

MONROE COUNTY
CLERK OF THE CIRCUIT COURT
PROCESS REVIEW OF EVIDENCE FUNCTION



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Division of Inspector General
Audit Services Unit
May 31, 2013



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The Honorable Amy Heavilin
Clerk of the Circuit Court – Monroe County, Florida

Re: Clerk's Office Evidence Process Review

At your request, we conducted a process review of the controls over the Monroe County Clerk of the Circuit Court Evidence function.

Our objectives were to evaluate the overall effectiveness and efficiency of evidence handling and safeguarding processes and related internal controls as well as verify compliance with pertinent laws, regulations and policies.

Our review was neither designed nor intended to be a detailed study of every process, procedure, transaction or system in each area. Accordingly, the observations and recommendations included in this report are not all-inclusive.

The process review identified various control weaknesses and opportunities to strengthen the evidence handling and safeguarding processes. Specifically, evidence processing and storage practices in the three Monroe County locations require improvement. Periodic and random evidence inventory observation and reporting practices require strengthening. Enhanced utilization of vault and evidence room access logs as well as automated reporting would improve oversight. Opportunities exist to strengthen criminal background and drug screening checks, training and development practices, and written procedures within the evidence process.

We appreciated the cooperation of management and staff during the course of this review.

Respectfully submitted,

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Executive Summary

At the request of the Monroe County Clerk of the Circuit Court Amy Heavilin, the Palm Beach County Clerk & Comptroller's Division of Inspector General conducted a process review of the controls over evidence stored in the Monroe County Clerk's offices located in Key West, Marathon and Plantation Key. The Clerk of the Circuit Court was elected in November 2012 and took office in January 2013.

The objectives of this review were to obtain an understanding of the evidence handling and safeguarding processes, evaluate the related control environment, verify compliance with pertinent laws and regulations as well as policies and procedures, and compare processes with accepted standards and best practices.

This report contains observations and recommendations for improving the internal control environment within the Monroe County Clerk of the Circuit Court evidence handling and safeguarding processes.

The review disclosed that evidence handling and storage practices in the three locations (Key West, Marathon, and Plantation Key) require improvement to ensure proper recordkeeping and safeguarding of evidence. Periodic and random evidence inventory observation and reporting practices require strengthening, which would more quickly identify missing or misplaced evidence items and act as a theft deterrent. Vault and evidence room access logs were not maintained to record clerk entry and specific case evidence handled.

Manual recordkeeping and existing automated tools did not provide adequate reporting and oversight of the evidence inventory and custodial functions. Pre-employment criminal background and drug screening checks are generally not performed prior to hiring employees or on a periodic random basis after the hire date. Opportunities exist to enhance training and development practices as well as to establish written procedures for all evidence processes.

The report contains 7 observations and 28 recommendations. Management responses were not provided for inclusion in this report. The Clerk's office is encouraged to implement the recommendations to improve its operations.

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Introduction

Overall Conclusion

The newly-elected Monroe County Clerk of the Circuit Court has initiated efforts to improve office efficiencies and effectiveness wherever possible.

Control weaknesses and improvement opportunities were noted within the evidence handling, storage, recordkeeping, reporting, and disposal practices within the three locations (Key West, Marathon, and Plantation Key). Enhancing the evidence safeguarding and oversight processes and implementing a set of comprehensive policies and procedures will have a positive impact on the operations. These improvements will better enable prompt identification and resolution of any missing or misplaced evidence items that may arise and act as a theft deterrent.

Objectives, Scope and Methodology

The Palm Beach County Clerk & Comptroller's Division of Inspector General conducted a process review of the controls over evidence stored in the Monroe County Clerk's offices located in Key West, Marathon and Plantation Key.

The objectives of this review were to obtain an understanding of the evidence handling and safeguarding processes, evaluate the related control environment, verify compliance with pertinent laws and regulations as well as policies and procedures, and compare processes with accepted standards and best practices.

In order to meet the objectives, we conducted management and staff-level interviews to review and document the processing of evidence from initial receipt to disposal and destruction. Evidence procedures were not available for review. We evaluated the internal control environment as well as examined and evaluated the facilities supporting the areas.

We compared evidence handling and safeguarding processes to best practices and professional standards established by the Florida Court Clerks and Comptrollers (FCCC) and the International Association for Property and Evidence, Inc. (IAPE). We performed other procedures that were deemed necessary under the circumstances.

Background

The Monroe County Clerk of the Circuit Court office is responsible for performing various court-related functions for the 74,000 residents. The Clerk's evidence function is responsible for receiving, securing, recording, storing, and disposing of evidence presented in Monroe County criminal and civil courts located in Key West, Marathon and Plantation Key.

Evidence is introduced and presented during court hearings and trials. The Clerk's court clerk in attendance takes possession of the evidence as presented. In general, clerks maintain possession and control over evidence throughout the duration of the trial, transporting it to the courtroom and returning it to the evidence vault daily.

During a trial or hearing, an assigned court clerk prepares an exhibit list of all evidence presented. At the conclusion of the trial or hearing, the assigned court clerk signs the exhibit list, attaches a copy to the physical evidence, and transports the evidence to the vault or other storage area. Since February 2013, clerks have begun to capture new evidence exhibit lists when received into the Odyssey court management system.

Criminal evidence is stored primarily in onsite evidence vaults and safes located in Key West, Marathon and Plantation Key. Civil evidence is stored with criminal evidence in Plantation Key. Civil evidence is stored in a separate file room in Key West and Plantation Key. Florida Statutes, court rules and local administrative orders define the retention periods for evidence. Disposal of criminal evidence requires approval by court order and approval by the Chief Deputy Clerk.

Review Team:

Alan Bray, Deputy Inspector General & Audit Manager
Charles Mansen, Audit Project Administrator

Observations & Recommendations

The process review was neither designed nor intended to be a detailed study of the entire evidence process. Accordingly, the results of our review and recommendations presented in this report may not be all-inclusive of areas where improvement may be needed.

1. Evidence handling and storage practices require improvement.

Evidence handling and storage practices in the three Monroe County locations require improvement to ensure proper recordkeeping and safeguarding of evidence.

The following observations were noted during our on-site reviews that require management attention, followed by which of three locations it was identified (Key West – KW, Marathon - MR, and Plantation Key - PK).

- a) Evidence vaults and safes are generally accessible by all courtroom clerks in the two satellite locations (five in MR and thirteen in PK). The Plantation Key vault is left open during working hours to enable access by each court clerk. Dual access is not required. The Marathon vault is under renovation and the evidence (two pieces at the time of review) is stored in a small safe.
- b) Access to the main criminal evidence vault in Key West is restricted to four court clerks and the Chief Deputy Clerk. Dual access is required. Key West civil and misdemeanor evidence is placed in file rooms that are accessible to all court clerks using door keys.
- c) All court clerks had access to Odyssey to change evidence records (KW, MR, PK).
- d) Surveillance cameras are not used to monitor the evidence vault interiors and entrances (KW, MR, PK).
- e) Evidence is generally not stored in an orderly manner. Evidence records and exhibit tags do not identify the storage location of evidence items held in the evidence vaults. Shelving is not labeled to enable accurate location references (KW, MR, PK).
- f) Evidence labeling was handled inconsistently. Evidence boxes were labeled with case numbers and other identification in the two satellite locations (MR, PK). An evidence label and copies of exhibit lists were attached to evidence boxes in Key West.

- g) Clerks are responsible for receiving evidence as well as storing and maintaining custody of the evidence (KW, MR, PK).
- h) The Key West vault has a halon gas system for fire prevention, though we could not determine if it was functional. No similar fire prevention exists in the two satellite locations (MR, PK).
- i) The Key West criminal vault and civil file room use drop ceilings, which may allow employees to hide or intentionally misplace evidence out of sight.
- j) The Plantation Key office had a small locked safe, which could not be opened as employees did not have the combination. The safe contents were unknown.
- k) The back door leading into the Marathon office was unlocked at the time of our review.
- l) Broken evidence seals were noted on a box containing a weapon and on a bag containing drugs. Management stated that evidence may be opened during court trials and evidence is stored as received without further packaging the items (PK, KW). Also, one weapon had the case number marked on the barrel but it did not match the case number recorded on the box label.
- m) Evidence on hand included firearms. IAPE standards suggest that firearms should be properly disarmed and packaged before accepted as evidence. Clerks should remove firearms from packaging (with law enforcement assistance as deemed necessary) and examine firearms to determine if weapons contain live ammunition. Any live ammunition should be removed, recorded as partial exhibits, and stored in packaging that prevents unsafe loose storage. Firearms should be secured with zip or cable ties.
- n) Biohazard evidence (e.g., clothing with DNA evidence) was not stored in a manner to prevent degradation and cross-contamination of other evidence.
- o) Evidence disposal is not performed on a periodic basis, resulting in evidence remaining on hand longer than necessary.

At the time of the review, the Clerk's offices in Marathon and Plantation Key were under the supervision of the Chief Deputy Clerk. One individual provided supervisory oversight of the evidence functions to both the Plantation Key and Marathon offices.

Recommendations:

The International Association for Property and Evidence, Inc. (IAPE) standards and best practices exist to guide organizations in designing facility layouts, utilizing surveillance equipment, securing the evidence, and ensuring proper ventilation and climate controls. These standards were used to develop the following recommendations.

A. Restrict evidence vault and safe access to those clerks that are involved in handling

evidence.

- B. Require and enforce dual access into the vaults using cards, keys, or access codes.
- C. Restrict Odyssey system access so that all court clerks are not able to change evidence records.
- D. Ensure that evidence is processed in the vault or secure staging area and not in the open work space where evidence could be hidden and removed later.
- E. Consider installing surveillance cameras inside and at the entry to the vaults. If cameras are used, video should be recorded and stored for appropriate periods.
- F. Storage locations (e.g., racks, shelves, boxes) should be properly labeled.
- G. Enhance supervisory oversight of the evidence function by establishing a fully dedicated evidence custodian, physically located in the evidence area, to monitor the evidence operations.
- H. Consider testing or verifying functionality of the halon system.
- I. Consider replacing drop ceilings with a hard material ceiling.
- J. Gain entry into the small locked safe in Plantation Key and record contents.
- K. Ensure doors leading into offices are properly secured.
- L. Ensure that evidence is properly sealed, particularly if valuable, and labeled prior to being placed in storage.
- M. Secure weapons and ammunitions as recommended by IAPE standards.
- N. Store biohazard evidence in boxes on the lowest level of shelving and separated from other evidence.
- O. Conduct periodic disposals of evidence on hand that exceed retention periods prescribed by Florida Statutes and Florida Rules of Judicial Administration (FRJA).

2. Evidence inventory practices should be strengthened.

Opportunities exist to develop and implement periodic and random inventories of evidence, which would more quickly identify missing or misplaced evidence items and act as a theft deterrent.

Best practices indicate that an inventory of a random sampling of evidence in storage should be performed on a regular (e.g., monthly) basis and a more comprehensive inventory should be performed periodically.

Our review of the inventory procedures and practices identified the following improvement opportunities.

- a) Policies and procedures are not in place for conducting regular random sampling and periodic complete inventories of evidence.
- b) Random samplings of evidence inventories are not performed, which is particularly important for valuable items (e.g., weapons, drugs, jewelry and currency).
- c) A complete inventory of evidence has not been performed for an extended period in each location. During our interviews, management stated that evidence inventories were most recently performed around 2006 for Key West felony and around 2001 for Key West misdemeanor. Key West civil evidence was purged in 2011 though it was not clear if a complete inventory was performed. Marathon evidence was transferred to Key West in 2011 and there were only two pieces of evidence noted during our review. It is unknown whether an inventory has been performed for the Plantation Key evidence vault. Documentation of the evidence inventories was not available.
- d) Exhibit list evidence item descriptions are not verified to physical evidence by a second clerk.
- e) Use of transparent evidence storage containers and bags would enable easy identification of evidence during periodic inventories without opening packaging.

Recommendations:

- A. Establish policies and procedures for performing routine random inventory samplings and less frequent complete inventories of all evidence in each location.
- B. Ensure that random inventory sampling is performed and documented consistently, particularly valuable items such as weapons and narcotics.
- C. Establish and execute a complete inventory process of all evidence vaults and storage locations, preferably using two individuals in which one person is independent of the evidence function.
- D. Ensure that inventories performed are documented, results are reported to management, and corrective actions are approved by management.
- E. Establish a quality control process to ensure the accuracy of evidence entered into the Odyssey system.
- F. Consider utilizing transparent storage containers to maximize efficiencies when performing inventories of evidence.

3. Vault and evidence room access logs were not maintained.

Court clerks did not record each occurrence of vault or evidence room entry into access logs. Without this information, management cannot verify the purpose of entry or the specific case evidence accessed.

Best practices indicate that logs should be maintained to record entry and departure from the evidence vault or room by clerks. Each visit to the evidence vault or room should be documented by recording the date, time, reason for entry and specific case number. Best practice also indicates that dual access should be required to enter when handling evidence. The access log should remain in the evidence vault or room. The two persons entering should each record their signatures in the log. If evidence is missing, this tool helps to identify the individuals who may be responsible.

A vault key sign-out/sign-in log is maintained in the possession of the Clerk of the Circuit Court's secretary for access to keys to the Key West criminal evidence vault.

Recommendations:

- A. Implement evidence vault/room access logs for each of the locations in which evidence is stored.
- B. Perform periodic reviews of the access logs to ensure employees are accurately and completely recording entry into the evidence vault / room and ensure dual access is enforced.

4. Evidence tracking and reporting requires improvement.

Manual recordkeeping and existing automated tools did not provide adequate reporting and oversight of the evidence inventory and custodial functions.

Evidence has begun to be captured in the Odyssey system in all locations for new evidence received since February 2013; however, prior evidence is not recorded in the system. Inconsistencies were noted in the manner in which evidence was recorded in Odyssey in the various locations. For example, Key West enters individual evidence

items into Odyssey whereas Plantation Key enters exhibit lists into Odyssey with item details recorded in the comment tab, which may restrict generation of detailed evidence inventory reports.

A complete inventory listing of evidence stored in each of the three locations (KW, MR, PK) was not available at the time of our review. The total number of evidence items was unknown. The three locations generally prepare manual lists of evidence exhibits, but the lists are not comprehensive and do not represent all evidence held in the evidence vaults for each location. The information was used strictly for internal purposes as no reporting was required for external or regulatory purposes. The reports were not provided to management for review of evidence functions.

An effective evidence tracking system should provide a complete evidence list to verify all physical evidence held in the Clerk's custody in each location. The system should provide reports that track evidence transfers, disposals, destruction, and purges of evidence information. We could not determine if the Odyssey system is capable of providing the required functionality and reporting for the Clerk's office as the system was not generating evidence reports.

Recommendation:

- A. Develop and implement an evidence tracking system to identify all evidence and track the custody, inventory, transfer, disposition, release, and destruction of evidence, including purge of evidence records. Determine if Odyssey will provide the required functionality and reporting capabilities; if not, pursue other alternatives.

5. Criminal background checks and drug screening policies should be strengthened.

Pre-employment criminal background and drug screening checks are generally not performed prior to hiring employees or on a periodic random basis after hire date.

Based on our review of the Monroe County Clerk of the Circuit Court Employee Handbook:

- new employees are not required to undergo criminal background checks;

- applicants who refuse to submit to drug screening shall be ineligible for hire and any offer of hire is conditioned upon satisfactory drug test results; and,
- as a condition of continued employment and upon reasonable suspicion, a deputy may be required to undergo testing to detect illegal drug or alcohol use.

Discussions with the Chief Deputy Clerk disclosed that pre-employment criminal background checks and drug screening are not currently performed. Also, random drug screening for current employees is not currently performed.

Failure to enforce pre-employment criminal background checks and drug screenings may result in hiring and retaining employees who present risks to the organization in handling and overseeing the evidence functions.

Recommendation:

Enhance Clerk policies by requiring pre-employment criminal background checks and drug screening for court clerks and anyone involved in evidence functions. Also, consider performing periodic and random drug screening for current employees handling evidence.

6. Opportunities exist to strengthen evidence training and development.

Opportunities exist to enhance the training and development of clerks handling evidence to help ensure adherence to Florida Statutes, Florida Rules of Judicial Administration, and Clerk policies and procedures.

The existing court clerks and supervisors provide on-the-job training to other clerks handling evidence as needed. Interviews indicated that supervisors and clerks were not sufficiently familiar with the requirements of Florida Statutes and Florida Rules of Judicial Administration (FRJA) concerning evidence handling, notification of release, State Attorney and judicial approvals for disposition, destruction, and record retention. No documented training program was in place. Firearms safety training is not provided and may need to be considered.

IAPE standards recommend that evidence training should be provided to employees and management by professional instructors. The IAPE offers training tools that include live courses, online training and books. Management may also consider

professional associations and certifications (e.g., IAPE's Corporate Certified Property and Evidence Specialist (CCPES)) to develop staff expertise.

Recommendations:

- A. Evaluate alternative sources and types of training related to handling and securing evidence. Develop an overall plan to meet the one-time and ongoing training needs of clerks and management. Ensure best practices are considered and implemented as appropriate.
- B. Consider pursuing memberships and certifications to professional evidence associations to ensure best practices are maintained.

7. Written evidence procedures should be developed and implemented.

Opportunities exist to develop and implement practices and procedures related to the retention, release, return, disposal and destruction of evidence to ensure compliance with Florida Statutes and adherence to professional standards and best practices.

Formal written procedures were not available at the time of our review. Such procedures should incorporate all key evidence processes and be in compliance with Florida Statutes and Florida Rules of Judicial Administration (FRJA).

Recommendation:

- A. Develop and implement written policies and procedures for key evidence processes.