

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

October 6, 2008

Opinion No. 08-157

Disposal of Confiscated Weapons by Judicial District Drug Task Force

QUESTION

Do Judicial District Drug Task Forces have the authority to dispose of weapons that have been confiscated pursuant to Tenn. Code Ann. § 39-17-1317.

OPINION

Judicial District Drug Task Forces do not have the authority to dispose of weapons under Tenn. Code Ann. § 39-17-1317. Such authority may be exercised by chiefs of police, sheriffs, the Commissioner of Safety, and the Director of the Tennessee Bureau of Investigation only.

ANALYSIS

Tenn. Code Ann. § 39-17-1317(a) states:

Any weapon . . . that is possessed, used or sold in violation of the law shall be confiscated by a law enforcement officer and declared to be contraband by a court of record exercising criminal jurisdiction. The sheriff or chief of police for the jurisdiction where the weapon was confiscated may petition the court for permission to dispose of the weapon in accordance with this section. If the weapon was confiscated by the department of safety, the commissioner of safety may petition the court for disposal of the weapon in accordance with this section. If the weapon was confiscated by the Tennessee bureau of investigation, the director may petition the court for disposal of the weapon in accordance with this section.

The primary objective of statutory construction is to ascertain and give effect to the intention of the legislature as expressed in the text of the statute. *In Re Adoption of A.M.H.*, 215 S.W.3d 793 (Tenn. 2007). When the language of a statute is clear and unambiguous, courts will give effect to that intent as expressed in the plain meaning of the statutory language. *State v. Strode*, 232 S.W.3d 1 (Tenn. 2007). Under rules of statutory construction, the express mention of one thing implies the exclusion of things that are not expressly mentioned. *Wells v. Tenn. Bd. of Regents*, 231 S.W.3d 912 (Tenn. 2007).

Tenn. Code Ann. § 39-17-1317 is plain and unambiguous. It specifically authorizes police chiefs, sheriffs, the Commissioner of Safety, and the TBI Director to dispose of weapons that have been confiscated pursuant to that statute. The statute does not mention drug task forces. The failure to mention drug task forces indicates that the legislature did not intend to confer upon such bodies the authority to dispose of weapons that are confiscated pursuant to Tenn. Code Ann. § 39-17-1317.

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

BENJAMIN A. WHITEHOUSE
Assistant Attorney General

Requested by:

Honorable Kim R. Helper
District Attorney General
21st Judicial District
P.O. Box 937
421 Main Street, Suite 102
Franklin, TN 37065