Dispostion by sheriff of firearms and weapons

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Subject:
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WEAPONS AND FIREARMS--DISPOSITION BY SHERIFF

To: D. W. Garrett, Jr., St. Johns County Sheriff, St. Augustine

Prepared by: Richard W. Prospect, Assistant Attorney General

QUESTION:

May a sheriff dispose of firearms that have been forfeited to the state by trading them for firearms or other equipment which could be used by the sheriff's department?

SUMMARY:

Section 790.08(6), F. S., specifically requires that all forfeited weapons and arms which are not needed or which are unfit for use be either destroyed or disposed of pursuant to Ch. 705, F. S. Consequently, trading such weapons to licensed firearm dealers in exchange for usable weapons is not permitted.

Section 790.08(6), F. S., deals with the disposition of weapons and firearms which have become forfeited to the state and are in the hands of the sheriff. A reading of that section reveals that the sheriff is empowered to either use such arms or loan unneeded arms to any state department, county, or municipality.

At first blush, it would appear that the intent of the statute places emphasis on the practical and convenient further use of forfeited weapons and arms by all law enforcement agencies. However, the following language in the statute indicates to me that such use is limited in nature since:

". . . All weapons and arms which are not needed or which are useless or unfit for use shall be destroyed or otherwise disposed of by the sheriff as provided in chapter 705. . . ." (Emphasis supplied.) [Section 790.08(6), F. S.]

I interpret this language as being mandatory. In other words, if the sheriff has no need or use for the weapons and no other agency desires loan of the weapons, then the weapons must either be destroyed or disposed of according to the provisions of Ch. 705, F. S.

Absent specific legislative authority to trade forfeited weapons, I am of the opinion that such a procedure is not permitted.