

Cherokee Nation Code Annotated
Title 21: Crimes and Punishments
Part VIII. Controlled Dangerous Substances
Chapter 75: Uniform Controlled Dangerous Substances Act
Article V. Enforcement and Administrative Provisions
§ 2508. Destruction of seized property
Cite as: 21 CNCA § 2508

A. Except as otherwise provided, all property described in 21 CNCA § 2503(A)(1) and (2) which is seized or surrendered pursuant to the provisions of the Uniform Controlled Dangerous Substances Act shall be destroyed. The destruction shall be done by or at the direction of the Oklahoma State Bureau of Investigation, who shall have the discretion prior to destruction to preserve samples of the substance for testing. Any such property submitted to the Oklahoma State Bureau of Investigation which it deems to be of use for investigative, training, educational, or analytical purposes may be retained by the Oklahoma State Bureau of Investigation in lieu of destruction.

B. All other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of a Cherokee Nation peace officer or the Prosecuting Attorney of the Cherokee Nation District Court may be disposed of by order of the District Court of Cherokee Nation when no longer needed in connection with any litigation. If the owner of the property is unknown to the Marshal service or Prosecuting Attorney of the Cherokee Nation District Court, the Marshal service shall hold the property for at least two (2) years prior to filing a petition for disposal with the District Court except for laboratory equipment which may be forfeited when no longer needed in connection with litigation, unless the property is perishable. The Prosecuting Attorney of the Cherokee Nation District Court shall file a petition in the District Court requesting the authority to conduct a sale of the property or to convert title of the property to Cherokee Nation for donation in accordance with subsection (F) of this section. The Prosecuting Attorney shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Marshal service or Prosecuting Attorney, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property, except laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner at least ten (10) days prior to the date of the hearing. Notice of a hearing on a petition for forfeiture or sale of laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the

Uniform Controlled Dangerous Substances Act shall not be required. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the Nation, one such place being the Cherokee Nation Courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the Court may enter an order authorizing the Prosecuting Attorney of Cherokee Nation to donate the property pursuant to subsection (F) of this section or to sell the property to the highest bidder after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the Nation. The Prosecuting Attorney shall make a return of the sale and, when confirmed by the Court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be used for the purpose of purchasing controlled dangerous substances to be used as evidence in narcotic cases and fees for informers, or employees and other associated expenses necessary to apprehend and convict violators of the laws of Cherokee Nation regulating controlled dangerous substances. These funds shall be transferred to the Narcotics Revolving Fund. A return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be used for the purpose of purchasing controlled dangerous substances to be used as evidence in narcotic cases and fees for informers, or employees and other associated expenses necessary to apprehend and convict violators of the laws of the Cherokee Nation regulating controlled dangerous substances. These funds shall be transferred to the Narcotics Revolving Fund.

C. Any property, including but not limited to uncontaminated laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, upon a Court order, may be donated for classroom or laboratory use by the Marshal Service or the Prosecuting Attorney of Cherokee Nation District Court to any public secondary school or vocational-technical school in this Nation or the State of Oklahoma.

Historical Data

LA 03-91, eff. February 9, 1991.

Renumbered from 63 CNCA § 2-508.