

WHAT HAPPENS TO SEIZED PROPERTY IF THERE WAS NO FORFEITURE ACTION FILED

Utah Code Ann. Title 77, Chapter 24 provides for the disposal of property that comes into the possession of an officer or law enforcement agency through the execution of a search warrant or the arrest of a person, and any property that is received or taken as evidence in connection with a public offense. Although this statute would apply to most items that are seized as evidence, it does not apply to weapons, which are to be disposed of in accordance with Utah Code Ann. § 76-10-525, or property that is otherwise seized for forfeiture and should be disposed of as is provided for in the Utah Uniform Forfeiture Procedures Act.

Property which is no longer needed as evidence "shall be returned to the owner, if the owner may lawfully possess it, or disposed of in accordance with this chapter." U.C.A. § 77-24-2(1). However before the property can be disposed of, the law enforcement agency must first "inform the prosecuting attorney that the property is not needed and provide a description and details of ownership." U.C.A. § 77-24-2(2)(a). Once the prosecuting attorney confirms that the property is no longer needed as evidence, "the prosecutor shall authorize release of the property to the owner." U.C.A. § 77-24-2(2)(b). Thereafter, the law enforcement agency must "exercise due diligence in attempting to notify the rightful owner that the property is to be returned." U.C.A. § 77-24-2(2)(c).

This statute further provides that if the property is not claimed by the owner or if the owner is unknown, the law enforcement agency may:

- (a) appropriate the property to public interest use;
- (b) sell the property at public auction, as provided by law and appropriate the proceeds of the sale to public interest use; or
- (c) destroy the property if unfit for sale. U.C.A. § 77-24-4(2).

The term "public interest use" includes: (a) use by a government agency as determined by the legislative body of the agency's jurisdiction; and (b) donation to a bona fide charity. U.C.A. § 77-24-4(1). However, before the property can be appropriated to public interest use the law enforcement agency "shall obtain from the legislative body of its jurisdiction: (a) permission to appropriate the property to public interest use; and (b) the designation and approval of the public interest use of the property." U.C.A. § 77-24-4(3).