

Recovered Firearms

Index Code: 1203

Effective Date: 07/01/03 (Revised 10/23/2023)

I. Purpose

The purpose of this policy is to establish special guidelines for the handling, processing, and disposal of recovered firearms.

II. Policy

It is the policy of the Queen Anne's County Office of the Sheriff that all firearms in the custody of the Office of the Sheriff will be secured, stored, and disposed of through the strict adherence to procedures set forth in this directive.

III. Definitions

A. Handgun

Any pistol, revolver, or other firearm capable of being concealed on the person, including a short-barreled shotgun and a short-barreled rifle as these terms are defined below, except it does not include a shotgun, rifle or antique firearm as those terms are defined below.

B. Antique Firearm

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

2. Any replica of any firearm described above if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

C. Rifle

A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

D. 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 less than twenty-six (26) inches.

E. Shotgun

A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

F. 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 of less than twenty-six inches.

G. Assault Pistols and Assault Weapons

Assault pistols and assault weapons are defined as specified firearms or their copies. For a list of current firearms considered assault pistols or assault weapons, refer to Maryland Code, Article 27, Section 36H-1 for assault pistols or Maryland Code, Article 27, Section 441(d) for assault weapons.

IV. Handling of Firearms

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

It is the responsibility of the deputy seizing a firearm to unload and render the firearm safe prior to placing the firearm in any storage facility or the Evidence Processing Room. If a deputy recovers a firearm that he is not familiar with, it is the responsibility of that deputy to seek assistance from a deputy with the knowledge to disarm the firearm properly.

V. Processing of Firearms

A. MSP 67

Any deputy coming into possession of a firearm will complete a Request for Laboratory Examination – Chain of Custody Log (MSP 67). The MSP 67 will be type written, completed in its entirety with all available information, and securely attached to the evidence box containing the firearm. A copy of the MSP 67 will be submitted along with the initial report for the case file.

For specific instructions on completing the MSP 67, refer to the sample copy posted on the evidence board in the Deputies Room.

B. Ownership

The seizing deputy will make a reasonable effort to determine ownership of any firearm taken into custody. It will not be assumed that the person the firearm was taken from is the legal owner. If ownership is established after the MSP 67 was submitted, notification of ownership will be made to the Evidence Custodian and Commander or Assistant Commander of the Support Services Division via email, and the CAD/RMS Records Management System updated to reflect the new information.

C. Crimes of Violence

- 1) For any incident involving a crime of violence (as defined in Public Safety Article 5-101 including 1st and 2nd degree assault) or when a Final Protective Order was served (see Index Code 1303 section IX Protective Orders) in which a firearm is recovered, the deputy recovering the firearm(s) or an agency representative shall report to the MD Gun Center (855-677-6486 or gun.center@maryland.gov) the following information as soon as possible but within the 48 hour mandate:
 - a) Agency and case number
 - b) Date/time of incident
 - c) Seizing deputy/agency representative
 - d) Agency email, contact phone number
 - e) Location of incident
 - f) Suspect information
 - g) Firearm information
 - h) CDS seized? If so, advise if the suspect/s is being charged with Possession with Intent to Distribute if a firearm is recovered in connection to the CDS.
 - i) Ammunition recovered?
 - j) Was the firearm loaded?
- 2) The MD Gun Center may also be used for any gun data/trace information needed and can

assist our agency in determining if a firearm(s) can legally be release to an individual.

3) For incidents not deemed to be “Crimes of Violence”, the MD Gun Center may be contacted for assistance and guidance with firearm recoveries.

D. Release of Firearms

Only the Commander of the Support Services Division, or his designee, may release a firearm once the authority to release is obtained from the seizing deputy and/or the MD Gun Center. The Commander or Assistant Commander of the Support Services Division or their designee will make the final determination as to whether a firearm will be returned to its owner.

Under the authority of *United States Code, Title 18, Section 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 has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year.
2. If he/she is a fugitive from justice.
3. If he/she is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802)).
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 been discharged from the Armed Forces under dishonorable conditions.
7. If he/she, having been a citizen of the United States, has renounced citizenship.
8. If he/she is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person, or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.
9. If he/she has been convicted in any court of a misdemeanor crime of domestic violence.

For specific wording, and additional regulations, refer to *United States Code, Title 18, Section 922*.

Under the authority Of *Maryland Code, Article 27, Section 442*, no person may possess a regulated firearm (all handguns and selected long guns as specified in *Article 27, Section 441*) if:

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 in this state that carries a statutory penalty of more than 2 years.
4. If he/she has ever been convicted of any violation classified as a Common Law offense where the person received a term of imprisonment of more than 2 years.
5. If he/she is a fugitive from justice.
6. If he/she is a habitual drunkard.
7. If he/she is an addict or habitual user of any controlled dangerous substances.
8. If he/she has spent more than thirty consecutive days in any medical institution for treatment of a mental disorder unless obtaining a physician's certificate that the person is capable of possessing a regulated firearm without undue danger to himself, herself or others.
9. If he/she is under 21 years of age.
10. If he/she is a respondent against whom a current non ex parte civil protective order has been entered under §506 of the Family Law Article; or
11. If he/she is less than 30 years of age and has been adjudicated delinquent by a juvenile court for a crime of violence, any violation classified as a felony in this State, or any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years.

For specific wordings, and additional regulations, refer to *Maryland Code, Article 27, Section 442*.

E. Packaging and Storing Firearms

Firearms will be packaged and stored in evidence boxes, following the guidelines set forth in Index Codes 1202, 1202.1 and 1203.

F. Incident Report

An incident report must be completed whenever a firearm is taken into custody. In instances where firearms are seized under the authority of a court order, a copy of that order, in addition to the incident report, must be placed in the case file. In order to properly and efficiently maintain records of those firearms seized or recovered, an individual property record must be created for each firearm seized. Creating one property record and then listing numerous weapons under this one property record is not acceptable.

G. Request for Examination

If a firearm is used in the commission of a crime, it is the responsibility of the arresting deputy to submit the firearm for examination. The procedures set forth in the Maryland State Police Crime Lab's Guidelines for Submitting Physical Evidence will be utilized when submitting a firearm for examination.

VI. Seizing Handguns

A. Procedures

If a handgun is seized pursuant to a violation of Article 27, Section 36B of the Annotated Code of Maryland (unlawful wearing, carrying, transportation, or use of a handgun) the handgun is subject to forfeiture and the following guidelines will be followed:

1. Appropriate criminal charges will be filed by the arresting deputy against any person found unlawfully wearing, carrying, transporting or using a handgun. "**For Forfeiture**" will be printed in bold letters on the MSP 67 and the evidence box containing the handgun.

3. If it is determined that the handgun was reported stolen, prior to its recovery or seizure, the words "**Hold for Owner**" will be printed on the MSP 67 and the evidence box containing the handgun. It will be the arresting deputy's responsibility to contact the MD Gun Center within 48 hours and to notify the owner of the stolen handgun to contact the Evidence Custodian and Commander or Assistant Commander of the Support Services Division to reclaim the handgun after final adjudication in court.

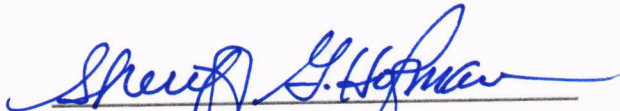
4. When a handgun is being held for violations of Article 27, Section 36B, it is the responsibility of the arresting deputy to notify the Evidence Custodian and Commander or Assistant Commander of the Support Services Division when and how the charges have been adjudicated.

B. Forfeiture

If a handgun is seized pursuant to Article 27, Section 36B, the Commander or Assistant Commander of the Support Services Division will make the final determination, with the assistance of the MD Gun Center, whether the owner could or should have known the handgun was worn, carried, transported, or used in violation of Maryland law. Handguns that are reported stolen prior to their seizure may be returned to the owner, following an appropriate inquiry and finding by the Commander or Assistant Commander of the Support Services Division. If the Commander or Assistant Commander of the Support Services Division determines that the handgun was worn, carried, transported, or used in violation of Article 27, Section 36B, he may order the handgun forfeited and destroyed upon the final approval of the Sheriff.

VII. Cancellation of policy dated 7/2/18

VIII. CALEA reference 84.1.1



Sheriff Gary Hofmann