

## **Requests from Law Enforcement for Destruction, Disposition or Return of Seized Property**

The purpose of this checklist is to promote consistency in the requests for destruction or return of property by law enforcement. This checklist only applies to requests from a law enforcement agency to destroy, return or otherwise dispose of property in its possession. These are usually blanket requests related to seized property being stored by law enforcement. Each request generally involves property related to a number of cases or incidents. The requests sometimes relate to property seized pursuant to a warrant where no case was filed.

Note: This checklist is not meant to apply when an agency requests that an item of evidence related to a specific individual court case be returned, destroyed, etc. If an agency is making a request for return of property related to a specific Superior Court case, the request is to be made in that case, using the case number and caption.

### **Procedural Matters**

- ✓ All requests are only to be submitted electronically via e-mail to the following address: [Courts-LEADestruction/ReturnofProp@FRESNO.COURTS.CA.GOV](mailto:Courts-LEADestruction/ReturnofProp@FRESNO.COURTS.CA.GOV).
- ✓ Each request must consist of an application, supporting evidence (usually in the form of a declaration), and a proposed order.
- ✓ The application, declaration, and proposed order should be captioned, "In re the [destruction, return, etc.] of [basic description of the evidence (i.e., controlled substances, property seized pursuant to warrant, etc.)] in the possession of [agency name]." UNLESS the request is specific to a case then use the proper caption for that case, People v [defendant].
- ✓ The proposed order must be a standalone document and may not be combined with or be a continuation of any other document.
- ✓ The proposed order must have a proper caption and a line where the Presiding Judge can sign.
- ✓ If the declaration references any exhibits, those exhibits should be attached to the declaration.
- ✓ Any attached exhibits referencing the evidence sought to be disposed of should have numbered lines.
- ✓ Each proposed order must have attached to it a list of the property sought to be destroyed, returned, etc.

### **Legal Matters**

- ✓ The application must provide the legal authority that supports the proposed disposition of each piece of property. It is not sufficient to provide a laundry list of statutes.
- ✓ Each application must be supported by proper admissible evidence, usually in the form of a declaration.
- ✓ Each declaration must be specific and must comply with CCP §2015.5.
- ✓ Each declaration must be specific enough that the Court can determine exactly which statutory authority applies to and supports the disposition of each item of property.
- ✓ If the declaration provides that a case was adjudicated, there must be a Superior Court case number provided for each item of evidence allegedly associated with an adjudicated case.
- ✓ If items were seized pursuant to a search warrant, the warrant number and a copy of the warrant must be included.
- ✓ The exact proposed disposition of each item of evidence listed in a request must be provided. It is insufficient to state that the items will be destroyed, disposed of or released.
- ✓ If items of property are sought to be returned, the declaration must be specific as to whom the items will be returned.