

Mystery Boxes

You are probably asking yourself, "What are "mystery boxes?" Good question. However, everybody who works with safe deposit boxes probably has already experienced these "mystery boxes." It's those boxes you come across, usually during an audit, that neither have contracts on file for them nor keys belonging to them. You have no idea if the box is opened or closed. That's what makes them a mystery!

What is the problem relating to such "mystery boxes?" If you have it drilled in order to replace what you are assuming is lost keys to an unrented box and there ends up being contents- uh oh! You may have placed your bank at risk for a liability lawsuit! Why? Anytime you drill a customer's safe deposit box without the customer present, you run the risk of creating a situation your institution may need to answer for in a court of law. The customer could claim missing property.

So how do you reduce liability? The first step you want to take when discovering a "mystery box" is to plug the box for 'no access' so that if the customer and contract/access card show up, you may have identified a "mystery box's" owner. If you file your records numerically, you will also want to place in your files a caution card that this is a 'mystery box.'

You will want to be diligent in your research, doing everything you can think of to try to locate the owner. Among the things to double check:

Check files to make sure the original rental agreement was not misplaced or misfiled.

Check your access file to be sure an access card wasn't misfiled.

Check your access log to see what records you may have of who may have previously accessed the box. Check your computer records for any indication of whom the box was last rented to or when it was last surrendered.

Check your box history records to see if you can locate the owner based on the information on the box history card.

Check your inventory of keys to unrented boxes to be sure you didn't miss the key.

If all efforts fail to locate the owner, here is where patience must take place. You may want to wait at least one year before doing anything to the box. Maybe someone will come in to pay the rent on the box even if they didn't get a bill. As a matter of fact, if the box is not needed (example, you have other boxes available to rent in that particular size), there is no rush to drill the box, but wait and see if some evidence of ownership is found.

If you do need to drill the box, what is the correct procedure?

Chances are the box will be empty. However, if there are contents, you will want to protect your institution from any liability. Therefore, the drilling must take place with two employees (and if your state requires it as New Jersey and some other states do(), a notary). Any contents must be inventoried, placed in a sealed bag, labeled with the box number, drilling, witness and inventory

information, and kept under dual control under the same terms and conditions as any other forced entry box contents until the owner shows up to claim his property or it is escheated to the state.

Meanwhile, what if a customer does come into the bank to enter their box and there is no record of the box? Is it one of your "mystery boxes"? Since you do not have a rental agreement to know if this person really is the owner of the box, you will need to determine this in other ways. Does the customer have keys which will open the box? If the keys don't work it's not their box. If they do work, you still need to be certain it is their box. This person might have found or stolen the keys. One suggestion is that you obtain a brief description of the contents. Of course, we do not want to know details, just enough information to determine if this is the owner. Next, you will want 2 employees to accompany the customer into the box. This is to determine that the description the customer gave you of its contents is correct. This is tricky though because it may be seen as an invasion of privacy. It may have been better to have drilled the box earlier, inventoried the contents if any, and stored them under dual control. If the customer then turned up and could tell you what was in the box you would know if it was the right customer.

Finally, if you do establish who the owner is, you will need to draw up a new rental agreement and replace all other missing documents. You can then remove the no access plug and remove the box from your "mystery" file.

Of course, the best form of action is to prevent a "mystery box" in the first place. Regular audits of your safe deposit boxes by branch personnel, your audit department or both, diligent care of the keys to unrented boxes and rental agreements, and immediate documentation on the history cards are just a few steps in good management that will reduce your risk of a "mystery box".