



MAINE STATE POLICE GENERAL ORDER

E-126

SUBJECT: MAINE STATE POLICE POLICY REGARDING RELEASE OF FIREARMS IN THE CUSTODY OF THE AGENCY

EFFECTIVE DATE: 08.01.2020

EXPIRATION DATE: 08.01.2027

RECENT HISTORY: AMENDED (08.01.2020); AMENDED (12.01.2017); AMENDED (12.13.2016); NEW (08.13.2015)

DISTRIBUTION CODE: 2 (MAY BE PUBLICLY DISCLOSED)

APPLICABILITY CODE: C, S, Z

SIGNATURE OF COLONEL:

A handwritten signature in black ink, appearing to read "W. B. R.", is written over a light blue rectangular background.

I. PURPOSE

1. The purpose of this General Order is to establish the Maine State Police policy regarding the release of firearms in the agency's custody to any person.

II. POLICY

1. The policy of the Maine State Police is that no firearm in the custody of the agency may be released to any person without first following the procedure set forth in this General Order.

III. DEFINITIONS

1. For the purposes of this General Order, the terms included in this section are defined as follows, unless otherwise indicated in the order.

- A. None.

IV. PROCEDURE

1. RELEASE OF FIREARM TO THE OWNER OF THE FIREARM

- A. Prior to releasing a firearm currently in the custody of the agency to the owner of the firearm, the following must occur:
 - 1. The person must furnish satisfactory proof of his or her identity by presenting at least one form of identification that includes the person's photograph;
 - 2. The person must complete and provide to the agency Form E-126(A), Firearm Certification Form;
 - 3. The person must complete and provide to the agency Form E-126(B), Firearm Release Form;
 - 4. A Maine SBI check (purpose code F) and a III ("Triple-I") check on the person must be conducted to learn whether the person is disqualified from owning or possessing a firearm;
 - 5. A NICS query must be performed on the person to whom the firearm is to be released to ensure that the firearm is not given to a person who has been flagged in NICS as not eligible to purchase a firearm;
 - 6. The firearm's serial number must be run in the METRO system to verify the firearm is not listed as lost or stolen; and
 - 7. Verification must be made that the firearm does not need to be retained for any ongoing criminal investigation or pending prosecution.

2. RELEASE OF FIREARM TO A THIRD PARTY WHO IS NOT THE OWNER OF THE FIREARM

- A. **A firearm relinquished to the Maine State Police as a result of a Court Order CANNOT be released to a third party unless the Court Order itself authorizes that third party to be provided with the firearm. See, e.g., Sample Order.**
- B. Prior to releasing a firearm currently in the custody of the agency to a third party who is not the owner of the firearm, the following must occur:
 - 1. The person must furnish satisfactory proof of his or her identity by presenting at least one form of identification that includes the person's photograph;
 - 2. The person must complete and provide to the agency Form E-126(A), Firearm Certification Form;

3. The person must complete and provide to the agency Form E-126(B), Firearm Release Form;
 4. The person must provide the agency Form E-126(C), Permission to Release Firearm to a Third Party, after having had the owner of the firearm complete the form;
 - a. If the owner of the firearm is reported to be deceased, then the person must present written documentation to the agency evidencing either that he or she is authorized to obtain the firearm on behalf of the late owner's estate, or that he or she has inherited the firearm from the late owner;
 5. The person must complete and provide to the agency Form E-126(D), Firearm Agreement Form;
 6. A Maine SBI check (purpose code F) and a III ("Triple-I") check on the person must be conducted to learn whether the person is disqualified from owning or possessing a firearm;
 7. A NICS query must be performed on the person to whom the firearm is to be released to ensure that the firearm is not given to a person who has been flagged in NICS as not eligible to purchase a firearm;
 8. The firearm's serial number must be run in the METRO system to verify the firearm is not listed as lost or stolen; and
 9. Verification must be made that the firearm does not need to be retained for any ongoing criminal investigation or pending prosecution.
3. ATTACHMENTS TO SPILLMAN CASE
- A. All SBI, III and NICS results are to be attached to the Spillman case associated with the seizure of the firearm.
4. REMAINING UNCERTAINTY AFTER FOLLOWING PROCEDURES SET FORTH IN THIS ORDER
- A. If, after following the procedures set forth in sections 1 or 2, above, a reasonable degree of uncertainty remains about whether a firearm may be released to the person, further steps to resolve that uncertainty must be taken.
 1. The subject firearm may **not** be released to the person until such time that a reasonable degree of certainty exists that the person is permitted to possess the firearm.

ATTACHMENTS

- Form E-126(A), Firearm Certification Form
- Form E-126(B), Firearm Release Form
- Form E-126(C), Permission to Release Firearm to a Third Party
- Form E-126(D), Firearm Agreement Form

NOTICE

THIS GENERAL ORDER IS FOR USE OF THE MAINE STATE POLICE AND NOT FOR ANY OTHER AGENCY. THE GENERAL ORDER IS NOT INTENDED TO BE RELIED UPON BY ANY OTHER INDIVIDUAL OR PRIVATE OR PUBLIC AGENCY. THE GENERAL ORDER EXPRESSLY DOES NOT CREATE, AND IS NOT INTENDED TO CREATE, A HIGHER LEGAL STANDARD OF SAFETY OR CARE IN AN EVIDENTIARY SENSE WITH RESPECT TO THIRD-PARTY CLAIMS. VIOLATIONS OF THIS ORDER ONLY MAY FORM THE BASIS FOR ADMINISTRATIVE SANCTIONS BY THE MAINE STATE POLICE.