

CITY OF ANDERSON POLICE DEPARTMENT

Anderson, South Carolina

DIRECTIVE TYPE General Order	EFFECTIVE DATE February 12, 2015	NUMBER 2610.2
SUBJECT Collecting Firearms as Property: Evidentiary and Non-Evidentiary		
REVISED January 15, 2013		
REFERENCE: State Law 16-23-50, SCLEA Chapters 25 & 26 & Forms APD-2675 & 2610	AMENDS/SUPERSEDES All Others	
DISTRIBUTION All Personnel	RE-EVALUATION DATE Annual	NO. PAGES 9

A. Purpose

To serve as a basis for the lawful collection of all firearms received by the City of Anderson Police Department personnel including firearms that are abandoned, relinquished, seized, or forfeited and the disposition of such property as destroyed, returned to owner, converted to departmental use or other.

B. Policy

This general order applies to all firearms received by the City of Anderson Police Department personnel.

In the course of their duties, law enforcement personnel encounter legal and illegal firearms which are relinquished to officers by both offenders and citizens. Police officers also receive firearms which are seized or forfeited in other ways. The City of Anderson Police Department will maintain a database of firearms received – regardless of what manner those weapons come into possession of the department – and conduct NCIC and other relevant checks on all weapons recovered in this manner prior to their storage and disposition. Members of the City of Anderson Police Department will make reasonable efforts to return non-evidentiary property items to their rightful owners if the items are legal and if the owners or last possessor(s) can rightfully and legally possess such items.

C. Procedures

1. State Law (Note: The following state laws may or may not be all-inclusive).

a. South Carolina Code of Law 16-23-50(B) reads as follows:

... The pistol involved in the violation of this article must be confiscated. The pistol must be delivered to the Chief of Police of the municipality or to the sheriff of the county if the violation occurred outside of the corporate city limits of a municipality. The law enforcement agency that receives the confiscated pistol may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell pistols in the State for a pistol or any other equipment approved by the agency or destroy it. A weapon must not be disposed of in any manner until the results of any legal proceedings in which it may be involved are finally determined... Records must be kept of all confiscated pistols received by the law enforcement agencies under the provisions of this article.

b. South Carolina Code of Law 44-53-520

Weapons seized pursuant to a Vice/Narcotics investigation shall be handled by the Vice/Narcotics Division through the Consent to Forfeiture Statute 44-53-520

- (1) Any legal firearm seized through a narcotics investigation shall be converted by the Vice/Narcotics Division through this statute. Upon completion of the case, the weapon shall be delivered to a predetermined Federal Firearms Licensee (FFL) for appraisal and store credit in an account for the City of Anderson Police Department Narcotics division.

c. South Carolina Code of Laws 27-21-20 Property recovered by sheriff or police chief; ascertaining and notifying owner; disposition where owner not found; records

(A) If property has been recovered by a sheriff of a county or chief of police of a municipality and ownership is ascertained, the sheriff or chief of police must notify its owner as provided by subsection (B).

(B) A sheriff or chief of police must provide notice:

- (1) within fifteen days;
- (2) by registered mail, return receipt requested;
- (3) describing the property and including an identifying serial number if available; and

(4) advising the owner that the property may be sold at auction pursuant to Section 27-21-22 if not reclaimed within sixty days of mailing of the notice.

(C) If after diligent efforts the owner of the property cannot be ascertained or if the property is not reclaimed or sold at public auction, the sheriff of a county or chief of police of a municipality may dispose of any recovered stolen or abandoned property as provided in this subsection.

(1) Property that is not suitable for sale, including, but not limited to, clothing, food, prescription drugs, weapons, household cleaning products, chemicals, or items that appear nonusable, including, but not limited to:

(a) electric components that appear to have been skeletonized, where parts have been removed and are no longer in working order; or

(b) items that have been broken up and only pieces exist may be destroyed by the jurisdiction holding the property.

(2) The sheriff or chief of police may use any property recovered by his jurisdiction if the property is placed on the jurisdiction's inventory as property of the jurisdiction.

(3) The sheriff or chief of police, with the consent of the appropriate governing body, may turn over to any organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986, items of abandoned or recovered property that may be used for the betterment of that organization. However, the accrued value of the items given to an individual organization as provided above by a sheriff or chief of police shall not exceed a value of one thousand dollars in the respective government entity's fiscal year.

(D) A jurisdiction recovering property pursuant to the provisions of this section shall maintain a permanent record of all property recovered and its disposition.

d. Should any other local, state or federal laws apply or become applicable in the future, this general order automatically updates to include those as well.

2. Recovered, Relinquished and Seized Firearms

a. **Found firearms** shall include any pistol, handgun, rifle or shotgun which is found to be abandoned property and no suspect is arrested or charged.

(1) In instances regarding these weapons, the responding officer shall complete an incident report, a NCIC check. The officer will then deliver the weapon to the evidence custodian for safekeeping until disposition.

(2) The officer must surrender the firearm and all the appropriate paperwork to

The evidence custodian by the end of their tour of duty following the point in time that the officer takes possession of the weapon.

- (3) The receiving officer must surrender copies of all the appropriate paperwork to the evidence custodian by the end of their tour of duty following the point in time that the officer takes possession of the weapon.
- (4) All the appropriate measures to locate the lawful owner shall be used and after these efforts are exhausted, the weapon shall either be returned to the lawful owner by the evidence custodian or a disposition will be determined by the City of Anderson Police Department.
- (5) Before any personnel of the City of Anderson Police Department relinquishes a firearm to a person claiming ownership, the personnel of the City of Anderson Police Department must run a criminal history on that claimant to verify that the person has no documented reason prohibiting the person from lawfully possessing a firearm.

b. **Relinquished Firearms** shall include any pistol, handgun, rifle or shotgun the custody of which a lawful owner desires to abandon.

- (1) In this instance, the officer who receives the weapon shall generate an incident report including all pertinent information regarding the complainant and the weapon.
 - (a) The name, address and contact phone number(s) of persons affiliated with the firearm must be included in the report. This may include but is not limited to the following information known to the officer at the time the weapon is received or which become apparent immediately thereafter:
 - i. The person surrendering the weapon,
 - ii. any suspected principals in the ownership of the weapon, and
 - iii. anyone with a vested interest in the firearm.
- (2) The weapon will then be delivered to the evidence custodian for storage and by the end of their tour of duty following the point in time that the weapon was taken.
- (3) The receiving officer will notify the evidence custodian by the end of their tour of duty following the point in time that the weapon was received by the officer.
- (4) Within 3 business days the evidence custodian will conduct a follow-up

interview with the complainant and generate an Anderson Police Department evidence sheet which the evidence custodian will attempt to get signed by the lawful owner.

- (5) Upon completion of all traces and completion of the *Letter of Abandonment*, the weapon shall become the property of the City of Anderson Police Department for disposition as allowed and/or prescribed by state law and Authorized as per this general order.

- c. **Recovered firearms** shall include any pistol, handgun, rifle or shotgun which is entered into NCIC or reported stolen through a law enforcement agency.
- d. **Seized firearms** shall include any pistol, handgun, rifle or shotgun which has been removed from the possession of an offender by law enforcement as a result of lawful arrest, violation of city, state or federal law or in certain instances for the safety of the officer or the general public when lawfully applicable.

- (1) Weapons seized in this manner shall be documented with an incident report and delivered to the evidence custodian for storage by their end of tour of duty following the point in time that the weapon was taken.
- (2) The firearm will be kept until the incident is resolved.
- (3) The receiving officer will notify the evidence custodian by the end of their tour of duty following the point in time that the weapon was received by the officer.
 - (a) Further action by the case officer/investigator may include but not limited to:
 - i. Pursuing consent to forfeiture proceeding or
 - ii. returning the weapon to the lawful owner through the office of the evidence custodian.

3. Officer to provide tracking information to person(s) from whom the weapon is taken

- a. Officers are to provide tracking information to persons from whom the weapons are taken. The information must include a minimum:
 - (1) The officer's name,
 - (2) the case number,
 - (3) the date, and

- (4) a brief description specifically identifying the weapon(s) taken.
 - (a) The description must include the serial number.
 - b. Note: The above-referenced information may be provided on the officer's business card or in any other simple/user-friendly fashion.
- 4. Criminal history to be run on all principals involved
 - a. The officer who receives the affected firearm will run criminal histories on all offenders and/or possessors and/or alleged or potential owners of the affected firearm(s).
- 5. NCIC checks to be run on all firearms received
 - a. The officer who receives a firearm will run a NCIC check of the affected firearm(s).
- 6. Property Form must be filled out for firearms.
 - a. When firearms are received by an officer for a purpose other than criminal prosecution of the possessor, owner or offender (or any other principal in the case), an evidence sheet must be filled out and turned in with the weapon to the evidence custodian with the other required paperwork when the item is turned over to the evidence custodian.
- 7. Incident report is required
 - a. In the matter regarding all **firearms which are seized, recovered, relinquished, abandoned or otherwise forfeited,** the City of Anderson Police Department officer who receives the weapon(s) shall generate an incident report including all pertinent information.
 - (1) The report should specify the circumstances surrounding the weapon(s) as:
 - (a) abandoned,
 - (b) relinquished,
 - (c) seized,
 - (d) recovered or
 - (e) otherwise forfeited.
- 8. Paperwork to accompany the weapon throughout the inventory process
 - a. All required paperwork and the firearm must be turned in at the same time.

- b. A copy of each of the following documents must be compiled by the receiving officer and it must accompany any firearm that is placed into inventory in the City of Anderson Police Department.

- (1) the NCIC check of the firearm,
- (2) the receipt for property and
- (3) property and evidence sheet any other information and necessary by the evidence custodian.

9. Firearm and paperwork to be submitted to the evidence custodian by the end of their tour of duty following the point in time that the officer receives the item.

- a. The required paperwork shall accompany, be fixed to or appended to the firearm in a manner deemed appropriate by the evidence custodian.
- b. The weapon with its accompanying paperwork shall be delivered to the evidence custodian for entering into evidence by the end of their tour of duty following the point in time that the officer takes the weapon.

10. Paperwork to be submitted to the evidence custodian by the end of their tour of duty following the point in time that the officer received the item.

- a. The responding officer will notify the evidence custodian of any weapons received in a manner subject to this general order and provide to the evidence custodian duplicate copies of:
 - (1) the NCIC check
 - (2) the receipt for property and
 - (3) property and evidence sheet any other information and necessary by the evidence custodian.
- b. The above-referenced items should be affixed together in a manner so as to keep them from becoming separate during the transport, storage and dispersion process.

11. Turning a weapon into the evidence custodian

- a. All firearms which are turned into the evidence custodian pursuant to this general must:
 - (1) have an incident report appended,
 - (2) have a copy of the NCIC check on the weapon appended,
 - (a) If a weapon comes back “clear” on an NCIC check, a printout from Central Dispatch must still accompany the weapon upon its deposit

into inventory.

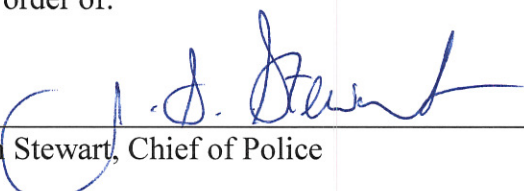
- (3) have an evidence list (receipt for property) accompanying firearm and a property and evidence sheet,
- (4) have copies of any other documentation as may be required by the evidence Custodian.
- (5) be unloaded,
- (6) with the bolt or slide locked to the rear and tied back to ensure safety,
- (7) with any accompanying ammunition clearly noted on the evidence list (receipt for property) with
 - (a) quantity,
 - (b) caliber and
 - (c) head stamp marking noted.
- (8) When weapons that are discovered to be stolen are turned over to the evidence custodian, the following information must be included
 - (a) The agency from which it was stolen,
 - (b) the agency's ORI number and
 - (c) the agency's incident report number.

12. Firearms becoming property of the City of Anderson Police Department

- a. Upon completion of all tasks assigned to the evidence custodian, firearms which are deemed the property of the City of Anderson Police Department and retain any significant monetary value will, at the direction of the Chief of Police, be transferred from the City of Anderson Police Department inventory by the evidence custodian by SC Statute 27-21-20.
 - (1) The evidence custodian will run a current check of these firearms through NCIC and will affix the results to an inventory sheet.
 - (2) All weapons found to be clear property of the City of Anderson Police Department will be delivered by the evidence custodian and an approved Evidence Diversion Request (APD Form 2610.1) is filled out, then the weapon is taken to a predetermined licensed FFL where the weapons will be appraised and a store credit given to the revolving account of the City of Anderson Police Department for future purchases of weapons, ammunition, duty gear and uniforms.

- (a) Copies of all inventory sheets and credit receipts will be delivered to the Chief of Police and the evidence custodian.
 - i. The evidence custodian will maintain the records.
 - ii. The Chief of Police will make the final decision on the allocation of store credit.
- b. Weapons deemed by the evidence custodian to have no monetary value will be inventoried and delivered by the evidence custodian to a designated site where the weapons shall be destroyed.
 - (1) Weapons to be destroyed shall include all firearms which do not meet the South Carolina meltdown requirement and any weapon which has been evidence in a closed Federal Case.
 - (a) Destruction of weapons in the Federal Cases will be done only at The request of the Federal Agency.

By order of:



Jim Stewart, Chief of Police

2-12-15
Date