

SPECIAL ORDER



Title Intake Guidelines for Firearms Cases	
Topic/Number SO-03-04	
Effective Date June 11, 2003	Distribution B
Related to:	

DISTRICT OF COLUMBIA

I. Background.....Page 1	III. Regulations.....Page 1
II. Policy.....Page 1	IV. Procedural Guidelines.....Page 2

I. BACKGROUND

In order for the United States Attorney's Office (USAO) to prosecute firearm cases more effectively, they have developed certain guidelines for members of the Metropolitan Police Department (MPD) to use for the intake of all firearms cases. A successful prosecution is often based upon the overall strength of evidence, the characteristics particular to a defendant, including his or her criminal history, crime problems in a particular neighborhood, and particular law enforcement investigations and initiatives. The guidelines are not intended to supplant these considerations, however, the failure of a case to meet the guidelines may result in the case being no papered or dismissed, absent compelling evidence and a satisfactory explanation as to why it was not possible to comply with the guidelines. The MPD is of the firm belief that these guidelines will improve the quality of cases, will have an overall beneficial impact on the community, and will create greater consistency in intake decisions. All firearms cases involve myriad factors, which affect how to charge each particular case, including Fourth Amendment issues and the danger posed by the defendant to the arresting officer and the community at large. Such factors go beyond these guidelines and can only be evaluated on a case-by-case basis.

II. POLICY

The policy of the Metropolitan Police Department is to ensure that all members adhere to the guidelines provided by the USAO as listed in this directive, for the intake of all firearms cases, so as to assist in effectively prosecuting the case(s).

III. REGULATIONS

- A. This directive contains confidential and law enforcement sensitive material and may not be distributed to any person who is not a member of the MPD without permission from the USAO.
- B. These guidelines do not purport to contain complete policies and procedures utilized for the intake of criminal cases, and each case is subject to individualized review for appropriate charging decisions by the USAO.

- C. The guidelines listed in this directive may be changed at any time without prior notice from the USAO.

IV. PROCEDURAL GUIDELINES

- A. When an arrest occurs for a firearms violation, members shall:

1. Make every effort to identify all persons present and associated with the arrestee, whether charged or not (e.g., others present inside a premises during the execution of a search warrant, or others inside a vehicle during a traffic stop, or other persons who are associated and in the presence of the arrestee during on-the-street encounters). (CALEA 42.1.1)
2. Interview the defendant. Absent compelling reasons not to, every defendant charged with a firearms offense who is in custody shall be advised of his Miranda rights and, following a waiver, shall be interviewed about the offense. All statements of the defendant shall be sufficiently documented in the officer's notes or other appropriate police reports. (CALEA 1.2.3)

Note: Members shall consult with an appropriate Detective/Investigator prior to interviewing or advising a suspect/defendant of his/her Miranda rights.

3. Interview other persons present, even if not charged. All statements of witnesses shall be sufficiently documented in the officer's notes or other appropriate police reports. (CALEA 1.2.3 and 42.2.1)
4. Consider a follow-up search warrant for corroborating evidence, (consider contacting a supervisory AUSA immediately to approve the search warrant or bring a search warrant affidavit to papering).

- B. Processing of Scene/Recovery of Evidence (CALEA 83.2.1 and 42.2.1)

1. A Mobile Crime/Crime Scene Search Officer (CSSO) shall be called to all scenes in which a firearm is to be recovered (whether during a traffic stop, execution of a search warrant, drop-see, etc.).
2. The firearm should be left in place, (except where safety or other exigency dictates otherwise) for processing by the CSSO.
3. The CSSO shall obtain and affix a Crime Scene Examination Section (CSES) number for the firearm and other evidence, before the items leave the CSSO's personal control (e.g., for forensic processing, such as super gluing, test firing, etc.).

4. The CSSO shall properly indicate on the PD Form 81 (Property Record) the chain of custody for the weapon. Any additional handling of evidence after the PD Form 81 is submitted (e.g., by forensics technicians) shall be properly designated on the PD Form 668 (Crime Scene Search Report). (CALEA 83.3.1)
5. Where a firearm is NOT found on the defendant's person, the CSSO shall:
 - a. Photograph the weapon in place;
 - b. If a search warrant case, diagram the location of the weapon within the premises;
 - c. Seize any nearby evidence that is proof of possession;
 - d. Preserve firearm and ballistics evidence in a PAPER or CARDBOARD container (firearms are NOT to be placed or transported in any plastic packaging); and
 - e. Fingerprint the weapon, magazine and any ammunition recovered using the superglue method (unless the Forensic Sciences Lab personnel determine that another method would have a better likelihood of success because of the surface involved).

Note: Nothing in this order precludes members from adhering to the policies and procedures set forth in GO-SPT-601.01 (Recording, Handling, and Disposition of Property Coming into Custody of the Department).

C. Recovery of a Firearm in a Motor Vehicle

1. Where a weapon is found in a motor vehicle (or a motor vehicle has other importance to the case), members shall provide complete and accurate owner information about the vehicle. Members shall record both the VIN number and the tag number and shall run the VIN and/or tag number on the scene to determine ownership. Ownership of the vehicle shall be documented (copy of registration, computer printout of ownership information, etc.).
2. If a motor vehicle is registered to someone other than those present on the scene, the member shall attempt to determine the relationship of those present and the owner, by interviewing the owner and/or asking during the interview of the defendant and witnesses. These interviews must be documented in the member's notes or in other police reports.

Note: A motor vehicle may be seized for violations of the Gun Control Act of 1968, as outlined in GO-SPT-601.01 (Recording, Handling, and Disposition of Property Coming into Custody of the Department).

D. Search Warrant Cases

1. Members shall ascertain and document the owner/leaseholder of the premises.
2. If the premises is owned or leased by someone other than defendant, attempt to determine the relationship between the owner/leaseholder and the defendant, by interviewing the owner/leaseholder and/or asking the defendant and witnesses during the interview. These interviews shall be documented in the member's notes or in other police reports.

E. Papering

1. All existing basic paperwork connected with a case shall be provided at papering, including but not limited to: PD Forms 163 (Prosecution Report), 251 (Event Report), 252 (Supplement Report), 47 (Warning as to Your Rights), 81 (Property Record), 118 (Defendant/Suspect Statement), 119 (Complainant/Witness Statement), and a properly prepared and approved PD Form 168 (Court Case Review). Appropriate paper-work shall include, at a minimum, the names of all members needed to prove the essential facts of the case and all members in the chain of custody for seized evidence; the search warrant, supporting affidavit, and the search warrant return; diagrams; forced entry reports; narcotic and non-narcotic evidence seizures lists; documentation of the defendant's statements and all members' notes.
2. The PD Form 163 shall detail all indicators of the weapon's operability, for example:
 - a. The weapon is loaded;
 - b. The firing pin is intact;
 - c. The barrel is unobstructed;
 - d. The weapon does not seem to be damaged in any way; etc.

Note: This information shall be obtained from the Mobile Crime/CSSO processing the weapon.

3. The PD Form 81 shall indicate the chain of custody and must list the CSES number.
4. If the CSS reports are not available at papering, the papering member SHALL provide the name, pager number and/or any other contact number of the CSSO who handled the physical evidence.
5. Gun certificates (no license, unregistered firearm/ammunition, and test-fire, if applicable) shall be submitted by the papering member at time of papering (with appropriate exceptions for Saturday/holiday cases). If the CSSO takes responsibility for having the gun test-fired, the papering member shall coordinate with the CSSO to obtain the test-fire certificate.

Note: The USAO is working with the Superior Court in seeking to eliminate the test fire requirement at presentment.

6. Where the serial number for a weapon is available, the papering member shall run the weapon information through the National Crime Information Center (NCIC) and provide, at papering, a printout reflecting the status of the firearm (owner information, stolen status, etc.), before entering the information that the firearm has been recovered.

F. Supervising officials shall ensure that:

The PD Form 168 is properly prepared, approved and signed. The supervising official's signature indicates that he/she has checked all paperwork to ensure that the guidelines in this directive have been met in a particular case. If it was not possible or prudent to comply with the guidelines, the supervising official shall document the reasons in a separate report (or notes), which must be presented at papering, so that the USAO may determine whether the case should be prosecuted despite the failure of the case to meet the guidelines.

Charles H. Ramsey
Chief of Police

CHR:NMJ:MAR:njg