



RECOVERED FIREARMS

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I. PURPOSE

This directive establishes special guidelines concerning the handling, processing and release of recovered firearms. These guidelines are in addition to the property procedures established in Index Codes 1201, 1201.1 and 1201.3.

II. DEFINITIONS

A. Handgun

Any pistol, revolver, short-barreled shotgun or short-barreled rifle capable of being concealed on a person. (Note: Starter pistols, BB/Pellet guns, matchlock, flintlock, percussion cap firearms and any firearm manufactured in or before 1898 are not considered handguns).

B. Short Barreled Shotgun

A shotgun having one or more barrels less than eighteen (18) inches in length and any firearm made from a rifle (whether by alteration, modification or otherwise) if such a firearm, as modified, has an overall length of less than twenty-six (26) inches.

C. Short Barreled Rifle

A rifle having one or more barrels less than sixteen (16) inches in length and any firearm made from a rifle (whether by alteration, modification, or otherwise) if such firearm, as modified, has an overall length of less than twenty-six (26) inches.

III. HANDLING OF FIREARMS

Officers will exercise the utmost care and caution in the handling and preservation of recovered firearms.

It is the responsibility of the officer seizing a firearm to unload and render the firearm safe prior to placing the firearm in any storage facility or in Property Management. If an officer recovers a firearm, which he/she is not familiar with, it is the responsibility of that officer to seek assistance from an officer with the knowledge to disarm the firearm properly.

IV. PROCESSING ALL FIREARMS

A. Recovered Property Form & Tag

Whenever a firearm is seized by a law enforcement officer for any reason, the officer will complete a Recovered Property form, describing the firearm by make, model, serial number, and any other identifying characteristics. The name and address of the owner will be included if different from the person charged. A property tag will be completed and placed on the firearm.

B. Ownership: Officers' Responsibilities

The seizing officer will ensure that all recovered firearms are properly packaged for submission to Property Management. For purposes of this Index Code, this includes all antique, black-powder, curio or relic pistols and long guns, even though such weapons may not meet the legal definition of a firearm. UNDER NO CIRCUMSTANCES WILL ANY OF THESE WEAPONS BE RETURNED DIRECTLY TO THE OWNER OR ANY OTHER INDIVIDUAL.

The seizing officer will conduct an immediate investigation to determine the ownership of the seized firearm. The seizing officer will check the firearm's serial number through NCIC and MGUN. It will not be assumed that the person the firearm was seized from is the legal owner of the firearm. It is the responsibility of the seizing officer to notify Property Management of the lawful owner of a firearm. If ownership is established after the recovered property forms have been submitted, notification will be made to Property Management through inter-office correspondence.

C. Release of Firearm

Only the property Management Unit may release firearms once authority to release is obtained from the seizing officer. Firearms may be held only as permitted under the terms of Index Code 1201.3. If the firearm is not needed for evidentiary purposes or for any reason permitted under Index Code 1201.3, the seizing officer must notify the Property Management Section so that it may be released. If the seizing officer has a reason to believe that the owner may not legally possess a firearm as provided below, he/she should notify Property Management of the information available, but must indicate that the firearm may be released. The commander of the **Property/Records Division** will review all cases involving seized firearms and will make the determination as to whether they will be returned to the owner.

Under the authority of United States, 18 U.S.C. 922(g), a person is not legally entitled to receive, possess, ship, or transport any firearm if any of the following apply:

1. If he/she is under indictment for or has ever been convicted of a crime (felony or misdemeanor) that carries a possible penalty of more than two years incarceration (even if he/she was not sentenced to incarceration).
2. If he/she is a fugitive from justice.
3. If he/she is an unlawful abuser of, or addicted to, any controlled dangerous substance.
4. If he/she has been adjudicated as mentally defective, or has been committed to any mental institution.
5. If he/she is an alien illegally or unlawfully in the United States.
6. If he/she has a dishonorable discharge from any of the armed services.
7. If he/she has renounced United States citizenship.
8. If he/she is subject to a court order that restrains the person harassing, stalking, or threatening an intimate partner or child of such intimate partner.
9. If he/she is less than 18 years of age, to receive, possess, ship, or transport any rifle or shotgun or is less than 21 years of age to receive, possess, ship, or transport any handgun.
10. If he/she has been convicted of a crime of domestic violence as defined in United States, 18 U.S.C. and Index Code 1604.

Under the authority of Maryland State Law PS 5-133, no person may possess a regulated firearm (all handguns and selected long arms as specified in Maryland Law PS 5-101) if any of the following apply:

1. If he/she has been convicted of a crime of violence.
2. If he/she has been convicted of a felony.
3. If he/she has ever been convicted of a misdemeanor that carries a possible penalty of more than two years incarceration (even if he/she was not sentenced to incarceration).
4. If he/she has ever been convicted of a Common Law offense and received a term of incarceration in excess of two years.
5. If he/she is a fugitive from justice.
6. If he/she is a habitual drunkard. If they have been convicted three or more times for driving intoxicated or impaired if one of the convictions occurred within one year.
7. If he/she is an addict or habitual user of any controlled dangerous substance. If they have been convicted two or more times for any controlled dangerous substance violation if one of the convictions occurred within five years.

8. If he/she has a history of violent behavior against himself or others or has been confined for more than 30 consecutive days to a mental facility unless he/she possesses a physician's certification that he/she is capable of possessing a firearm without undue danger to that person or others.
9. If there is a current ex parte or non-ex parte civil protection ordered entered against the person under 506 of the Family Law Article.

D. Processing of Firearms

Firearms will be packaged according to guidelines set forth in Index Code 1201, Section IV. Firearms and ammunition will be packaged separately.

E. Reports Must Accompany

A copy of the incident report, detailing the seizure of a firearm, will accompany all firearms when placed into storage. In instances where firearms are seized by order of an ex parte, a copy of the ex parte, in addition to the incident report, will accompany all firearms when placed into storage.

F. Processing Rifles or Shotguns

If a rifle or shotgun is used in the commission of a crime, it is the responsibility of the arresting officer to complete a "Firearm Test Fire Request" for the department armorer.

1. The arresting officer will complete a "Firearm Test Fire Request" form and submit the form along with the rifle or shotgun to his/her supervisor for forwarding to Property Management, along with proper documentation. The arresting officer will keep the Gold copy, and will forward the Pink copy to the Firearms Training Unit at the Training Academy.
2. Property Management personnel, upon receipt of the rifle or shotgun and "Firearm Test Fire Request" form, will notify the department armorer of the rifle or shotgun's arrival, and will note the date and time of notification.
3. Property Management personnel, upon receipt of the rifle or shotgun, will run an ATF trace of the weapon. The rifle or shotgun will also be photographed. A copy of the results of the ATF trace will be placed with the rifle or shotgun, and a copy will be sent to the investigating officer. If criminal charges have been placed against a suspect, the investigating officer should forward a copy of the ATF trace to the State's Attorney's Office prior to trial.
4. The department armorer will periodically pick up rifles and shotguns submitted to Property Management, and will conduct examinations of them to confirm that they meet the definition of a rifle or shotgun, as stated in Article CR 4-201e and CR 4-201h of the Annotated Code of Maryland. Upon completion of the examinations, the rifles and shotguns will be returned to Property Management accompanied by the written results of the examinations.

V. PROCESSING HANDGUNS

All handguns recovered as evidence, property, or seized pursuant to a violation of CR 4-203 of the Annotated Code of Maryland (unlawful wearing, carrying, transportation or use of a handgun) are subject to forfeiture to the State of Maryland and the following guidelines will be followed:

1. All criminal charges will be filed by the officer against any person found unlawfully transporting or using a handgun.
2. The words **FOR FORFEITURE** will be printed in bold letters on the Recovered Property form for handguns seized pursuant to Section CP 13-201, even if the possessor of the handgun is not charged with violating CR 4-203.
3. If it is determined that the handgun was reported stolen prior to its recovery or seizure by the Police Department, the words **HOLD FOR OWNER** will be printed on the Recovered Property form beneath **FOR FORFEITURE**, and the owner will be advised to apply to Property Management for return of the handgun.

4. The officer will complete a “Firearm Test Fire Request” form, **FOR ALL RECOVERED HANDGUNS REGARDLESS OF IF THE HANDGUN WAS SEIZED PURSUANT TO A VIOLATION OF CR-4-203**, and submit the form along with the handgun to his/her supervisor for forwarding to Property Management, along with proper documentation. The arresting officer will keep the Gold copy, and will forward the Pink copy to the Firearms Training Unit at the Training Academy.
5. Property Management personnel will notify the department armorer of the handgun’s arrival, and will note the date and time of notification.
6. Property Management personnel, upon receipt of the handgun, will run an ATF trace of the weapon. The handgun will also be photographed. A copy of the results of the ATF trace will be placed with the handgun, and a copy will be sent to the investigating officer. If criminal charges have been placed against a suspect, the investigating officer should forward a copy of the ATF trace to the State’s Attorney’s Office prior to trial.
7. The department armorer will periodically pick up handguns submitted to Property Management, and will conduct examinations of the handguns to confirm that they meet the definition of a handgun, as stated in CR 4-201c of the Annotated Code of Maryland.
8. The department armorer, in accordance with the guidelines of “Operation Test Shot” facilitated by the Maryland State Police Firearms Unit, will test-fire each handgun into the “Savage Range Forensic Buddy Bullet Recovery System”. The cartridge case and bullet will be retrieved from the chamber, and secured within pre-designated envelopes that will be documented with standard evidence recovery information. Upon completion of the examinations, the handguns and “Operation Test Shot” sample(s) will be returned to Property Management accompanied by the written results of the examinations.
9. When a handgun is being held for violations of CR 4-203, it is the responsibility of the arresting officer to notify Property Management of when and how the charges have been adjudicated.
10. Property Management will notify one of the ID/ECU Evidence Coordinators of the receipt of “Operation Test Shot” sample(s). An Evidence Coordinator will take custody of test shot sample(s) and enter the appropriate information into the Barcode Evidence Analysis Statistics and Tracking system (BEAST), for chain of custody maintenance. The sample(s) will be secured in an evidence locker within ID/ECU, pending submission to the Maryland State Police Crime Laboratory via standard protocol. (i.e. MSP 67 Form, Request for Laboratory Examination). Chain of custody will be updated to reflect current storage information.
11. The Firearms Unit of the Maryland State Police Crime Laboratory will enter the test shot evidence into the National Integrated Ballistics Identification Network (NIBIN), for search against other cases within the database. A report containing the results of each search will be sent to the Evidence Coordinators for further dissemination to the appropriate case officer and/or Property Management. In the event of a firearm evidence “hit”, Property Management will be notified by the Investigating officer to place a hold on the weapon.

VI. HANDGUN FORFEITURE BOARD

If a handgun is seized pursuant to CR 4-203 (unlawful wearing, carrying or transportation of a handgun), the commanding officer of the *Property/Records Division* will convene a hearing board to determine whether the owner could or should have known the handgun was worn, carried or transported in violation of Maryland law. The hearing board will be governed by the provisions set forth in Maryland Law CP 13-204 and the hearing board’s SOP’s. Handguns that are reported stolen prior to their seizure by the police department may be returned to the owner following an appropriate inquiry and finding by the hearing board. If the hearing board determines a handgun is worn, carried or transported in violation of CR 4-203, it may order the handgun forfeited and destroyed upon the final approval of the Chief of Police or his designee.

VII. PROPONENT UNIT: Property Management Section & ECU.

VIII. CANCELLATION: This directive cancels Index Code 1201.2, dated 07-16-08.