



STATE OF KANSAS

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ATTORNEY GENERAL

June 6, 1980

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ATTORNEY GENERAL OPINION NO. 80-128

Fred Warders
Assistant Director
Kansas Fish and Game Commission
Box 54A, Rural Route 2
Pratt, Kansas 67124

Re: Crimes and Punishments--Crimes Against the Public
Safety--Confiscation and Disposition of Weapons

Synopsis: Confiscated weapons which are "preserved as county property" by a trial court, pursuant to K.S.A. 1979 Supp. 21-4206, may be "donated" by the county governing body to the Kansas Fish and Game Commission for use in the Kansas Hunter Safety Training Program. Cited herein: K.S.A. 19-101, K.S.A. 1979 Supp. 21-4206, K.S.A. 32-401, and K.S.A. 32-403.

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Dear Mr. Warders:

You request our opinion as to whether it would be "legal" for counties to donate certain confiscated firearms to the Kansas Fish and Game Commission for use in the Kansas Hunter Safety Training Program. You state that many city and county law enforcement agencies have large numbers of confiscated weapons on hand, and that the supply of such weapons is increasing. While you do not specifically so state, we will assume that the confiscated weapons which would be donated are not inherently violative of Kansas criminal statutes (i.e., shotguns with a barrell less than 18 inches in length, firearms capable of discharging automatically more than once by a single function of the trigger, etc.).

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K.S.A. 1979 Supp. 21-4206 provides for the disposition of weapons seized in connection with certain crimes, and states as follows:

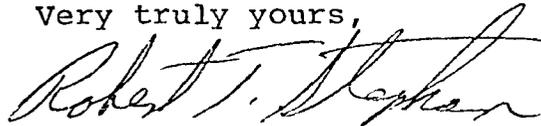
"(1) Upon conviction of a violation of sections 21-4201, 21-4202 or 21-4204 of this article, any weapon seized in connection therewith shall remain in the custody of the trial court.

"(2) Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the trial court, be destroyed, preserved as county property, or sold and the proceeds of such sale shall be paid to the state treasurer pursuant to K.S.A. 1978 Supp. 20-2801, and any amendments thereto." (Emphasis added.)

As is indicated in the underscored portion of the statute, one of the options available to the trial court is to "preserve" the weapon "as county property." If the weapon is so preserved, then it is subject to sale or conveyance by the county governing body. K.S.A. 19-101.

The Kansas Hunter Safety Training Program is prescribed by K.S.A. 32-401 et seq., and K.S.A. 32-403(a) specifically states that the Fish and Game Commission "may cooperate with local subdivisions of government" in instituting the statewide course of instruction. In our opinion, such cooperation may include "donations" of confiscated weapons which have been "preserved as county property" pursuant to K.S.A. 1979 Supp. 21-4206(2). Of course, such a "donation" would have to be authorized by resolution of the county governing body, and must otherwise comply with statutes relating to conveyance of county property.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm