

# Coates' Canons: North Carolina Local Government Law Blog

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## Selling Seized Property

Wednesday, January 12, 2011

By Eileen R Youens

In the course of his law enforcement duties, Police Officer Steve Spielburger has seized a shark's tooth, a bullwhip, and a bicycle. While investigating a theft, he also recovered an unusually large egg that no one has claimed. What should the Police Department do with all of this? They'll need to follow the procedures found in [Article 2 of Chapter 15 of the North Carolina General Statutes](#), which are explained below.

[Article 2 of Chapter 15](#) addresses how to dispose of property that is "seized or confiscated by [a sheriff or police department], or of which [the department] may have become possessed in any way in the discharge of [the department's] duty." In other words, all four of the items must be disposed of using the procedures in this Article—even the unclaimed egg. Here's what these statutes require:

First, G.S. 15-11 requires each sheriff and police department to keep a record of all seized or confiscated property, including (1) a description of the property, (2) the name of the person from whom the property was seized (if known), (3) the date and place of seizure, and (4) a brief description of the place and circumstances concerning the seizure.

[Note that if the property may be used as evidence in a criminal trial, the property shall be kept safely "under the direction of the court of magistrate" as long as necessary to assure that the property will be produced at the trial. You can find more information about this in G.S. 15-11.1(a). There are also special rules and procedures for confiscated firearms, which you can read about in G.S. 15-11.1 and 15-11.2.]

Second, G.S. 15-12 requires that the sheriff or police department hold most confiscated property for 180 days after seizure before taking the next step. I say "most" because G.S. 15-12(b) requires that bicycles be held for only 60 days.

Third, once the 180 days are up (or 60 days, for bicycles only), the sheriff or police department must post a notice in the newspaper stating that the "articles are in the custody of such officer or department, and requiring all persons who may have or claim any interest therein to make and establish such claim or interest not later than 30 days from the date of the publication of such notice or in default thereof, such articles will be sold and disposed of." The notice shall also "contain a brief description of the said articles and such other information as the said officer or department may consider necessary or advisable to reasonably inform the public as to the kind and nature of the article about which the notice relates." What does that mean? Imagine that you're the young boy looking for the bicycle, for example—what information would you need to know to be able to determine that it's your bicycle? I would include information such as the

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bike's color, type, manufacturer, and any unusual characteristics (e.g., "large basket attached to front").

There's another special rule for bicycles in this step as well. Law enforcement agencies have the option to donate bicycles to a 501(c)(3) non-profit instead of selling them. If an agency decides to donate any unclaimed bikes rather than sell them, the notice required by G.S. 15-12 must state that the agency intends to donate the bikes. (In other words, the notice should state that the bikes will be donated if not claimed, rather than stating that the bikes will be "sold and disposed of.") Note that because there is this special rule for bikes only, local law enforcement agencies probably do not have the authority to donate any other kinds of seized or forfeited property.

If someone presents "satisfactory evidence of ownership" to the law enforcement agency holding the items within that 30-day period, then you're done. Turn the items over to the rightful owner. The statute doesn't define "satisfactory evidence of ownership," so I'd advise taking a common sense approach. Can the person describe the item? Can they explain how or where they lost the item? Do they have other evidence of ownership (e.g. a receipt, a photograph)?

If the items are not claimed within the 30-day period, then the sheriff or police department may sell them at public auction under G.S. 15-13 (live auction) or G.S. 15-14.1 (electronic auction). Before the auction occurs, it must be advertised at least once by publishing a notice in the newspaper no less than 10 days before the date of the sale "and by posting a notice of the sale at the courthouse door and at three other public places in the said county." Electronic advertisement (such as advertising on a web site) can be used *in addition to* these other types of advertisement, but cannot be used exclusively, even for electronic auctions. The notice "shall specify the time and place of sale, and contain a sufficient description of the articles of property to be sold." The purpose of the description in this notice is to give potential buyers enough information to determine if they'd like to bid on the items.

Then the auction takes place. If it's a live auction, it must be held "at the courthouse door of the county, the county law enforcement headquarters if the sale is conducted by the sheriff, or at the police headquarters of the municipality in which the said articles of property are located," and the sale is considered complete once the highest bidder pays the bid price. In other words, board approval isn't required. If it's an electronic auction (authorized by G.S. 15-14.1), the publication and notice requirements set out above must still be met. Finally, G.S. 15-15 requires that the proceeds from the sale first pay the costs and expenses of the sale (including the costs of publishing the notices required), and then any remaining balance must be paid within 30 days after the sale to the treasurer of the county board of education of the county in which the sale is made. Note that if seized property and surplus property is sold at the same auction, the proceeds must be accounted for separately in order to comply with this requirement.

For more information on selling seized property and disposing of other kinds of property, take a look at David Lawrence's *Local Government Property Transactions in North Carolina*, available for purchase [here](#).

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