

# Annapolis Police Department



## GENERAL ORDER

**Number: K.9**

**Issue Date: March  
2008**

**TO:** All Personnel

**SUBJECT:** Recovered Firearms

### PURPOSE

The purpose of this General Order is to establish guidelines concerning the handling, processing and release of recovered firearms.

### POLICY

It shall be the policy of the Annapolis Police Department to pursue all measures available to reduce the illegal availability of legal firearms.

### DEFINITIONS

1. **Handguns-** Any pistol, revolver, or other firearm capable of being concealed on the person, including a short-barreled shotgun and a short-barreled rifle. Any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system manufactured in or before 1898 are not considered handguns.
2. **Short Barreled Shotgun-** A shotgun having one or more barrels less than eighteen (18) inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length less than twenty-six (26) inches.
3. **Short Barreled Rifle-** A rifle having one or more barrels less than sixteen (16) inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of twenty-six (26) inches.

**I. Required Action**

A. Handling of Firearms

1. Officers will exercise the utmost care and caution in the handling and preservation of recovered firearms.
2. It is the responsibility of the officer seizing the firearm to unload and render the firearm safe prior to placing the firearm in any storage facility. If an officer recovers a firearm with which he/she is not familiar, it is the responsibility of that officer to seek assistance from an officer with the knowledge to disarm the firearm properly.

B. Submission into the Property Section

1. Handguns

- a. Handguns shall be unloaded and packaged in the gun evidence boxes, with the serial number exposed.
- b. Handguns shall be secured by flex cuffs which are attached to the box. One flex cuff shall be placed around the grips. Semi-autos shall be left open. The box shall be sealed for court.
- c. Ammunition shall be placed in a clear plastic evidence bag and may be secured in the same box.
- d. The cover of the box shall be completely filled out including the case number, officer's name, owner/defendant, make, model and serial number. The box shall be submitted into the property drop box and the log book entry completed.
- e. Complete appropriate reports and indicate if the weapon was checked for stolen. If the handgun was seized by an order of an ex parte, a copy of the ex parte will be attached to the report.

2. All other firearms shall be unloaded. Ammunition shall be placed in a clear plastic evidence bag and labeled using a property tag indicating date, officer, case number and amount and type of ammunition. This shall be stored separately from the firearm.

3. Any other type of weapons must be made safe prior to placement in the property drop box.

4. Complete appropriate reports indicating owner/defendant, make model, serial number and whether the firearm was checked for stolen. If the firearm was seized by an order of an ex parte, a copy of the ex parte will be attached to the

report. Complete a Forensic Services Request for Evidence Analysis/Examination form if the firearm is to be processed.

## II. Processing all Firearms

- A. Whenever a firearm is seized by a law enforcement officer for any reason, the officer will complete an offense report and will include the following information: describing the firearm by make, model, serial number and any other identifying characteristics. The name and address of the owner will be included if it is different from the person charged. For evidentiary/court purposes firearms need to be test fired. Firearms should be test fired after they have been processed and/or returned from any laboratory, providing the firearm was not test fired at a laboratory. Any necessary test firing will be conducted in a range by either a line safety officer/armorer or under the supervision of a line safety officer/armorer. If the firearm was not test fired at a laboratory and/or it is not indicated in the laboratory report it should be documented in either a supplement report or the Test Fire Worksheet.
- B. For every handgun that is seized, the seizing officer shall:
1. Indicate in the report whether the handgun is stolen.
  2. Complete a Maryland State Police chain of custody form if the handgun is being submitted to the Maryland State Police for firearms examination.
  3. Complete a Forensic Services Request for Evidence Analysis/Examination form if the handgun is being submitted to the Maryland State Police for firearms examination and/or if the handgun is to be processed for latent prints etc.
  4. Complete the Federal Firearms Trace Form and attach it to the incident report. There does not have to be an arrest made; the weapon can be found property.

Submit as much information as possible by filling in the blanks according to the directions on the firearms trace request.
  5. The officer completing the Federal Firearms Trace Form will be responsible for submitting/faxing a copy of the form to Alcohol Tobacco, Firearms and Explosives (ATF). This should be completed prior to the end of the officer's tour of duty. It should be noted on the incident report that the Federal Firearms Trace Form was submitted/faxed to ATF. If there is no indication that the Federal Firearms Trace Form was submitted/faxed, Records Section personnel will submit/fax the a copy of the form to ATF on the next work day.
  6. Semi and full automatic weapons will be submitted to the Maryland State Police for firearms examination if:

- a. The weapon was involved in a homicide, robbery, or a gang, drug, drive-by shooting; or
  - b. The weapon is a non-police firearm used in an officer involved shooting; or
  - c. The weapon is in the possession of a drug or gang suspect; or
  - d. Other instances in which the officer feels submission to the Maryland State Police Firearms Examination unit would be appropriate.
- C. For other firearms that are **recovered**:
1. Indicate in the report whether the firearm is stolen.
  2. Complete the MILES/NCIC Entry Form - Gun File and submit this with the completed Incident Report to Communications for entry into NCIC (this does not apply to firearms turned in by the owner to be destroyed when proof of ownership has been established)
  3. Complete the Federal Firearms Trace Form and attach it to the incident report. There does not have to be an arrest made; the weapon can be found property. Submit the Federal Firearms Trace Form as indicated in Section II B.
- D. Ownership
1. The seizing officer will conduct an immediate investigation to determine the ownership of the seized firearm. It will not be assumed that the person the firearm was seized from is the legal owner of the firearm.
  2. It is the responsibility of the seizing officer to notify the Property Section of the lawful owner of a firearm.
  3. If ownership is established after the recovered property forms have been submitted, notification will be made to the Property Section through an Administrative Report.

### **III. Release of Firearm**

- A. Only the Property Section may release firearms once authority to release is obtained from the seizing officer.
- B. If the firearm is not needed for evidentiary purposes or for any reason permitted under **General Order K. 8** the seizing officer must notify the Property Section that it may be released.
- C. If the seizing officer has reason to believe that the owner may not legally possess a firearm as provided below, he/she should notify the Property Section of the information available, but must indicate that the firearm may be released.

- D. The Commander of the Administrative Services Division or his/her designee will review all cases involving seized firearms and will make the determination as to whether they will be returned to the owner.
- E. 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 were adjudicated as mentally defective, or has been committed to a mental institution. Refer to Appendix A for definitions of mentally defective and committed to a 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 from harassing, stalking, or threatening an intimate partner or child of such intimate partner.
  9. If he/she is less than 18 years of age, he/she cannot receive, possess, ship, or transport any rifle or shotgun or is less than 21 years of age he/she cannot 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.
- F. Under the authority of Maryland Code Public Safety Title 5 Subtitle 1 §5-118, no person may possess a regulated firearm 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 statutory penalty of more than two years.
  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 he/she has been convicted three or more times for driving intoxicated or impaired and one of the convictions occurred within one year of current firearm possession.
7. If he/she is an addict or habitual user of any controlled dangerous substance. If he/she has been convicted of any two controlled dangerous substance violations and one of the convictions occurred within five years of current firearm possession.
8. If he/she has a history of violent behavior against himself or another or has been confined for more than 30 consecutive days to a mental facility unless he/she possess a physician's certification that he/she is capable of possessing a firearm without undue danger to him/herself or others.
9. If there is a current ex parte or non-ex parte civil protective order entered against the person under 4-506 of the Family Law Article.

#### **IV. Processing Handguns**

If a handgun is seized pursuant to violation of the Maryland Code Criminal Law Title 4 Subtitle 2 §4-203 (unlawful wearing, carrying, transportation or use of a handgun) the firearm is 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 word FOR FORFEITURE will be printed in bold letters on the gun evidence box and will be included in the incident report, even if the possessor of the handgun is not charged with violating §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 gun storage box beneath FOR FORFEITURE and the owner will be advised to contact the Property Section for return of the handgun.
4. The arresting officer will complete required reports as outlined in Section II.
5. When a handgun is being held for violations of Maryland Code Criminal Law Title 4 Subtitle 2 §4-203, it is the responsibility of the arresting officer to notify the Property Section when and how the charges have been adjudicated.

#### **V. Handgun Forfeiture Board**

- A. If a handgun is seized pursuant to Maryland Code Criminal Law Title 4 Subtitle 2 §4-

203 (unlawful wearing, carrying or transportation of a handgun), the Commander of the Administrative Service Division or his/her designee will convene an informal hearing board (upon request of the owner of the handgun) to determine whether the owner could or should have known the handgun was worn, carried or transported in violation of Maryland law.

- B. The hearing board will be governed by the provisions set forth in Maryland Code Criminal Procedure Title 13 Subtitle 2 §13-203 (Seizure and Forfeiture).
- C. The hearing board will be comprised of the Commander of the Administrative Services Division or his/her designee, the Commander of the Criminal Investigations Division or his/her designee and the department Armorer.
- D. Handguns which are reported stolen prior to the 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 Maryland Code Criminal Law Title 4 Subtitle 2 §4-203, it may order the handgun forfeited and destroyed upon final approval of the Chief of Police or his/her designee.

Joseph S. Johnson  
Chief of Police

References
1. Accreditation Standards 84.1.1
2. General Orders K.8 Release and Disposal of Property/Evidence
3. Maryland Code Criminal Law

**Revision:** This General Order replaces General Order K.9 Recovered Firearms dated October 2000

## **General Order K.9 Appendix A: Recovered Firearms, September 2002**

According to Chapter 14 of the United States Code adjudicated as a mental defective means ; A determination by a court, board, commission or other lawful authority that a person as a result of marked subnormal intelligence or mental illness, incompetency, condition or disease;

1. Is a danger to himself or to others; or
2. Lacks the mental capacity to contract or manage his own affairs.

The term shall include;

1. A finding of insanity by a court in a criminal case; and
2. Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 878b.

Committed to a mental institution means; A formal commitment of a person to a mental institution by a court, board, commission or other lawful authority. The term includes a commitment to a mental institution involuntary. The term includes a commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.