

1979 WL 42734 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 3, 1979

\*1 Hon. Larry D. Smith  
Sheriff  
Spartanburg County  
Post Office Box 771  
Spartanburg, South Carolina 29300

Dear Sheriff Smith:

You requested an opinion of this Office as to the method of disposition of rifles and shotguns which were stolen from their owners and were recovered by your department from the persons who stole them. The problem arises because the true owners cannot now be located.

As you point out, the laws governing the disposition of pistols are inapplicable since the weapons you possess are rifles and shotguns.

No other code section specifically deals within the mode of disposition of these latter types of weapons. However, [§ 27-21-20, S. C. Code](#) of Laws (1976), does deal generally with the disposition by a Sheriff of recovered stolen property:

The sheriff of any county sell at public auction any recovered stolen property, the true owner of which cannot be ascertained after reasonable effort . . . The sheriff shall make a diligent effort to ascertain the true owner of any abandoned or recovered stolen property which is the subject of this chapter and shall advertise such property with the full description thereof in a newspaper having a general circulation in the county for at least twice prior to the sale. At any time after sixty days shall have elapsed after the insertion of the first advertisement, the sheriff may sell at public auction on the courthouse steps the abandoned or recovered stolen property in question. He shall turn over all proceeds, after the necessary expenses of the sale have been deducted, to the county treasurer. The treasurer shall place such sums in a specific fund.

Absent a specific statutory provision, this section provides the best method of disposition and is better than requiring the various Sheriffs' Departments to continue stockpiling these weapons indefinitely.

It should be noted that [§ 16-23-230, S. C. Code](#) of Laws (1976), limits your ability to sell all such weapons. That section prohibits sale of machine guns, sawed-off shotguns and sawed-off rifles.

Sincerely,

Scott Elliott  
Staff Attorney

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