

STATE OF TENNESSEE

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Opinion No. 08-28

Drug Task Force Appropriations To Participating Law Enforcement Agencies

QUESTIONS

1. May a judicial district drug task force appropriate money from its budget, a portion of which consists of fines, forfeitures of appearance bonds and the proceeds from asset forfeitures, to participating law enforcement agencies?
2. If the answer to the first question is in the affirmative, are the participating agencies limited to using those monies for drug education and drug enforcement?

OPINIONS

1. Yes. A Judicial District Drug Task Force may appropriate money arising from drug fines and forfeitures of appearance bonds derived from Tenn. Code Ann. § 39-17-420, as well as forfeiture proceeds derived from Tenn. Code Ann. § 40-33-211, to participating law enforcement agencies.
2. Yes. Any such appropriation would be limited to use in a specific drug education or drug enforcement program. Further, with respect to proceeds of asset forfeitures, no such funds may be used to pay salaries.

ANALYSIS

1. Tenn. Code Ann. § 39-17-420(c) governs the use of fines, forfeitures of appearance bonds and the proceeds of asset forfeitures by drug task forces.¹ It states, in relevant part:

Except as provided in subsection (d) all fines and forfeitures of appearance bonds received from the violation of the provisions of this part and that are specifically set forth in this part, the proceeds of goods seized and forfeited under the provisions of § 53-11-451 and disposed of according to law that arise from the activities of a

¹Judicial District Drug Task Forces are organized by mutual agreement among participating state, municipal, and county law enforcement agencies, their governing bodies, and the district attorney general of the judicial district. Tenn. Code Ann. § 8-7-110; Tenn. Code Ann. § 39-17-420; Tenn. Code Ann. § 39-17-428; Tenn. Code Ann. § 40-33-211. Participating agencies furnish personnel and resources to the task force.

judicial district drug task force shall be paid to an expendable trust fund maintained by the county mayor in a county designated by the district attorney general and shall be used exclusively in a drug enforcement or drug education program of the district as designated by the board of directors of the judicial district drug task force.

Id.

Tenn. Code Ann. § 40-33-211 also governs that use of such property by drug task forces and other law enforcement agencies. Subsection (a) tracks the language of Tenn. Code Ann. § 39-17-420(c) in that it also authorizes drug task forces to use the money for drug enforcement as directed by its board of directors. Tenn. Code Ann. § 40-33-211(b), however, further limits the use of the proceeds from asset forfeitures. That provision states, in relevant part:

Funds derived from seizures, confiscations and sales shall not be used to supplement the salaries of any public employee or law enforcement officer.

The primary objective of statutory interpretation is to ascertain and give effect to the intent of the legislature. *Gragg v. Gragg*, 12 S.W.3d 412 (Tenn. 2000). If the statute is clear and unambiguous, legislative intent is to be found in the plain meaning of the statutory text. *Bostic v. Dalton*, 160 S.W.3d 347 (Tenn. 2005). The inclusion of specific matters within a statute implies the exclusion of matters that are not mentioned. *State v. Adler*, 92 S.W.2d 397 (Tenn. 2002). Where statutes govern both general and specific matters, the specific language will govern the matters that are specifically addressed. *Sallee v. Barrett*, 171 S.W.3d 822 (Tenn. 2005).

The language of Tenn. Code Ann. §§ 39-17-420(c) and 40-33-211(a) clearly and unambiguously authorize the board of directors of a drug task force to use fines and the proceeds of forfeitures of appearance bonds and seized and forfeited assets for drug enforcement and education programs of the district. The only conditions imposed under those statutes is that the board must approve the specific uses of such funds and that such funds be used for drug education or drug enforcement programs. There is nothing in either statute to prohibit a drug task force from appropriating money to participating agencies as long as such funds are used for drug education or drug enforcement programs of the district.

Tenn. Code Ann. § 40-33-211(b), however, imposes an additional restriction on the use of proceeds from asset forfeitures. Under the statute, such funds may not be used to supplement the salaries of public employees or law enforcement officers. Reading that statute *in pari materia* with Tenn. Code Ann. § 39-17-420(c) leads to the conclusion that, if the funds to be appropriated represent the proceeds of asset forfeitures, such funds may not be used to supplement the salaries of any public employee or law enforcement officer, even if such person is working in a drug enforcement or drug education program.

2. The language of Tenn. Code Ann. §§ 39-17-420(c) and 40-33-211 clearly and unambiguously specify where such funds may be used. Such restrictions are open-ended in that they are not limited to certain specific officials or agencies. The use of such broad restrictions indicates

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that the legislature intended those restrictions to apply to all recipients as well as to the drug task force. Such restrictions would therefore apply to any agency that receives such funds from a drug task force.

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