

# ORANGE COUNTY SHERIFF'S OFFICE



## GENERAL ORDER

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| <b>Effective Date:</b> October 19, 2022   | <input checked="" type="checkbox"/> <b>Amends</b> - GO 6.2.16 (November 13, 2018) | <b>Number:</b> 6.2.16                                   |
| <b>Distribution:</b> All Personnel  | <b>Review Month:</b> February   | <b>Reviewing Authority:</b><br>CID / General Assignment |
| <b>Subject:</b> Pawnbrokers/Secondary Metals Recyclers/Secondhand-Precious Metals Dealers |   |   |

This order consists of the following:

1. Purpose
2. Policy
3. Definitions
4. Procedures

1. **Purpose**

The purpose of this policy is to delineate guidelines for handling cases involving the transactions of pawnbrokers, secondary metals recyclers and secondhand precious metals dealers.

2. **Policy**

It is the policy of this agency that all employees adhere to applicable law, including Section FS [539.003](#), the "Florida Pawnbrokers Act," FS [538](#) "Secondhand Dealers and Secondary Metals Recyclers" and [Orange County Ordinance No. 2010-16](#), "Secondary Metals Recyclers," in investigating cases that involve pawnbroker transactions.

3. **Definitions**

- A. Appropriate Law Enforcement Official - the Sheriff of the county in which a pawnshop is located, or in case of a pawnshop located within a municipality, the Police Chief of the municipality in which the pawnshop is located; however, any Sheriff or Police Chief may designate as the appropriate law enforcement official for the county or municipality, as applicable, any law enforcement officer working within the county or municipality headed by that Sheriff or Police Chief. Nothing in this subsection limits the power and responsibilities of the Sheriff.
- B. Claimant - a person who claims that his or her property was misappropriated.
- C. Conveying Customer - a person who delivers property into the custody of a pawnbroker, either by pawn, sale, consignment, or trade.
- D. Default Date - that date upon which the pledgor's right of redemption expires and absolute right, title, and interest in and to the pledged goods shall vest in and shall be deemed conveyed to the pawnbroker by operation of law.
- E. Ferrous Metals - any metals containing significant quantities of iron or steel.
- F. Misappropriated - stolen, embezzled, converted, or otherwise wrongfully appropriated against the will of the rightful owner.

- G. Nonferrous Metals – metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel and alloys thereof, excluding precious metals subject to regulation under FS [538 Part 1](#).
- H. Pawn - any advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the duration of the pawn and may be redeemed by the pledgor on the terms and conditions as established by Florida Statute.
- I. Pawnbroker - any person who is engaged in the business of making pawns; who makes a public display containing the term "pawn," "pawnbroker," "pawnshop" or any derivative thereof; who publicly displays a sign or symbol historically identified with pawns. A pawnbroker may also engage in the business of purchasing goods which includes consignment and trade.
- J. Pawnbroker Transaction Form - the instrument on which a pawnbroker records pawns and purchases as provided in FS [539](#).
- K. Pawnshop - the location at which a pawnbroker conducts business.
- L. PawnWeb – web based software which allows for the electronic transfer of pawn transactions, secondhand dealers transactions, and metals recyclers' transactions to an agency server. Users generate pawnbroker transaction forms using the software which are then maintained at their business consistent with FS [539](#).
- M. Pledged Goods - tangible personal property that is deposited with or otherwise delivered into the possession of a pawnbroker in connection with a pawn. "Pledged goods" does not include titles or any other form of written security intangible property in lieu of actual physical possession, including, but not limited to, choices in action, securities, printed evidence of indebtedness, or certificates of title and other instruments evidencing title to separate items of property, including motor vehicles. For purposes of federal and state bankruptcy laws, a pledgor's interest in his or her pledged goods during the pendency of a pawn is a right of redemption only.
- N. Pledgor - an individual who delivers pledged goods into the possession of a pawnbroker in connection with a pawn.
- O. Precious Metals - any item containing any gold, silver or platinum or any combination thereof, excluding any chemical or any automotive, photographic, electrical, medical or dental materials, or electronic parts.
- P. Precious Metals Dealer - a secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

- Q. Purchase - the transfer and delivery of goods, by a person other than a permitted vendor, to a pawnbroker, secondhand dealer or secondary metals recycler by acquisition for value, consignment, or trade for other goods.
- R. Regulated metals property - any item composed primarily of any nonferrous metals, but will not include aluminum beverage containers, used beverage containers or similar beverage containers. The term will include items made of ferrous metal, obtained from any restricted regulated metals property (e.g. beer kegs, catalytic converters) listed in FS [538.26](#).
- S. Secondary Metals Recycler – any person who is engaged from a fixed location or otherwise, in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, or;  
  
Has facilities for performing the manufacturing process by which ferrous or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, other than by the exclusive use of hand tools, by methods including, without limitation, processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing or changing the physical form or chemical content thereof.
- T. Secondhand Dealer - any person, corporation, or other business organization or entity which is not a secondary metals recycler subject to FS [538 \(Part II\)](#) and is engaged in the business of purchasing, consigning, or trading secondhand goods, to include purchasing secondhand goods by means of an automated kiosk.
- U. Secondhand Goods - personal property previously owned or used, which is not regulated metals property regulated under FS [539](#) (Part 2) and which is purchased, consigned or traded as used property.

#### 4. **Procedures**

##### A. Records Requirements

1. The agency receives all pawnbrokers, secondhand and secondary metals recycler transaction information electronically. Transaction data will be uploaded by the business personnel daily via an agency approved electronic means. All pawnbrokers, secondhand and secondary metals recyclers operating in Orange County are required by ordinance to transfer data electronically. Members of the Crime Analysis Unit shall be responsible for the day to day administrative management of the electronic pawn program. Members of the Crime Analysis Unit, along with trained members of the General Assignment Section, shall be responsible for training business owners on the program.
2. Pawnbrokers shall complete a pawnbroker transaction form at the time of the actual transaction which will include whether the transaction is a pawn or a purchase. Pawnbrokers shall maintain a copy of the completed

transaction form on the registered premises for at least one (1) year after the date of the transaction (and 3 years total on or off premises). The pawnbroker transaction forms and the information provided on the forms are confidential. They may only be used for law enforcement purposes, (e.g., taking victims to pawnshops to identify stolen property, advising a victim where stolen property is located so they may file an appropriate claim.) This section does not prohibit the disclosure by the appropriate law enforcement officials of the name and address of the pawnbroker, the name and address of the conveying customer, or a description of pawned property to the alleged owner of pawned property.

- a. All pawnbroker related transactions in Orange County are transferred electronically. Users generate pawn transaction forms using the software provided and maintain them at the business consistent with FS [539.001](#) or FS [538.19](#) as appropriate. The appropriate law enforcement official may, for the purposes of a criminal investigation, request the pawnbroker produce the original transaction form that has been electronically transferred. The pawnbroker shall deliver this form to the appropriate law enforcement official within 24 hours of the request.
  - b. Pawnbroker / secondhand dealer transaction forms remain the property of this agency. Deputies may use evidence property forms to seize original pawnbroker / secondhand dealer transaction forms as evidence in a criminal case from a pawnbroker or secondhand dealer who electronically transfers the pawn or sales transactions.
3. Secondhand dealers shall complete a secondhand dealer's transaction form at the time of the actual transaction. The secondhand dealer shall maintain a copy of a completed transaction form on the registered premises for at least one (1) year after the date of the transaction. However the secondhand dealer shall maintain a copy of the transaction form for not less than three (3) years.
  4. All secondary metals recyclers shall maintain a legible electronic record, in the English language, of all purchase transactions involving regulated metal property and restricted regulated metal property to which such secondary metals recycler is a party. Such electronic format will be the **Florida Integrated Network for Data Exchange and Retrieval** software (FINDER), or such software as is otherwise designated in writing by the Orange County Sheriff's Office. It will be the responsibility of the individual secondary metals recycler, or an employee thereof, to obtain the most current data specifications of the designated electronic format. A secondary metals recycler shall maintain or cause to be maintained-the information required by [Orange County Ordinance No. 2010-16](#) for not less than five (5) years from the date of purchase transaction.

**B. Procedures for Maintaining Property**

1. All goods delivered to a pawnbroker in a pawn or purchase transaction must be securely stored and maintained in an unaltered condition with the jurisdiction of the appropriate law enforcement official for a period of 30

calendar days after the transaction. Those goods delivered to a pawnbroker in a purchase transaction may not be sold or otherwise disposed of before the expiration of such period. The pawnbroker shall make all pledged and purchased goods and all records relating to such goods available for inspection by the appropriate law enforcement official during normal business hours throughout such period. The pawnbroker must store and maintain pledged goods for the period unless the pledged goods are redeemed earlier. The pawnbroker must store and maintain the pledged goods for at least 30 days following the pawns maturity date provided. However, within the first 30 days after the original pawn, the pledged goods may be redeemed only by the original pledgor or the pledgor's attorney in fact. If the 30<sup>th</sup> day is not a business day the pawnbroker must store the pledged goods until the next business day.

2. Per FS [538.06](#), secondhand dealers shall not sell, barter, exchange, alter, adulterate, use, or in any way dispose of any secondhand goods
  - a. Within thirty (30) calendar days after the date on which the good is acquired for precious metals, a gemstone, or jewelry; an antique furnishing, fixture or decorative object; an item of art defined in FS [686.501](#); or if an automated kiosk is utilized.
  - b. Within fifteen (15) calendar days after the date on which the good is acquired for all other items.

Such holding periods are not applicable when the person known by the secondhand dealer to be the person from whom the goods were acquired desires to redeem, repurchase, or recover the goods, provided the dealer can produce the record of the original transaction with verification that the customer is the same person from whom the goods were originally acquired.

3. Secondary metals recyclers shall make any and all purchased, regulated metals property in the possession of the secondary metals recycler and any and all records required to be maintained under FS [538](#) available for inspection by the appropriate law enforcement official during the usual and customary business hours of a secondary metals recycler. FS [538 Part II](#) does not specify a holding period for any regulated metals property prior to being disposed by the secondary metals recycler. The secondary metals recycler is required to maintain a photograph, videotape, or digital image of the regulated metals being sold.

#### C. Case Investigation Procedures

1. The Crime Analysis Unit (CAU) Pawn Investigative Analyst shall be responsible for reviewing copies of the pawn transaction forms. If the analyst believes a pawnshop, secondhand dealer, or secondary metals recycler has accepted misappropriated property, the analyst shall notify the detective assigned or supervisor of the investigative unit and prepare a memorandum.
2. Once the investigator has probable cause to believe that in fact a pawnshop

is in possession of misappropriated property, they shall:

- a. Issue a written [Notification of Pawn Holds](#) form to the pawnshop. The hold should be placed as soon as possible in order to prevent the redemption of the property or other legal disposal.
- b. Have the pawnshop owner or representative of the pawnshop sign and date the form. The form must include the name and address of the pawnbroker; name, title and employee identification number of the law enforcement officer, the law enforcement agency name and address, the agency case number; a complete description of the property, to include any model and/or serial numbers; name of person reporting the property as stolen, unless otherwise prohibited by law; (e.g., victim of sexual assault, child abuse, elderly abuse, Marsy's Law, etc.); the mailing address of the pawnbroker; and the expiration date of the holding period, not to exceed ninety (90) days per FS [539.001](#).
- c. Deputies may issue holds within Orange County. The Criminal Investigations Division shall assist municipal police officers placing holds within unincorporated Orange County.
- d. Hold orders may not exceed 90 days, unless extended by court order. If the 90 days is to expire prior to the disposition of the case, the deputy may choose to seize the property as evidence and place it into the Evidence Section. Only one hold order may be issued by law enforcement officer on any one item.
- e. While a hold order is in effect, the pawnbroker must upon request release the property subject to the hold order to the custody of the appropriate law enforcement official for use in a criminal investigation. The deputy shall present the [Property Recovery Prepared Affidavit form](#) to the pawnbroker for completion. This form allows pawnbrokers to make formal claims to the property or waive such claims. The investigating deputy shall deliver the property to the Evidence Section, where it will remain until the disposition of the case. The State Attorney's Office is responsible for obtaining a court order at the completion of the case that specifies the disposition of the property. Upon completion of the criminal proceeding, the property must be returned to the pawnbroker unless the court orders other disposition. Property will not be released to the victim/owner until such court order is obtained.
- f. If the claimant wishes to obtain misappropriated property from a pawnbroker, the claimant must notify the pawnbroker by certified mail, return receipt requested or in person evidenced by a signed receipt, or the claimant's claim to the purchased or pledged goods. The notice must contain a complete and accurate description of the purchased or pledged goods and must be accompanied by a legible copy of the applicable law enforcement agency's report on the misappropriation of such property. If the claimant and pawnbroker do not resolve the matter within 10 days after the pawnbroker's receipt of the notice, the claimant may petition the court to order the return of the property, naming the pawnbroker as a defendant, and must serve the pawnbroker with a copy of the petition. The pawnbroker shall hold the property described in the petition until the right to possession is resolved by the parties or by a court of competent



jurisdiction. The court shall waive any filing fee for the petition to recover the property, and the Sheriff shall waive the service fees. If, after notice and hearing, the court finds that the property was misappropriated and orders the return of the property to the claimant:

1. The claimant may recover from the pawnbroker the cost of the action, including the claimant's reasonable attorney's fees.
2. The claimant may obtain a court order via the above method to recover their misappropriated property from the pawnshop. The deputy shall photograph the property.

### 3. Secondhand Dealers

Once the investigator has probable cause to believe that in fact a secondhand dealer / precious metals dealer is in possession of misappropriated property, they shall:

- a. Issue a written [Notification of Pawn Holds](#) form to the secondhand dealer. The hold should be placed as soon as possible in order to prevent the redemption of the property or other legal disposal.
- b. Have the secondhand dealer or representative of the secondhand dealer sign and date the form. The form must include the name and address of the secondhand dealer; name, title and employee identification number of the law enforcement officer, the law enforcement agency name and address, the agency case number; a complete description of the property, to include any model and/or serial numbers; name of person reporting the property as stolen unless otherwise prohibited by law (e.g., victim of sexual assault, child abuse, elderly abuse, Marsy's Law, etc.); the mailing address of the secondhand dealer; and the expiration date of the holding period, not to exceed ninety (90) days per FS [538.06](#).
- c. Deputies may issue holds within Orange County. The Criminal Investigations Division shall assist municipal police officers placing holds within unincorporated Orange County.
- d. Hold orders may not exceed 90 days, unless extended by court order. If the 90 days is to expire prior to the disposition of the case, the deputy may choose to seize the property as evidence and place into the Evidence Section. Only one hold order may be issued by a law enforcement officer on any one item.
- e. While a hold order is in effect, the secondhand dealer must upon request, release the property subject to the hold order to the custody of the appropriate law enforcement official for use in a criminal investigation. The deputy shall present the [Property Recovery Prepared Affidavit form](#) to the secondhand precious metals dealer for completion. This form allows secondhand dealer to make formal claims to the property or waive such claims. The investigating deputy shall deliver the property to the Evidence Section, where it will remain until the disposition of the case. The State Attorney's Office is responsible for obtaining a court order at the completion of the case that specifies the disposition of the property. Upon completion of the criminal proceeding, the property must be returned to the secondhand dealer unless the court orders other disposition. Property will not be released to the victim/owner until such court

order is obtained.

- f. If the claimant wishes to obtain misappropriated property from a secondhand dealer, the claimant must notify the secondhand dealer by certified mail, return receipt requested or in person evidenced by a signed receipt, or the claimant's claim to the purchased or pledged goods. The notice must contain a complete and accurate description of the purchase and must be accompanied by a legible copy of the applicable law enforcement agency's report on the misappropriation of such property. If the claimant and secondhand dealer do not resolve the matter within 10 days after the secondhand dealer's receipt of the notice, the claimant may petition the court to order the return of the property, naming the secondhand dealer as a defendant, and must serve the secondhand dealer with a copy of the petition. The secondhand dealer shall hold the property described in the petition until the right to possession is resolved by the parties or by a court of competent jurisdiction. The court shall waive any filing fee for the petition to recover the property, and the Sheriff shall waive the service fees. If, after notice and hearing, the court finds that the property was misappropriated and orders the return of the property to the claimant:
  1. The claimant may recover from the secondhand dealer the cost of the action, including the claimant's reasonable attorney's fees.
  2. The claimant may obtain a court order via the above method to recover their misappropriated property from the secondhand dealer. The deputy shall photograph the property.

#### 4. Secondary Metals Recyclers

Once the investigator has probable cause to believe that in fact a secondary metals recycler is in possession of misappropriated property, they shall:

- a. Issue a written Notification of Secondary Metals Property Holds form to the secondary metals recycler. The hold should be placed as soon as possible in order to prevent the redemption of the property or other legal disposal.
- b. Have the secondary metals recyclers or representative of the secondary metals recyclers sign and date the form. The hold notice will be in writing, delivered to the secondary metals recycler, specifically identifying those items of regulated metals property that are believed to have been stolen and that are subject to the notice.
- c. Deputies may issue holds within Orange County. Municipal police officers may contact the Criminal Investigations Division for assistance in placing holds within unincorporated Orange County.
- d. Hold orders may not exceed 15 calendar days from receipt of the notice by the secondary metals recycler. No later than the expiration of the 15 day period a law enforcement officer may issue a second hold notice to the secondary metals recycler which will be an extended hold notice for a period of 45 calendar days from the time of receipt by the secondary metals recycler. At the expiration of the



hold period or, at the expiration of the extended hold period the hold is automatically released and the secondary metals recycler may dispose of the regulated metals property unless other disposition has been court ordered. Only one hold order may be issued by law enforcement officer on any one item.

- e. If the secondary metals recycler contests the identification or ownership of the regulated metals property, the party other than the secondary metals recycler claiming ownership of any stolen goods in the possession of a secondary metals recycler may bring an action for replevin in the county or circuit court by petition.
  - 1. The claimant may recover from the secondary metals recyclers the cost of the action, including the claimant's reasonable attorney's fees.
  - 2. The claimant may obtain a court order via the above method to recover their misappropriated property from the secondary metals recyclers.