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Commander, SCIU
Alaska State Troopers

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Stolen property found in
pawnshops

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The current practice of the Alaska State Troopers is that when property that has been identified as stolen is located at a pawnshop it is seized under the "plain view" exception to the requirement that a search warrant be obtained. Assuming that the property is indeed in plain view, this practice is lawful and may be continued by the troopers. If, however, the property is situated in other than plain view (i.e., in a back storage room that is not open to members of the public), a search warrant must be obtained unless the officer is allowed in the area with the consent of the manager of the pawnshop.

You have indicated that the Anchorage Police Department has made the decision to seek search warrants in most cases before seizing stolen property from pawnshops. It is certainly within the discretion of the troopers to do the same. If you wish to do this, we can make informal arrangements for you to by-pass our district attorney's offices in obtaining these warrants.

If a suspect has been identified in the burglary or theft case, as a matter of policy the property should be seized as and for evidence in the criminal prosecution. A more effective prosecution can be maintained if the property can be shown to the jury.

If there is no known suspect, there is no requirement under the law that the troopers seize the property. It is permissible for the troopers to contact the owner of the property and simply notify the owner as to the location of the property. Property owners, however, probably will not be pleased with this and you may wish to consider the public relations consequences before using this approach.

You have advised us that at least one pawnshop has indicated that it will release the stolen property if you will pay a "finder's fee," which represents approximately one-half the value of the property. Not only is there no legal reason for the state to pay such a fee, but we would not have the authority to do so even if we wished to. Such requests must be unequivocally denied.

If a stolen item is seized from a pawnshop, with or without a search warrant, at

some point you will wish to make a final disposition of the item. If there was a criminal prosecution regarding the property, you should ask the district attorney's office to obtain an order authorizing the release of the property. If there was no prosecution, we suggest that you write a letter to the pawnshop, indicating that you will in thirty days be releasing the property to the person from whom it was stolen unless the pawnshop objects to this, in which event civil litigation will be necessary.

For the time being, we leave unanswered the question of who must initiate that lawsuit. There is a procedure under the law, known as an interpleader action, by which a party in possession of property may in essence hand it over to the court and let the court decide whom among competing claimants is entitled to it. Alternatively, you could require the pawnshop to initiate the lawsuit and, if it does not do so, proceed to release the property to its former owner. There is a risk, however, with this procedure; namely, the pawnshop may choose to sue the state, rather than the former owner, claiming that it was entitled to the property and that we acted improperly in releasing it to the former owner. We suggest that you contact us if a situation gets to that point.

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