

La Plata Police Department – General Order

	Title: Recovered Firearms		Order #: 679	
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Approved by: Chief Carl Schinner			CALEA 5 th Edition	
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1. **PURPOSE:** This directive establishes special guidelines concerning the handling, processing and release of recovered firearms.

2. **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. Shotgun: A weapon that is 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 one or more projectiles for each pull of the trigger.

 - c. 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.

 - d. Rifle: A weapon that is 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.

 - e. 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.

 - f. Regulated Firearm: A “regulated firearm” is a handgun (as described above) or a firearm that is a specified assault weapon or their copies, regardless of which

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company produced or manufactured that assault weapon (see appendix A for a list of assault weapons).

3. **HANDLING OF FIREARMS:** Officers will exercise the utmost care and caution in the handling and preservation of recovered firearms.

- a. 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 Custodial Property. 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.

4. **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 Custodial Property. For purposes of this order, 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.**
- c. 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.
- d. **Release of Firearm:** Only the property Criminal Investigations Commander authorize the release of firearms once authority to release is obtained from the seizing officer. If the firearm is not needed for evidentiary purposes or for any reason permitted the seizing officer must notify the Criminal Investigations Commander so that it may be released. If the seizing officer has a reason to

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believe that the owner may not legally possess a firearm as provided below, he/she should notify Criminal Investigations Commander of the information available, but must indicate that the firearm may be released.

Federal Law 18 U.S.C. 922(g): 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 has ever been convicted of a crime (felony or misdemeanor) that carries a possible penalty of more than one year 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.

Maryland State Law PS 5-133: Under the authority of Maryland State Law Public Safety 5-133, no person may possess a regulated firearm (all handguns and selected long arms as specified in Maryland Law Public Safety 5-101(See Appendix A) 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.

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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 and suffers from a mental disorder as defined in 10-101 (f)(2) of the Health-General Article.
9. If he/she has been found incompetent to stand trial under 3-106 of the Criminal Procedure Article.
10. If he/she has been found no criminally responsible under 3-110 of the Criminal Procedure Article.
11. If he/she has been voluntarily admitted for more than 30 consecutive days to a facility as defined in 1010 of the Health-General Article.
12. If he/she has been involuntarily committed to a facility as defined in 10-101 of the Health-General Article.
13. If he/she is under the protection of a guardian appointed by a court order under 13-201 (c) or 13-705 of the Estates and Trusts Article, except for cases which the appointment of a guardian is solely a result of a physical disability.
14. If there is a current non-ex parte civil protection order entered against the person under 4-506 of the Family Law Article or an order for protection under 4-508.1 of the Family Law Article. These orders can also be issued by a court of another state or a Native American tribe. This does not apply to a respondent transporting a regulated firearm if the respondent is carrying a civil protective order requiring the surrender of the regulated firearm and the regulated firearm is unloaded, the respondent has notified the police that the regulated firearm is being transported in accordance with the civil protection order and the respondent transports the regulated firearm directly to the police station.
15. If he/she is under the age of 30 years at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

* Convicted of this disqualifying crime includes a case in which a person received probation before judgment for a crime of violence and a case in which a person received probation before judgment in a domestically related crime as defined in 6-233 of the Criminal Procedure Article. Convicted of disqualifying crime does not include a case in which a person received a probation before judgment for assault in the second

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degree or that was expunged under Title 10, Subtitle 1 of the Criminal Procedure Article

Maryland State Law PS 5-205: Under the authority of Maryland State Law Public Safety 5-205, no person may possess a rifle or shotgun 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 and suffers from a mental disorder as defined in 10-101 (f)(2) of the Health-General Article.
9. If he/she has been found incompetent to stand trial under 3-106 of the Criminal Procedure Article.
10. If he/she has been found no criminally responsible under 3-110 of the Criminal Procedure Article.
11. If he/she has been voluntarily admitted for more than 30 consecutive days to a facility as defined in 10-101 of the Health-General Article.
12. If he/she has been involuntarily committed to a facility as defined in 10-101 of the Health-General Article.
13. If he/she is under the protection of a guardian appointed by a court order under 13-201 (c) or 13-705 of the Estates and Trusts Article, except for cases which the appointment of a guardian is solely a result of a physical disability.
14. If there is a current non-ex parte civil protection order entered against the person under 4-506 of the Family Law Article or an order for protection under 4-508.1 of the Family Law Article. These orders can also be issued by a court of another state or a Native American tribe. This does not apply to a respondent transporting a regulated firearm if the respondent is carrying a civil protective order requiring the surrender of the regulated firearm and the regulated firearm is unloaded, the respondent has notified the

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police that the regulated firearm is being transported in accordance with the civil protection order and the respondent transports the regulated firearm directly to the police station. 15. If he/she is under the age of 30 years at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

* Convicted of a disqualifying crime includes a case in which a person received probation before judgment for a crime of violence and a case in which a person received probation before judgment in a domestically related crime as defined in 6-233 of the Criminal Procedure Article. Convicted of disqualifying crime does not include a case in which a person received a probation before judgment for assault in the second degree or that was expunged under Title 10, Subtitle 1 of the Criminal Procedure Article.

Maryland State Law FL 4-511: Under Family Law Article 4-511, when an officer seizes a firearm in a domestic violence or family violence incident (see index codes 1604 and 1605), the owner may not resume possession of the firearm until the conclusion of the proceeding on the alleged act of domestic violence.

5. **Processing of Firearms:** Firearms will be packaged according to guidelines set forth in the Custodial Property Manual. Firearms and ammunition will be packaged separately.
6. **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.
7. **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.
 - a. 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 the Property Custodian.
 - b. The Property Custodian, 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.
 - c. The Property Custodian, 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

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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.

8. **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:
 - a. All criminal charges will be filed by the officer against any person found unlawfully transporting or using a handgun.
 - b. 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.
 - c. 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.
 - d. 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-4203**, and submit the form along with the handgun to his/her supervisor for forwarding to Property Management, along with proper documentation.
 - e. The Property Custodian will notify the department armorer of the handgun's arrival, and will note the date and time of notification.
 - f. The Property Custodian, 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.
 - g. 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.

