

**COUNTY OF MONROE  
OFFICE OF THE SHERIFF  
ROCHESTER, NEW YORK**

<b>GENERAL ORDER</b> <b>MULTI BUREAU</b>	<b>DATE OF ISSUE</b> January 19, 2026	<b>EFFECTIVE DATE</b> January 19, 2026	<b>No.</b> 087-26
<b>SUBJECT: GENERAL ORDER</b> Recovered Pistol Permits, Handguns and Long Guns		<b>DISTRIBUTION</b> All personnel	<b>AMENDS</b>
<b>REFERENCE: CPL 140.10; CPL 530.11; FCA 812</b> <b>NYSLEAP 44.1</b>			<b>RESCINDS</b> 087-12

**Purpose:** To establish policies and procedures for MCSO Deputy Sheriff's in the Police Bureau and Civil Bureau relative to the seizure of pistol permits and guns.

**Policy:** Deputies shall only take possession of pistol permits and/or guns when certain specific circumstances exist justifying the seizure. Absent one of those circumstances (listed below) deputies do not have authority to take and maintain guns or pistol permits.

I. Deputies may lawfully seize pistol permits, and/or guns:

- A. Pursuant to a valid search warrant that lists with specificity those pistol permits and/or guns subject to seizure; or,
- B. After having obtained valid consent to seize any such guns(s) from any person capable of providing consent: or,
- \* C. When responding to a report of a family offense as defined in section 530.11 of the Criminal Procedure Law (CPL) and section 812 of the Family Court Act (FCA) deputies:
  - 1. MAY take temporary custody of any firearm, rifle, electronic dart gun, electronic stun gun, disguised gun, imitation weapon, shotgun, antique firearm, black powder rifle, black powder shotgun, or muzzle-loading firearm that is in plain sight or is discovered pursuant to a consensual or other lawful search;
  - 2. SHALL take temporary custody of any firearm, rifle, electronic dart gun, electronic stun gun, disguised gun, imitation weapon, shotgun, antique firearm, black powder rifle, black powder shotgun, or muzzle loading firearm that is in the possession of any person arrested for the commission of a family offense or suspected of its commission; and
  - 3. SHALL take temporary custody of any firearm, rifle, electronic dart gun, electronic stun gun, disguised gun, imitation weapon, shotgun, antique firearm, black powder rifle, black powder shotgun, or muzzle-loading firearm that is in plain sight or is discovered pursuant to a consensual or other lawful search if any one of the following circumstances is present:
    - a. The victim responds in the affirmative to the suspect threats questions in the victim interview section in the prior history section of the New York state standardized domestic incident report (DIR) form; or
    - b. The victim responds in the affirmative to any of the lethality assessment

questions in the prior history section of the New York state standardized domestic incident report (DIR) form; or

- c. The responding officer has a reasonable belief that it is necessary to remove such weapon to protect the victim or other persons present, or to prevent risk of further violence or threat.
- d. An officer who takes custody of any weapon pursuant to this section shall also take custody of any license to carry, possess, repair, and dispose of such weapon issued to the person arrested or suspected of such family offense. The officer shall deliver such weapon and/or license to the MCSO as provided in Penal Law section 265.20 (1)(f).
- e. Not less than one hundred twenty hours after effecting such seizure, and in the absence of;
  - i. An order of protection, an extreme risk protection order, or other court order prohibiting the owner from possessing such a weapon and/or license, or
  - ii. A pending criminal charge or conviction which prohibits such owner from possessing such a weapon and/or license, and
  - iii. Upon a written finding that there is no legal impediment to the owner's possession of such a weapon and/or license, the court or, if no court is involved, licensing authority or custodian of the weapon shall direct return of a weapon not otherwise disposed of in accordance with subdivision one of section 400.05 of the Penal Law and/or such license taken into custody pursuant to this section.

NOTE: In domestic violence situations, deputies should always attempt to obtain consent to seize all guns (see and cross reference PBGO 27). However, note that pursuant to the New York State Family Court Act and Penal Law, the arraigning judge will ultimately make determinations regarding the surrender of guns and/or pistol permits.

- D. Where gun(s) were *used or threatened to be used as instrumentalities of the crime(s)*, those gun(s) may be seized as evidence.
  - 1. If general violence with a gun is threatened, all gun(s) should be confiscated. However, if only one particular gun was used or threatened as the instrumentality of the crime, any remaining guns in the residence may not be legally taken into custody without obtaining consent. All gun(s) taken into custody as instrumentalities of a crime will be held in the Property Management Office and marked as evidence. At arraignment, the deputy will ensure that the judge is notified of the confiscation, so that the judge can make an educated determination as to the suspect's pistol permit, etc.
  - \* 2. In a family offense when one gun is threatened and the deputy is not able to obtain consent to remove all guns, every possible effort should be made to immediately take the suspect before a magistrate for arraignment so that a judge may make a determination about any other guns in the home. The deputy shall make the judge aware of the circumstances relative to potential guns remaining inside the home

when he/she calls the judge seeking arraignment. In this type of situation, if the magistrate refuses to perform the arraignment, the deputy shall contact a magistrate from a contiguous town in an attempt to ensure that arraignment occurs as soon as possible.

\* 3. Red Flag Laws

- a. Red Flag Laws afford police officers the authority to file a petition in New York State Supreme Court that could result in the issuance of a Temporary Extreme Risk Protection Order (TERPO) and the placement of the respondent on National Instant Criminal Background Check (NICS). That TERPO can result in, after a hearing, a Final Extreme Risk Protection Order (FERPO) which remains in effect for one year.
- b. Upon receipt of credible information that an individual is likely to engage in conduct that would result in serious harm to themselves or others you are obligated to execute a petition for a TERPO. If there is no probable cause determine whether you have sufficient information to conduct a Mental Health transport with the individual. Refer to MBGO 066 Mental Hygiene Intervention for TERPO steps.

\* E. Pursuant to a duly issued Order of Protection, Extreme Risk Protection Order or any other court order specifying:

1. That the respondent's pistol permit has been suspended or revoked (thus necessitating the taking of all handguns on the permit and the permit itself).
2. That the respondent's handguns and/or long guns are to be seized.

NOTE: An order specifying that guns and / or pistol permits are to be seized DOES NOT give a deputy authority to enter a home to search for and seize guns if the respondent claims that he or she does not have those items in the home or refuses entry into the home.

If a respondent denies that he or she possesses guns or refuses entry into his or her home and the deputy is not able to obtain consent from the respondent or another qualified individual, the deputy must obtain a search warrant based upon probable cause.

F. Where the search of a person incident to a lawful arrest reveals the presence of a gun.

\* G. Pursuant to a signed Civil Property Execution or Order of Seizure directing the confiscation of specific guns for future auction at a Sheriff's Sale. If a properly authorized "Break Order" is included in the action, forced entry into the dwelling or commercial establishment is permitted.

NOTE: Matters of this nature shall be planned and coordinated through the Civil Bureau.

H. From the passenger compartment of a vehicle in the following circumstances:

1. If the arrestee is within reaching distance of the passenger compartment at the time of the search, or

2. If it is reasonable to believe that the vehicle contains evidence of the offense for which the defendant was arrested.
  - I. From anywhere within a vehicle as part of an authorized vehicle inventory.
  - J. For the safekeeping of the firearm in situations where the firearm was not involved in a crime or arrest or criminal contact but the lawful owner cannot safely retain control of the firearm (e.g. a motor vehicle accident where an individual is unconscious or disabled and cannot safely retain control of his or her weapon).
  - K. As part of the exercise of normal police functions (e.g. weapons turn-in programs).
  - L. As part of a voluntary surrender including voluntary surrender by the executor or administrator of an estate.
  - M. Pursuant to a mental hygiene detention if one or more of the other justifications listed above apply.
- II. Deputies must adhere to the provisions of **Property Recovery Custody and Security (MBGO-16)** when taking possession of any property.

By Order of the Sheriff,



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Todd K. Baxter

\* Indicates a change or addition from previous order