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| Policy Name: | WEAPONS AND FIREARMS INVESTIGATIONS | | |
| Policy #: | OP 4.34.11 | Last Updated: | 2022-04-07 |
| Issued By: | INVESTIGATIVE SERVICES BUREAU | Approved By: | SURREY POLICE BOARD |
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RELATED POLICIES

OP 5.1 *Seized Property*

OP 5.1.4 *Firearms*

OP 5.2 *Retention of Property for Court Purposes (Form 5.2)*

1. PURPOSE

- 1.1. To outline the policy and procedures for Surrey Police Service (SPS) Members when conducting investigations involving weapons or firearms.
- 1.2. To outline Members' legal authorizations when considering the seizure of firearms.
- 1.3. To provide direction to Members on how to trace seized firearms.

2. SCOPE

- 2.1. This policy applies to all SPS Members.

3. POLICY

- 3.1. Members often will encounter investigations involving the possession or use of weapons or firearms.
- 3.2. Depending on the circumstances of the incident, Members will be required to seize weapons or firearms as evidence of a criminal offence and properly detain them for court purposes.
- 3.3. Members may be required to seize firearms due to safety concerns (e.g., intimate partner violence, mental health concerns, and public safety concerns).

4. PROCEDURE

Weapons Investigations (excluding firearms)

- 4.1. When Members are investigating a criminal offence involving a weapon (any item that is used, intended to be used or designed to be used to cause injury or death or to threaten or intimidate a person), Members must seize the weapon for investigation or evidence of the criminal offence. If the weapon is located where the suspect may have a reasonable expectation of privacy, a Search Warrant must be obtained.
- 4.2. Depending on the circumstances of the incident, Members may request the attendance of the Lower Mainland District Integrated Forensic Identification Section (LMD IFIS) to photograph and document the weapon's location, condition, and appearance, prior to being seized for investigation or evidence.
- 4.3. Members may also request further forensic examination of the weapon to determine the presence of potential forensic evidence such as fingerprints or DNA. Members must follow the procedures in OP 5.1.3 *Exhibits Requiring Forensic Examination* if the Member determines that forensic examination is required.
- 4.4. Upon seizure of the weapon for investigation or evidence, Members must also follow the general property procedures (refer to OP 5.1 *Seized Property*) and the procedures for detaining property for court purposes (refer to OP 5.2 *Retention of Property for Court Purposes (Form 5.2)*).
- 4.5. Members will draft and submit a Report to Crown Counsel (RTCC) to recommend charges for the related weapons offence, if applicable.
- 4.6. Members may also encounter incidents whereby a weapon may be seized for destruction (no criminal charges) or the individual voluntarily relinquishes a weapon to Members for destruction. In these instances, Members must follow the Property Seized for Destruction or Relinquished Property procedures in OP 5.1 *Seized Property*.

Firearms Investigations

- 4.7. At times, Members may find it necessary to seize firearms during an investigation involving a criminal offence or when they determine that the seizure of the firearm is necessary to protect and ensure public safety or to protect the safety of the owner of the firearm.
- 4.8. Depending on the circumstances of the incident, Members may seize firearms pursuant to the following legal authorities:

Search and Seizure - With Warrant

- i. Applying for a warrant to search under s. 487 of the *Criminal Code* allows Members to search for and seize items (including firearms) that will provide evidence relevant to the commission of a criminal offence.

Search and Seizure – Without Warrant (No Dwelling House)

- ii. Searching for and seizing firearms under s. 117.02 of the *Criminal Code* allows Members to search for and seize firearms without warrant from a place (not a dwelling-house) when Members have reasonable grounds to believe that an offence is being or has been committed. In these instances, Members must have reasonable grounds to obtain a warrant but it would not be practicable to obtain the warrant due to exigent circumstances.

Search and Seizure – Without Warrant – Exigent Circumstances

- iii. Searching for and seizing firearms under s. 117.04 of the *Criminal Code* (with warrant or without warrant due to exigent circumstances) where Members have reasonable grounds to believe that a person should not possess a firearm for safety reasons. When a firearm is seized under section 117.04, Members must also apply for an *Application for Disposition* (for forfeiture and prohibition) under section 117.05 of the *Criminal Code* within 30 days.
- 4.9. When Members have reasonable grounds to believe that it is not in the public interest for an individual to possess or acquire firearms due to safety concerns, Members may apply for an *Application for a Preventative Prohibition Order* under s. 111 of the *Criminal Code*. This application will be made when the individual has not committed a criminal offence that would require a mandatory prohibition order (section 109, *Criminal Code*) or discretionary prohibition order (section 110, *Criminal Code*). Members must seize the firearm and the individual's firearms licence so the individual is unable to use the licence to obtain another firearm in the future.
- 4.10. In instances where a Member discovers that an individual who lawfully possesses firearms lives with or is associated to an individual who is prohibited from possessing a firearm, Members can apply for a *Limited Access Order* under s. 117.011 of the *Criminal Code* that imposes conditions on the lawful owner of the firearms that prevents them from providing access to the other individual who is prohibited from possessing a firearm.
- 4.11. Members must understand that they cannot seize firearms for "safekeeping" as there are no legal authorities to do so and therefore, the owner is able to retrieve the firearm from police custody at their convenience. Members must seize firearms using their legal authorities and apply for the applicable detention order to retain the firearm for further investigation.
- 4.12. Depending on the circumstances of the incident, Members may request the attendance of the Lower Mainland District Integrated Forensic Identification Section (LMD IFIS) to photograph and document the location, condition, and appearance of the firearm, prior to being seized for investigation or evidence.
- 4.13. Members may also request further forensic examination of the firearm to determine the presence of potential forensic evidence such as fingerprints or DNA. Members must follow the

procedures in OP 5.1.3 *Exhibits Requiring Forensic Examination* if the Member determines that forensic examination is required.

- 4.14. Upon seizure of all firearms as evidence or for investigation, Members must follow the procedures set out in OP 5.2 *Retention of Property for Court Purposes (Form 5.2)* to ensure that the firearms are lawfully detained.
- 4.15. If Members seize or recover a firearm whereby the owner is unknown, Members must trace the firearm via the following procedure:
 - i. query the firearm in CPIC, PRIME-BC and Canadian Firearms Registry Online (CFRO) and query any associated individuals in CPIC and PRIME-BC;
 - ii. contact a member from the RCMP National Weapons Enforcement Support Team (NWEST) for assistance with tracing the firearm. Members must request an urgent trace of the firearm when it is associated to a serious offence (e.g., homicide, violent offence, armed robbery). The following information must be submitted when tracing the firearm:
 - a. make (manufacturer), model, calibre and type of firearm (e.g., semi-automatic pistol, revolver, rifle, etc.);
 - b. serial number;
 - c. importer (if known and visible on the firearm);
 - d. length of barrel, ammunition capacity, action type (if known);
 - e. any markings visible on the firearm;
 - f. location where the firearm was seized/recovered;
 - g. date of offence (if applicable);
 - h. date of seizure/recovery;
 - i. names of suspect (and associate), owner/believed to be owner (if applicable); and
 - j. incident number.

Reporting Requirements

- 4.16. When a Member seizes or recovers a firearm, they must create a PRIME-BC General Occurrence (GO) report that includes the following information:
 - i. the legal authority that the firearm was seized under (e.g., the applicable section of the *Criminal Code*);
 - ii. charges requested and if a prohibition order is being sought;
 - iii. details as to the disposition of the firearm (e.g., held as evidence or detained for investigation, returned to owner, application for *Prohibition Order*);
 - iv. clear articulation for the reasons for applying for an *Application for Disposition* (forfeiture or prohibition) under section 117.05, *Criminal Code*;
 - v. CPIC narrative to the Provincial Firearms Officer and Canadian Firearms Officer;
 - vi. copy of an e-mail notification to NWEST requesting the tracing of the firearm; and
 - vii. scanned copies of the Form PCR087 (*Retention of Property for Court Purposes (Form 5.2)*);

- 4.17. If a Member determines that an individual has not committed a criminal offence but the Member has reasonable grounds to believe that it is not in the public interest for that individual to possess a firearm, for public safety reasons, the Member may seize the firearm and apply for a *Preventative Prohibition Order* under section 111 of the *Criminal Code*.
- 4.18. If a Member determines that it is necessary to seek a *Preventative Prohibition Order*, the Member must:
- i. Create a PRIME-BC GO report;
 - ii. Select the PRIME-BC UCR Code 8210 (Prohibition Orders – Weapons) on the front page;
 - iii. Create a detailed narrative text page with subject line APPLICATION FOR PROHIBITION ORDER or REQUEST FOR PROHIBITION ORDER and include the following information:
 - a. Clear articulation of the grounds for seeking the prohibition order;
 - b. Description of the disposition of the firearm (e.g., held for evidence); and
 - c. The details on the firearms licence, including the firearms licence number;
 - iv. Create a Background/Bail (BA) text page recommending the appropriate conditions to ensure public safety;
 - v. Include all other mandatory PRIME-BC text pages which are required for a RTCC submission, and submit the file for Supervisor review as per RTCC submission guidelines;
 - vi. Store the seized firearm and firearms licence at the Property Office; and
 - vii. Complete and submit Form PCR087 (*Retention of Property for Court Purposes (Form 5.2)*) and include a scanned copy in the PRIME-BC GO report.

APPENDIX A: DEFINITIONS

“CFR” means the Canadian Firearms Registry.

“Firearm” means a barrelled weapons that discharges projectiles capable of causing bodily harm or death, or anything that can be adapted as a firearm (section 2 of the *Criminal Code*).

“Form 5.2” means a Form 5.2 Report to a Justice to document seizures under the *Criminal Code*, s. 489.1. This section requires that where a peace officer seizes anything during the execution of their duties where either ownership is in dispute or the continued detention of the thing seized is required for the purposes of any investigation or court proceedings, the peace officer will report the items seized to a justice using Form 5.2.

“Found Property” means any property that is found by the Member to not be in the possession of the lawful owner, or person who claims to be the owner, and is not linked to an investigation or required for a future investigation.

“GO” means General Occurrence Report submitted in the PRIME-BC records management system.

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“NWEST” means RCMP’s National Weapons Enforcement Support Team.

“PRIME-BC” means the Police Records Information Management Environment, the BC provincial police records management system.

“Relinquish” means any property that is voluntarily turned over to the police by the owner or possessor of the property with the knowledge that the property will not be returned to them and will be otherwise disposed of by the police. Anyone in possession of property is deemed, in law, to be in lawful possession of the property, unless it is proven otherwise in a court of law.

“Seized property” means any property that comes into the possession of a Member during an investigation, and is not considered found property, relinquished property or property for safekeeping.

“SPS” means Surrey Police Service.

APPENDIX B: REFERENCES

Criminal Code, R.S.C. 1985, c. C-46