

PEAF Disposal Roundtable Discussion

DNA- How long do agencies keep after disposition?

*60 days after the appeals have been exhausted or 30 days after the sentenced has been served, whether by plea or conviction. **Prosecution may commence after the DNA identification of the accused regardless of the Statute of Limitations.*

Deadlines regarding Court Orders to return property - Example: Receive a court order to return property to a relative. 2 years later, relative has not picked up. How long do you wait to dispose of evidence?

Some agencies send a certified letter to the owner as well as the attorney informing them of a timeframe within which they'll hold the property. Some will only hold it for 60 days unless there are special circumstances (owner is out of town, lives out of state, etc.) It's not unreasonable to hold property for 6 months to a year after a Court Order under those circumstances.

Attorney sends a letter asking us to preserve evidence - what is our obligation when no criminal charges were filed?

Send a letter outlining a reasonable timeline that you'll hold the evidence. Once the Statute of Limitations has expired, send a reminder letter with a deadline. If there is still no response or action taken by the Attorney, dispose of the evidence. If your agency hasn't filed criminal charges but another agency has, the evidence should be transferred to them. Also, you only have 4 years to file a civil suit.

Found property: phones, computers, tablets- Return to finder or dispose? We had someone call requesting a phone that was found on their property and the owner was unknown.

The most important thing is to wipe all electronics prior to turning them over to anyone. Unless a finder has expressed his or her interest in getting the property, you can dispose of it after it is wiped. If a finder does want to claim the property, some agencies charge a non-refundable fee to be paid within a few days of submitting it.

Gunbusters- Would it be ok to use Gunbusters rather than bringing our firearms to the Sheriff for destruction? If not, why not? Are any agencies currently using Gunbusters?

Currently, all agencies, except those under the Home Rule, turn their firearms over to the Sheriff after 60 days of the case being disposed. The Sheriff holds the firearms for an additional 6 months prior to destroying them.

Does property from a traffic homicide/fatality (where someone has been charged) fall under the same standard as a homicide? If not, what statute governs traffic homicide/fatality as far as the purging of items?

There isn't a statute for this, so it should go by the Statute of Limitations for whatever the person was charged with. If the case is closed and the appeals window has passed, it should be ok to dispose of the evidence. If someone hasn't been charged and there is DNA, you'll have to follow those protocols.

Do you send all cases to SAO for disposal approval or just serious felonies?

This depends on your agency and its policies. Some agencies feel more comfortable having the SAO sign off while others are ok making the decision in-house. Some agencies must have the SAO sign off on the narcotics cases prior to disposal.

What do you do with the evidence for cases with multiple defendants where one has had his case expunged? Destroy everything or have the case officer review it to see what might be related to the specific expunged person?

If the case is still open for some defendants, hold all the evidence. If it's closed, you can destroy everything. One agency's attorney said that sealed/expunged cases have nothing to do with evidence. The longest records retention law is 7 years.

For sealed cases, do you hold the evidence for a specific period of time or destroy immediately?

If there is one defendant, the case is closed, and the record is expunged, you may destroy the evidence immediately. However, if the record is sealed, you have one year to view the evidence so don't destroy it until the year is up.

Will the new firearm Legislation affect Property and Evidence and if so, how?

Many agencies are using FDLE's Firearm Eligibility Service or FES when returning firearms. This puts the burden on the state instead of the agency. However, agencies' attorneys and policies can dictate how to deal with this issue.