



# POLICY AND PROCEDURE

# NO.405.3

## Handling and Disposal of seized and Recovery Firearms and Ammo

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Whenever a firearm or ammunition is taken into custody by a member of this department, as the result of an arrest, as recovered stolen property, found property, for safekeeping, pursuant to the issuance of a temporary or permanent restraining order or upon the suspension or revocation of any type of firearms license, the firearm (to include rifles and shotguns), ammunition, and all magazines and accessories will be submitted to the Detective Bureau in accordance with the following procedures.

### 1. HANDLING AND SAFETY:

Safety of all persons in contact with the firearm or in the general vicinity where it is recovered and/or later stored shall be of paramount importance. If the weapon is suspected of having been used in a serious crime, such as a homicide, the firearm should be maintained where it is found without any unnecessary handling, if it is both safe and practicable to do so. Scene safety and environmental conditions that may be detrimental to the preservation of evidential properties of or on the weapon should be considered as well as other conditions and factors unique to the particular scene. If it is safe and practicable to allow the weapon to remain on scene, the Detective Bureau firearms officer, or another investigator called to the scene, will then take physical possession of it. As investigatory needs dictate, personnel of the Crime Scene Unit may be deployed to photograph the weapon in its place of recovery prior to retrieval. In all other instances, the officer retrieving the firearm may transport it, without unloading it, subject to the following conditions:

1. The firearm is a revolver, semi-automatic pistol, or any other firearm which has an external hammer, which is not in the "cocked" position; or
2. The firearm is equipped with a "safety" that is clearly in the "safe" position; and
3. There is no indication that the firearm has malfunctioned or jammed; and
4. Based on the officer's observations of the conditions present and overall knowledge of the circumstances, it is safe and practicable to do so.

Care should be taken not to touch the firearm any more than necessary, and especially not in the areas (grip, stock, trigger, magazines, or ammunition) where a potential suspect is most likely to have handled it. This measure will greatly enhance the possibility of retrieving usable fingerprints. Preferably, the firearm shall be placed into a cardboard box or paper bag. Plastic bags should not be used for this purpose, as their use will tend to degrade the potential to recover any suspect's fingerprints. The firearm and ammunition shall then be turned into the Detective Bureau firearm officer as soon as practicable. In cases where a loaded firearm is brought to police headquarters during hours when the Detective Bureau is open, phone or radio contact should be made with that Detective

Bureau personnel to arrange for the weapon to be properly unloaded prior to entry into evidence. In the event that a weapon seizure, turn in or confiscation occurs outside ordinary business hours of a Detective Bureau firearms officers, the weapon should be securely stored in police headquarters until such time that it can be properly entered into the custody of the Detective Bureau firearm officer.

Unless compelling reasons are present, this submission should occur no later than the end of the officer's tour of duty. Upon submission, attached to the box or bag containing the firearm shall be a copy of the arrest or incident report. The Detective Bureau firearm officer shall be responsible for delivering the firearm and ammunition to the State Police lab for testing and certification, according to State Law, as well as for securing its return.

## **2. REPORTS:**

The taking of possession of the firearm, under all conditions, shall be duly noted in the officer's arrest or incident report. Included shall be all readily observable information, such as the make, model, type (revolver, semi-automatic pistol, rifle, shotgun, fully automatic weapon [machine gun, assault rifle], etc.); and caliber of the firearm. In order to avoid unnecessary handling of the firearm that may degrade the quality of suspects' fingerprints, it is not necessary to obtain the model and serial number of the firearm at this time. Also, unnecessary handling of ammunition, magazines, etc., is to be avoided for the same reason. Note the name and address of the owner, if known, and how and why the firearm came into the officer's possession, including whether the firearm was used in the commission of a crime, and the nature of the crime(s).

## **3. STORAGE, TESTING AND CERTIFICATION:**

The Detective Bureau firearms officer shall be responsible for:

1. Obtaining and documenting all pertinent identifying information for the firearm, including model and serial numbers;
2. Safe storage and record keeping for all firearms received;
3. Transporting any firearm to be used as evidence to the State Police laboratory for testing and certification;
4. Retrieval of tested firearms and certifications from the State police laboratory;
5. Retrieval of firearms that have been held at court.
6. NCIC computer inquiries, to include, but not be limited to, "LOCATES" for weapons that have been stolen in this or other jurisdictions will be conducted by the Detective Bureau firearms officer.

Officers should turn in any firearm that is to be used as evidence as soon as possible, as the testing and certification process usually requires 3-6 weeks and in some cases, far longer. No less than 24 hours before going to court, the testifying officer should contact the DB evidence officer in order to obtain the lab certificate, which is necessary in order for the firearm to be entered into evidence.

#### 4. RETRIEVAL BY TESTIFYING OFFICER:

In most cases, the certificate will be sufficient for purposes of testifying in court, However, whenever a firearm is needed for court, the testifying officer shall retrieve the firearm from the Detective Bureau firearms officer as close to the court date as practical. The firearms officer shall maintain a logbook, in which the testifying officer shall note the date and time the firearm was retrieved for court, and shall also affix his/her signature. **If the firearm is entered into evidence and held at court, or otherwise removed from the physical control of the testifying officer, the officer shall request and obtain a receipt from the appropriate court clerk, D.A., or other person receiving transfer of its possession.**

If the firearm is held by the court, or if there are any problems with or resistance to this procedure, it shall be brought immediately to the attention of one of the supervisory officials assigned to the Court Liaison Office. That official shall then take whatever actions are necessary to obtain the requested property receipt. Once it is obtained, the officer shall make and retain a copy of this receipt for his/her records, and give the original to the Detective Bureau's firearm officer as soon as practicable for safekeeping. Once the case is concluded and the firearm is no longer needed at court, the Court Liaison Office shall notify the Detective Bureau firearms officer, so that arrangements can be made for the return of the firearm to him/her.

If the firearm is not held as evidence by the court, the testifying officer shall forthwith return the item to the Detective Bureau's firearm officer as soon as practical. **At no time shall any member of this department turn over control of any firearm or ammunition to a defendant or to counsel for a defendant.**

#### 5. DISPOSAL:

Once the need to retain the firearm has terminated, the Detective Bureau's firearm officer shall be responsible for identifying and contacting the lawful owner, and arranging for return of the firearm to that person, if such a return can be accomplished legally. In all other cases, the Detective Bureau's firearm officer shall arrange for the firearm to be destroyed, except when the Chief of Police decides to retain any such weapon that is deemed to be of value to the department as either a training or tactical device. Such a decision by the Chief shall be based on the advice of the firearms officer and/or the department's armorer/firearms instructor. **Under no circumstances shall any such firearm that is not returned to its owner be converted to the personal use of any member of this department, or any other person.**

Once the firearm has been returned or destroyed, the firearms officer shall receive and maintain a receipt from either the owner or the vendor that destroyed the firearm, which indicates clearly which procedure was utilized.

Per:

A handwritten signature in black ink, appearing to read "Gary J. Gemme". The signature is written in a cursive style with a prominent initial "G".

*Gary J. Gemme*  
Chief of Police