroe County Sheriff's Office. Under these circumstances, the case agent's supervisor or the current division's supervisor will provide the additional assistance required to complete the review. Assistance from the Evidence Custodian/Technician may be requested to assist with researching the review.
- 11 Evidence involved in closed homicide cases can only be disposed of after written permission is received from the State Attorney's Office as well as the supervisor of the Major Crimes Unit.

12. Once it has been determined through approval of the case agent that the evidence in a case no longer needs to be retained, the items are pulled and disposed of in accordance with procedure.

- a. The items are reviewed against the property receipt prior to disposal.
- b. A Change of Custody is completed to reflect the disposition of the item approved for disposal.
- c. The computer record is updated to show the item's status and the disposal method used.

13. Transfer of Currency to the Fiscal Department in Pending Case

- a. Whenever evidentiary currency is held by the Evidence Division and the actual currency will not be introduced as evidence in a court of law, the Case Agent can authorized the transfer of the currency to a bank for deposit into an appropriate account.
- b. Prior to releasing the funds for deposit, the Evidence Division must obtain written consent from the case agent, and/or case agent supervisor for the deposit of aforementioned funds.
- c. Upon the release of the funds for deposit, the Evidence Division shall update the chain of custody information in the SMARTCOP system. A copy of the signed and completed chain of custody form will be provided to the Finance Division upon collection of the funds from the Evidence Division.
- d. The original receipt of all deposits will be maintained by the Finance Division. A copy of the deposit receipts will be scanned into the property management system for reference as needed.

14. Limited Release and Court Orders

- a. The Evidence Division may not release cash settlements to the public in accordance to a Limited Release or Court Order. . All Limited Release or Court Orders received by the Evidence Division will be researched and approved by the Special Operations Commander, Support Services Commander or designee prior to release of property or funds
- b. Providing required documentation, the Evidence Division will contact the Finance Division and arrange a release of funds for deposit. The funds will be verified in the presence of the Evidence Custodian/Technician prior to taking custody of the currency for deposit. Once deposited, the ordered party will obtain a check from the Finance Division in person providing a government issued identification for verification.
- c. If the item ordered to be returned is property, the Evidence Custodian/Technician will return the property as ordered to the listed individual after approval by the designated authority. The Evidence Custodian/Technician will verify and make a copy of the government issued identification of the individual listed prior to releasing the property as ordered.

15. The, firearms, and drug cases are removed and set aside to be disposed of as follows:

- a. Firearms
 - 1) Firearms are checked to verify the serial numbers against the

property receipt or computer record. The serial numbers are checked in the FCIC / NCIC computer system to verify that they have not been reported as stolen. Once this is done they are separated and placed on a list of firearms ready for disposal.

- 2) The Special Operations Supervisor will be notified that there are firearms awaiting disposal. The Special Operations Supervisor will inspect the firearm to ensure the firearm is safe for disposal, verify the serial number against the SMARTCOP disposal documentation, and determine whether there are firearms appropriate to keep for agency use.
- 3) Firearms designated appropriate for agency use, will be added to the agency inventory and be given a MCSO property number; which will be designated by the Finance Division. Once added to the inventory, the firearm can be signed over to a designated agency member or Division.
- 4) At the discretion of the Sheriff and as stipulated in FSS 790.08, once the firearm is eligible for disposal, the Sheriff's Office may retain, loan, sell or destroy disposed firearms. As an additional source of disposal the Sheriff's Office may determine to sell and/or part disposal firearms.
- 5) The Special Operations Unit will take custody of any and all firearms that are to be destroyed. They will escort all firearms to the designated destruction site.

b. Narcotics, over the counter drugs and paraphernalia

- 1) All drug items set for disposal in a narcotics case.
The Evidence Custodian/Technician Technicians of the Key West Office will pull all drug items for destruction and relocate them to a designated destruction location for drug items only. The Evidence Custodian/Technician will inventory the items with SMARTCOP Evidence Module. Once all items are accounted for the Director of the Evidence Division will apply for a court order for the destruction of the drug items.
- 2) After the court order is received, the Evidence Supervisor will contact the Special Operations Supervisor to schedule a time for them to verify the items set aside for destruction. The Special Operations Supervisor will verify the count and integrity of each drug-related item and that the proper authorization paperwork is present and correct. The verified items will be sealed in containers and the seals will be initialed by the Special Operations Supervisor and Evidence Custodian/Technician. The Special Operations Supervisor will coordinate the transportation of the sealed containers of drug items to the designated destruction site. The Special Operations Unit will accompany Evidence to the destruction site.
- 3) When the drug items are destroyed, the Evidence Director, a minimum of one Evidence Custodians/Technicians, the Special Operations Supervisor and a minimum of one detective of the Special Operations Unit will witness the destruction.

16. Items other than Drugs, Firearms or Money will be divided into one of the following sections:

- a. Destroyed – These are items that have no value or are damaged (due to the crime) beyond repair or use.

- b. Donation – These items are donated to charitable organizations
- c. Auctioned – These are items that may have a monetary value and no evidentiary value. The cases have been researched by the Cases Agent and approved for donation by the Evidence Director.
 - 1) A charitable organization is defined as a not-for-profit organization that has notified the Sheriff's Office in writing with a copy of the non-profit paperwork of their interest in receiving items from Evidence.
 - 2) An organization will be called and advised of items to be picked up and have one week to pick up the items, unless arrangements are made with the Evidence Custodian/Technician.
 - 3) All items are sent to the organizations in groups or batches. (i.e. 20 bikes)
 - 4) At any time the Evidence Division can discontinue sending items to an organization.
- d. Turned Over For Agency Use –Items that can be used by the agency. If the item is valued at more than \$1,000 or if the item is a firearm, it will be inventoried and bar-coded with a property label which will be designated by the Finance Division before being turned over to any Division.
- e. If items are approved to be sold at auction by the Sheriff, the proceeds from the sale will be directed to the MCSO Finance Division for deposit into the approved account as per FSS 705, where they will be held for one year.