



# County Technical Assistance Service

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## Disposal of Physical Evidence

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Disposal of Physical Evidence

**Reference Number:** CTAS-1251

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 following the procedure set forth in T.C.A. § 18-1-206 (except in Shelby County). Once the court has entered an order to dispose of the evidence, the clerk delivers the order and the items approved for disposition to the custody of the sheriff or of the chief of police in counties having a metropolitan form of government for disposition in accordance with the order of the court.

It is the duty of the sheriff to deliver the physical evidence to the owner(s) or to organization(s) when so ordered, personally or by return receipt mail. When ordered to sell physical evidence, the sheriff must advertise the sale(s) in a newspaper of general circulation for not fewer than three editions and not less than 30 days prior to the sale(s). The sheriff must conduct a public sale and maintain a record of each sale and the amount received. The proceeds of the sale(s) are deposited in the county general fund. When ordered to destroy physical evidence, it is the duty of the sheriff to completely destroy each item by cutting, crushing, burning or melting. The sheriff must then file an affidavit 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(a)(7).

Controlled substances and drug paraphernalia in the custody and possession of the court clerk by virtue of having been held as evidence or exhibits in any criminal prosecution where all appeals or potential appeals of a judgment have ended, or when the case has been dismissed or otherwise brought to a conclusion, are disposed of by the court clerk as set forth in T.C.A. § 53-11-451(k).

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