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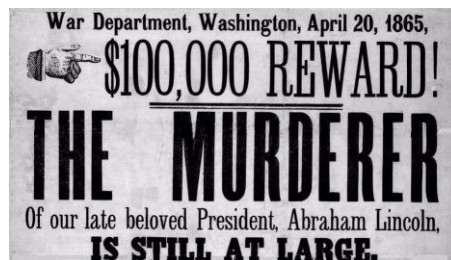
## Rewards and Finders' Claims

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### ❖ Introduction

*Reward – Wanted Dead or Alive*, is a phrase known to fans of cowboy movies and TV shows. It is the title of songs performed by Bon Jovi and various rappers. In 1865, a \$50,000 reward was offered by the Secretary of War for the apprehension of Lincoln's assassin, John Wilkes Booth. Today, it would have the buying power of more than \$1 million.



Rewards were posted for the capture of outlaws. Banks and express companies also offered rewards for the return of currency or other valuables. May law enforcement officers lawfully claim those prizes?

Individuals who discover unclaimed lost or abandoned property may have a contingent right to convert it to their own use. Public servants – especially sheriffs, police officers and firefighters – may have a legal duty to protect valuables they find. Are they entitled to retain unclaimed property?

### ❖ **Public policy considerations**

More than a century ago, the Supreme Court of the United States decided a case involving two federal marshals who sought to collect a \$500 reward. The justices wrote:

“It is undoubted that both in England and in this country it has been held that it is contrary to public policy to enforce in a court of law, in favor of a public officer, whose duty by virtue of his employment required the doing of a particular act, any agreement or contract made by the officer with a private individual, stipulating that the officer should receive an extra compensation or reward for the doing of such act.

“An agreement of this character was considered at common law to be a species of quasi extortion, and partaking of the character of a bribe.” [\*United States v. Matthews\*](#), #79, 173 U.S. 381, 19 S.Ct. 413 (1899).

The reason for the policy is to discourage a practice of paying an officer a gratuity to serve civil process, to execute a writ or warrant, to collect a judgment or to evict a tenant. The solicitation or acceptance of gifts or bounties to perform a public duty is a serious offense leading to imprisonment and removal from office in most states.

The New Jersey Supreme Court denied a reward to a special police officer who furnished information leading to the recovery of stolen diamonds and jewelry. “The services he rendered, in this instance, must be presumed to have been rendered in pursuance of that public duty, and for its performance he was not entitled to receive a special quid pro quo.” [\*Gray v. Martino\*](#), 91 N.J.L. 462, 103 A. 24 (1918).

- An Ohio appellate court held that a police officer who solicited and received a reward from the owner of stolen property before returning it was guilty of bribery. [\*State v. Seneff\*](#), 70 Ohio App.2d 171, 435 N.E.2d 680, 1980 Ohio App. Lexis 9728.

### ❖ **Government rewards**

Some courts have made a distinction between private and public rewards. For example, the reward in the [\*Matthews\*](#) case was offered by the Attorney General, rather than by a private

individual. Upholding the claim in a 7-2 decision, the U.S. Supreme Court concluded that a government official has the authority to include or exclude law enforcement officers and public officials as eligible claimants.

Nearly a century ago, the Massachusetts Supreme Court made no distinction between a government and private reward. However, the justices did make a distinction between an unsalaried part-time officer and a member of an organized police force. They wrote “that a contract to pay a public officer for services rendered outside and not inconsistent with his official duty is valid and may be enforced. A reward offered for such service is also enforceable.” [\*Hartley v. Inhabitants of Granville\*](#), 216 Mass. 38, 102 N.E. 942 (1913).

#### ❖ Application to off-duty actions

The Connecticut Supreme Court rejected the argument that an off-duty officer is entitled to collect a reward. To hold otherwise would allow an officer to demand and recover a reward for any crimes he discovers while ‘off-duty.’ [\*In re Russell\*](#), 51 Conn. 577, 1884 Conn. Lexis 72 (1881).

The Supreme Court of Oklahoma agreed and denied a reward to an off-duty officer who intervened in an assault of a railway employee. The justices wrote:

“Nor do we see any sound reason for a distinction in the application of the rule whether the officer be on or off duty. The same menace to public policy which bars his right of recovery while on duty is lurking underneath the doctrine of allowing such reward for arrests made within his jurisdiction and within his scope of authority while off duty.” [\*Oklahoma Railway Co. v. Morris\*](#), #3754, 48 Okla. 8, 148 Pac. 1032 (1915).

#### ❖ When outside of one’s jurisdiction

The [\*Oklahoma Railway\*](#) case (cited above) made an exception to the general policy of denying rewards to law enforcement officers. “We are not ... holding that an officer should not be entitled to a reward for an arrest made beyond his jurisdiction and for a crime committed in another jurisdiction.”

An on-call Kansas deputy sheriff was entitled to collect a \$1,000 reward for the apprehension of a killer wanted in another county. The Kansas Supreme Court noted that while it is contrary to public policy to allow an officer to recover a reward for the performance of an official duty, public policy does not forbid a reward “where the officer is

under no obligation arising from his official character to perform the service.”

The Court added that “we know of no rule of law which makes it the official duty of a deputy sheriff of a particular county to arrest a supposed felon in another county without a warrant in the circumstances here shown” [\*Marsh v. Wells Fargo\*](#), #17,907, 88 Kan. 538. 129 Pac. 168 (1913).

The Iowa Supreme Court wrote that paying a reward for making an arrest that an officer has a duty to make would “open the door to fraud and corruption.” However, if the claimant had no duty to make an arrest, the reason for the rule does not exist. The court held:

“We find no precedent for denying the right of a town marshal or local policeman or constable to compete for a reward for making an arrest of one for whom he holds no warrant, where the scene of the crime and of the arrest are both outside of the officer’s territorial jurisdiction.” [\*Maggi v. Cassidy\*](#), 190 Iowa 933, 181 N.W. 27 (1921).

### ❖ **Lost and abandoned property**

In a California city, a large number of bicycles were recovered by police officers. From time to time, they were sold. No accounting was made of such sales, and the funds were retained by the chief of police. A civil action was filed to determine the ownership of the proceeds.

There was no ordinance or regulation making it the duty of the chief or any member of the police department to gather lost property, or requiring the transfer of the funds in question to the public treasury. The chief of police contended that the money belonged to him without any duty to account to the city.

An appellate court concluded that the chief was not entitled to retain the proceeds. The panel wrote:

“There is neither a more wholesome nor a sounder rule of law than that which requires public officers to keep themselves in such a position as that nothing shall tempt them to swerve from the straight line of official duty. ...

“It was the duty of the plaintiff herein to turn into the city treasury of Palo Alto the moneys in dispute here, and failing to do so the moneys turned into court should be ordered so disposed of.” [\*Noble v. City of Palo Alto\*](#), #6218, 89 Cal. App. 47, 264 Pac. 529 (1928).

A Pennsylvania appellate court upheld a police department rule requiring officers who come into possession of “lost, stolen, abandoned or unclaimed property” to deliver it to a designated person within 24 hours. However, a three-day suspension was overturned on procedural grounds. [\*Lamb v. City of Pittsburgh\*](#), #2636 C.D. 1984, 99 Pa. Commw. 424, 512 A.2d 1361, 1986 Pa. Commw. Lexis 2417.



**A suburban Chicago police property room**

The Ohio courts initially allowed a police officer to assert a claim for 6,871 gold and silver coins that he found. The property was not a “reward” offered to perform a public duty. However, the court upheld a state statute transferring the ownership of lost property to the governmental entity that employs officers who find lost or abandoned property. [\*Baker v. City of West Carrollton\*](#), #91-889, 64 Ohio St.3d 446, 597 N.E.2d 74, 1992 Ohio Lexis 1891.

A Minneapolis police officer who found \$8,527 was barred from asserting a claim to unclaimed money found in the course and scope of his employment. The funds may have been the proceeds from drug transactions. The department Manual provided that “Property which cannot be returned to its owner will be disposed of in accordance with municipal ordinances and state law.”

The officer argued, unsuccessfully, that the Manual was not part of his employment contract. The court added that “there are strong public policy considerations that support the prohibition against allowing a police officer to assert title to unclaimed money or other property found by him during the course and scope of his employment.” [\*Fey v. Minneapolis Police Dept.\*](#), 365 N.W.2d 791, 1985 Minn. App. Lexis 4017.

- The failure to inventory and log valuables is a valid basis for disciplinary action. The Supreme Court of Arkansas upheld the termination of a fire captain who claimed that he had removed a CB radio from a wrecked vehicle for safekeeping, but did not notify the police, inform his superior, or make an entry in the stationhouse log. [\*Briley v. Little Rock Civil Service Cmsn.\*](#), #79-49, 266 Ark. 394, 583 S.W.2d 78 (1979).

## ❖ Summary

1. Generally, a law enforcement officer is not entitled to a reward or bounty for apprehending a wanted suspect or performing some other official duty.
2. Solicitation or acceptance of a private gratuity can violate bribery laws.
3. A governmental office or public agency may offer and pay a reward to a law enforcement officer. An officer can bring a suit to collect a reward sponsored by the federal government. State courts have split on the issue.
4. An off-duty salaried officer is **not** entitled to a reward for making an arrest in his own jurisdiction.
5. An unpaid officer or a part-time or paid-on-assignment officer may, in some states, be entitled to collect a reward.
6. An officer who apprehends a fugitive may collect a reward if the crime occurred in another county. Some courts have added a requirement that the arrest take place outside of the officer's primary jurisdiction.
7. Law enforcement officers and firefighters have a duty to inventory and preserve valuable lost property. They may not convert lost or abandoned property to their own use or sell it for personal gain.

## ❖ References:

1. Specimen [general order](#) on property and evidence procedures and storage. Washington Metropolitan Airports Authority Police – General Order 4-311 (2009).
2. CALEA annotated specimen [general order](#) on found property and contraband. Chevy Chase Village, MD, Police – General Order 5-26.5 (2009).
3. “Rewards: Public officers,” 67 Am. Jur. 2d §16 (Thompson Reuters, 1973).
4. “Officer not entitled to collect reward,” 2 Anderson on Sheriffs, Coroners & Constables §725 (Dennis & Co., 1941).
5. Wikipedia, [Lost, mislaid, and abandoned property](#).

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Specimen policies and procedures are included for illustrative purposes, and are not intended as models.

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## **AELE Monthly Law Journal**

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