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February 5, 2014

Commissioners Court
Honorable Kenneth Liggett
214 North Main Street
Henrietta, Texas 76365

RE: Weapon Forfeiture

Court:

I will not be able to attend the meeting on Monday, as I have prior obligations, so I would like this letter to be read in open court and attached to the minutes of the hearing.

Should you have any questions or concerns, please feel free to contact me.

Very truly yours,

Seth C. Slagle

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Sheriff K.R. "Kenny" Lemons, Jr.
215 West Gilbert
Henrietta, Texas 76365

RE: Weapon Forfeiture

Sheriff:

I am writing this letter in response to your letter dated December 26, 2013.

You ask "when weapons are forfeited to the Sheriff under section 18.19 of the C.C.P., for use by his/her officers does that weapon(s) become county property."

Yes, if the Court Order forfeits the weapon to the Sheriff's office it then becomes the property of the County.

"If so does 263.152 of the Local Government Code apply, which states in part, that commissioners court has the authority to deem that property as surplus property and may trade in that property for new property of the same type if that trade is in the best interest of the county."

Yes the commissioner's court has the authority to trade the property in for new property.

"(2) offer the property as a trade-in for new property of the same general type if the commissioners court considers that action to be in the best interests of the county; (§ 263.152. Disposition, TX LOCAL GOVT § 263.152)

The Sheriff, through the commissioners court, could trade in a gun for property of the same general type. The same general type is a very vague word. In my opinion this does not mean guns for guns. If the gun is considered for law enforcement purposes then it could be traded in for anything that would be considered for a law enforcement purpose.

You next question was:

"When a weapon is forfeited to the Sheriff for official use can that weapon be sold by the Sheriff

Sheriff K.R. "Kenny Lemons, Jr.

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without the approval of commissioners court."

No the weapon may not be sold by the sheriff without the approval of the commissioner's court. If the order forfeiting the weapon orders it to be sold, then the sheriff may sell that weapon without commissioners court approval. However, if the weapon is forfeited to the sheriff, then that weapon becomes county property and the commissioner's court would have to approve any sale of said weapon.

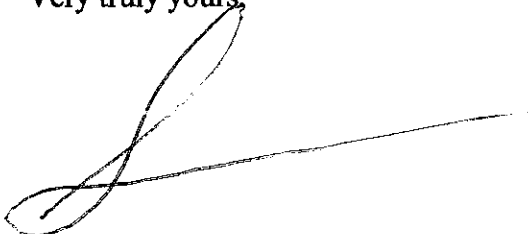
Your next and last question asks:

"Does the newly amended statute 18.19 and its added language require that these type weapons be sold at public auction rather than the practice of trading them in for "like" equipment?"

No, the newly amended statute does not mandate that these weapons be sold at public auction. Once they are forfeited to the law enforcement agency the provisions dealing with selling these weapons at public auction no longer apply. The local government code would govern the sale and or trade of these weapons. If the order does not require that the weapon be sold then the provision's dealing with selling of the weapons to licensed firearms dealers are not applicable.

Should you need anything further feel free to contact me by any of the above referenced methods.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Seth C. Slagle', with a long horizontal flourish extending to the right.

Seth C. Slagle