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Disposition of Confiscated Weapons

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Disposition of Confiscated Weapons

Reference Number: CTAS-1254

It is the duty of the sheriff and the sheriff's deputies to confiscate any weapon that is possessed, used or sold in violation of the law. With few exceptions, such confiscated weapon shall be declared to be contraband by a court of record exercising criminal jurisdiction. T.C.A. § 39-17-1317(a)(1). The sheriff may petition the court for permission to dispose of the weapon in accordance with T.C.A. § 39-17-1317(a)(2).

Any weapon declared contraband, secured by a law enforcement officer or agency after being abandoned, voluntarily surrendered to a law enforcement officer or agency, or obtained by a law enforcement agency, including through a buyback program, shall be, pursuant to a written order of the court:

- (1) Sold in a public sale;
- (2) Used for legitimate law enforcement purposes, at the discretion of the court; or
- (3) Relinquished in accordance with T.C.A. § 39-17-1317(I).

T.C.A. § 39-17-1317(b).

If the weapon was confiscated, or obtained after being abandoned and secured, after being voluntarily surrendered, or through a buyback program, and if the court orders the weapon to be sold, then:

- (1) It shall be sold at a public auction not later than six months from the date of the court order. The sale shall be conducted by the sheriff of the county in which it was seized or obtained;
- (2) The proceeds from the sale shall be deposited in the county general fund and allocated solely for law enforcement purposes;
- (3) The sale shall be advertised:
 - (A) In a daily or weekly newspaper circulated within the county. The advertisement shall run for not less than three editions and not less than thirty days prior to the sale; or
 - (B) By posting the sale on a website maintained by the state or a political subdivision of the state not less than thirty days prior to the sale; and
- (4) If required by federal or state law, then the sale can be conducted under contract with a licensed firearm dealer, whose commission shall not exceed twenty percent of the gross sales price. Such dealer cannot not hold any elective or appointed position within the federal, state, or local government in this state during any stage of the sales contract.

T.C.A. § 39-17-1317(c).

If the weapon is sold, then the sheriff shall file an affidavit with the court issuing the sale order. The affidavit shall:

- (1) Be filed within thirty days after the sale;
- (2) Identify the weapon, including any serial number, and shall state the time, date, and circumstances of the sale; and
- (3) List the name and address of the purchaser and the price paid for the weapon.

T.C.A. § 39-17-1317(f).

If the court orders the weapon to be retained and used for legitimate law enforcement purposes, then:

- (1) Title to the weapon shall be placed in the law enforcement agency retaining the weapon; and
- (2) When the weapon is no longer needed for legitimate law enforcement purposes, it shall be sold

in accordance with T.C.A. § 39-17-1317.

T.C.A. § 39-17-1317(e).

A weapon that may be evidence in an official proceeding shall be retained or otherwise preserved in accordance with the rules or practices regulating the preservation of evidence. The weapon shall be sold or retained for legitimate law enforcement purposes not less than sixty days nor more than one hundred eighty days after the last legal proceeding involving the weapon; provided, that the requirements of T.C.A. § 39-17-1317(g)(2) have been met. T.C.A. § 39-17-1317(g)(1).

A law enforcement agency possessing a weapon declared contraband, retained as evidence in an official proceeding, secured after being abandoned, or surrendered by someone other than the owner shall use best efforts to determine whether the weapon has been lost by or stolen or borrowed from an innocent owner, and if so, the agency shall return the weapon to the owner, if ascertainable, unless that person is ineligible to possess, receive, or purchase such weapon under state or federal law. T.C.A. § 39-17-1317(g)(2).

No weapon seized by the sheriff's office shall be used for law enforcement purposes, sold, or destroyed, except in accordance with T.C.A. § 39-17-1317. And, no weapon seized by the sheriff's office shall be used for any personal use. T.C.A. § 39-17-1317(h)(1) & (2).

If the sheriff certifies to the court that a weapon is inoperable or unsafe, then the court shall order the weapon:

(1) Destroyed or recycled; or

(2) Transferred to a museum or historical society that displays such items to the public and is lawfully eligible to receive the weapon.

T.C.A. § 39-17-1317(i).

The sheriff may petition the criminal court or the court in the sheriff's county having criminal jurisdiction for permission to exchange firearms that have previously been properly titled, as specified by T.C.A. § 39-17-1317, to the sheriff's office, for other firearms, ammunition, body armor, or equipment suitable for use for legitimate law enforcement purposes by sheriff's office. T.C.A. § 39-17-1317(l)(1).

The exchange of firearms for the specified items used for legitimate law enforcement purposes is permitted only between the sheriff's office and a licensed and qualified law enforcement firearms dealer. T.C.A. § 39-17-1317(l)(2).

No firearm obtained by a law enforcement agency through a buyback program shall be eligible to be exchanged. T.C.A. § 39-17-1317(l)(3).

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