

Helping Tennessee county government better serve its citizens



Vision

Being the leading service
provider of technical
assistance and training to
county governments in
Tennessee



Mission

Promoting better county
government through direct
assistance to county officials
and their associations



Values

- Customer Service •
- Integrity • Innovation •
- Creativity • Organizational
Excellence •

EVIDENCE & EXHIBIT MANAGEMENT

Presented by:

Clint Shrum, Criminal Justice Consultant

Heather Duncan, County Government Consultant

University of Tennessee

County Technical Assistance Service



Former Tennessee court clerk charged with stealing \$60K from evidence

by Cindy Murphy

Fri, September 9th 2022, 10:52 AM CDT



Former Tennessee court clerk charged with stealing 60k from evidence (photo: Getty Images)

EVIDENCE INTEGRITY



“Evidence integrity is the assurance to satisfy any judicial assessment, that evidence has been correctly and lawfully generated and has not undergone any unauthorized amendment or otherwise been tampered with since its creation;”

Evidential Integrity Definition | Law Insider

STAKEHOLDERS

- Victims / Families
- Witnesses
- Law Enforcement personnel
- Prosecutors
- Defendants
- Others?

COMPTROLLER REQUIREMENTS (T.C.A. 9-2-102)

- (a) It is the duty of the department of audit to prescribe a uniform system of bookkeeping designating the character of books, reports, receipts, and records, and the method of keeping same, in all state, county, and municipal offices, including utility districts, which handle public funds. It is the duty of all officials to adopt and use the system and the character of books, reports, and records designated; provided, that the comptroller of the treasury may approve any existing system. The approval of such systems by the comptroller of the treasury is subject to the concurrence of the commissioner of finance and administration.

STATE LAW

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

a. Physical evidence other than documents and firearms used in judicial proceedings and in the custody of a court in cases where all appeals or potential appeals of a judgment have ended or when the case has been settled, dismissed or otherwise brought to a conclusion, may be disposed of as follow

T.C.A. §§ 18-1-206

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

(1) Court Clerk must notify case attorneys of record for which evidence was used that certain enumerated items are no longer needed by the court, and they have thirty (30) days to claim any of the items belonging to them or their client.

T.C.A. §§ 18-1-206

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

(2) The clerk of the court having custody of the physical evidence to be disposed of **shall** annually inventory the physical evidence and prepare a list of the evidence proposed to be destroyed with references to the case involved and the term of court in which the evidence was used;.

T.C.A. §§ 18-1-206

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

(3) The clerk shall publish in a newspaper of general circulation in the county for three (3) consecutive weeks the proposed list of items of physical evidence selected for disposition;

T.C.A. §§ 18-1-206

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

- (4) Parties interested in the disposition of physical evidence may submit a petition to the court stating their objections to the proposed disposition within thirty (30) days of the initial newspaper publication;

T.C.A. §§ 18-1-206

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

(5) After the time for filing petitions objecting to the disposition has passed, the clerk shall submit the list with any filed petition to the court. The court shall approve or reject each item on the list and shall order that each particular item be disposed of in one (1) of the following ways:

T.C.A. §§ 18-1-206

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

- A. Returned to the owner or the owner's attorney of record if the attorney agrees;
- B. Preserved by a specified organization for historical purposes;
- C. Sold; or
- D. Destroyed;

T.C.A. §§ 18-1-206

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

(6) The clerk shall deliver the order and the items approved for disposition to the custody of the sheriff or the chief of police in counties having a metropolitan form of government for disposition in accordance with the order of the court; and

T.C.A. §§ 18-1-206

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

(7) The sheriff shall deliver the physical evidence to the owner or owners or to the organization or organizations when so ordered, personally or by return receipt mail.

T.C.A. §§ 18-1-206

EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

(7) When ordered to sell physical evidence, the sheriff shall advertise in a newspaper of general circulation the sales, for not less than three (3) editions and not less than thirty (30) days prior to the sales. The sheriff shall conduct a public sale and maintain a record of each sale and the amount received. The proceeds of the sale or sales shall be deposited forthwith in the county general fund.

T.C.A. §§ 18-1-206



EVIDENCE & EXHIBIT DISPOSAL FOR COURT CLERKS

(7) When ordered to destroy physical evidence, the sheriff shall completely destroy each item by cutting, crushing, burning or melting and shall file an affidavit concerning the destruction with the clerk of the court ordering the destruction, showing a description of each item, the method of destruction, the date and place of destruction and the names and addresses of all witnesses.

T.C.A. §§ 18-1-206



BEST PRACTICES

- Internal controls
- Evidence custodian
- Chain of custody
- Audits / Annual Inventory
- Case disposition review
- Disposal follow-up

BEST PRACTICES – INTERNAL CONTROLS

- Who oversees logging in exhibits/evidence and maintaining the records?
- Where is the evidence put that is brought to the court clerk's office?
- Who is responsible for initially logging exhibits/evidence while in the courtroom?
- Who ensures that all exhibits/evidence from the courtroom are accounted for and properly logged into the vault/evidence room?

BEST PRACTICES – INTERNAL CONTROLS

- Who is responsible for the physical security of the vault/evidence room?
- What is attached to each exhibit/item of evidence?
- What does this attachment detail?
- Who has keys to the vault/evidence room?
- Who retrieves the stored items?

BEST PRACTICES – INTERNAL CONTROLS

- Who verifies the paperwork is filled out correctly?
- What is the procedure to log the exhibit/evidence?
- Who performs this procedure?
- How many vaults/evidence rooms are there?
- What kinds of exhibits/evidence are stored in each?
- What happens to the exhibits/evidence after court proceedings?

BEST PRACTICES – INTERNAL CONTROLS

- Who logs the exhibits/evidence into the vault/evidence room?
- Who is responsible for the exhibits/evidence after the case is adjudicated?
- Who is responsible for ensuring that exhibits/evidence are destroyed according to the record retention laws/TCA code?

BEST PRACTICES – INTERNAL CONTROLS

- What types of exhibits/evidence require a destruction order?
- What happens to firearms/drugs?

BEST PRACTICES – EVIDENCE CUSTODIAN

Evidence custodian

- Primary and secondary
- Controls evidence room access
- Controls management and disposition
- Completes audits and inventory

BEST PRACTICES – CHAIN OF CUSTODY

Chain of custody

- Most evidence failures happens during chain of custody
- Chain of custody begins when evidence becomes court exhibit
- Always ensures location and possession

BEST PRACTICES – AUDIT & ANNUAL INVENTORY

Audit. A comprehensive compliance evaluation and analysis of evidence management operations.

Inventory. An evaluation process that accounts for all evidence and non-evidentiary property items in the actual custody or control of the agency, reconciled against a list of all items known or believed to be in the custody or control of the agency.

BEST PRACTICES – AUDIT & ANNUAL INVENTORY

Inspection. A routine internal evaluation of safety and security, facility and working conditions, operational readiness, workload and basic policy and process compliance to ensure sustainable evidence management practices and detect potential problem areas or issues for early intervention.

BEST PRACTICES – CASE DISPOSITION REVIEW

Case disposition review

- Tennessee Court Information System (TnCIS)
- Tennessee Public Court Records System
- Other case management systems
- Appeals?

BEST PRACTICES – DISPOSAL & FOLLOW-UP

Disposal & follow-up

- What type of disposal?
- How long should you hold exhibit?
- Coordinate with the Sheriff for disposal times.
- Keep original copies of orders
- Courtesy notices to DA, PD, and attorney of record.

CONTACT INFO

Heather Duncan – County Government Consultant

heather.duncan@tennessee.edu

931-273-1080

Clint Shrum – Criminal Justice Consultant

clint.shrum@tennessee.edu

931-273-4736