



CLAY COUNTY SHERIFF'S OFFICE  
KR "Kenny" Lemons Jr, Sheriff  
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12-26-13

**TO;** Seth Slagle; Clay County Attorney

**FROM;** Kenny Lemons, Sheriff

**REF;** Weapon Forfeiture

Mr. Slagle,

On Monday 12-23-13, I presented to the Clay County Commissioners Court, a request to "Trade " a forfeited weapon that had been awarded to the Sheriff's Office by the 97<sup>th</sup> District Court ,under 18.19 C.C.P. This request was worded the same as a previous request that I had presented to the court. The agenda request stated that the trade was to be in exchange for equipment to be used by the Clay County Sheriff's, office. I have attached a copy of these requests to this document.

As this item was being considered, I immediately received opposition from County Auditor Ramona Seward and Precinct 2 Commissioner Johnny Gee. Both were in agreement that the forfeited weapons would have to be sold according to a law that each were displaying to other members of the court, but failed to supply me with a copy of what I can only surmise to be language that was added to section 18.19 of the C.C.P., which was a result of HB 1421, and went into effect September 1, 2013. As I understand the additional language, it allows the law enforcement agency the ability to sell forfeited weapons at a public auction and allows the money to be used for law enforcement purposes only. The amended statute is more detailed than I describe but for the purpose of this letter I outline the following questions.

1. 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. 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 and may trade in that property for new property of the same type if that trade is in the best interest of the county, or
2. When a weapon is forfeited to the Sheriff for official use can that weapon be sold by the Sheriff (as the additional language to 18.19 states) without the approval of Commissioners Court? Furthermore I ask one additional question,

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

I formally request your opinion in this matter.

Respectfully Submitted

Kenny Lemons  
Sheriff

Cc// County Judge Kenneth Liggett  
Commissioner Precinct 1 Lindy Choate  
Commissioner Precinct 2 Johnny Gee  
Commissioner Precinct 3 John McGregor  
Commissioner Precinct 4 A.J. Peek  
97<sup>th</sup> District Attorney Paige Williams  
97<sup>th</sup> District Judge Jack McGaughey

Attach;// Agenda Request dated 05-21-13  
// Agenda Request dated 12-16-13  
// E-mail Paige Williams Dated 03-05-13  
// Amended statute 18.19 C.C.P.