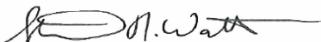


OGDEN CITY POLICE
Office of the Chief

Policy No: 61

Subject Firearms Safe Harbor	Effective Date February, 2018
Department Police	Replaces Policy Dated September, 2016
Division All Police Personnel	Review Date February 2024
Authorized Signature 	

NOTE: This rule or regulation is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.

I. PURPOSE

The purpose of this policy is to establish policy and procedure to implement the Firearms Safe Harbor Act, Utah Code Ann. § 53-5c-101 et seq.

II. POLICY

It is the policy of the Ogden Police Department to ensure firearms retained by OPD under the Firearms Safe Harbor Act are properly secured, stored, and returned to the appropriate persons, and that applicable records are created and disposed of in accordance with the Act.

III. DEFINITIONS

- A. Cohabitant: a person who is 21 years of age or older who resides in the same residence as the other party.
- B. Firearm: a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.
- C. Illegal firearm: a firearm the ownership or possession of which is prohibited under state or federal law.
- D. Law enforcement agency: a municipal or county police agency or an officer of that agency.
- E. Owner cohabitant: a cohabitant who owns, in whole or in part, a firearm.
- F. Public interest use:

1. Use by a government agency as determined by the legislative body of the agency's jurisdiction; or
2. Donation to a bona fide charity.

IV. CONDITIONS FOR ACCEPTING AND MAINTAINING FIREARMS UNDER THE FIREARMS SAFE HARBOR ACT

- A. An owner cohabitant may voluntarily commit a firearm to any OPD officer for safekeeping if the owner cohabitant believes that another cohabitant is an immediate threat to:
 1. Himself or herself;
 2. The owner cohabitant; or
 3. Any other person
- B. Firearms may be surrendered to any OPD officer under the following conditions:
 1. OPD shall:
 - a. Check the firearm to ensure it is unloaded when the firearm is initially surrendered.
 - b. Determine the legal status of the firearm to ensure that it is a legal firearm.
 - c. Record on a form:
 - i. The owner cohabitant's name, address, and phone number;
 - ii. The firearm's serial number
 - iii. The date that the firearm was accepted for safekeeping
 - d. Obtain a signed declaration that the owner cohabitant has an ownership interest in the firearm.
 2. OPD shall not request or require that the owner cohabitant provide the name or other information about the cohabitant who poses an immediate threat or any other cohabitant.

V. STORAGE

All "Safe Harbor" firearms shall be stored in the secured area of the Ogden Police Department's evidence room. These firearms will be logged into the RMS system and segregated from other items that are also stored in the same area.

V. RETENTION PERIOD

- A. Firearms received under this policy shall be held for an initial period of up to sixty (60) days. Upon proof of identification, the firearm shall be returned to the owner cohabitant at the end of the 60-day period, or sooner upon request.
- B. Firearms received under this policy may be held for an additional period of up to sixty (60) days if:
 1. The initial 60-day period expires; and
 2. The owner cohabitant requests that the law enforcement agency hold the firearm for an additional sixty (60) days.
- C. Upon proof of identification, OPD shall return the firearm to:

1. The owner cohabitant on or before the expiration of the initial or additional 60-day period or, at the time of the request; or
2. To an owner other than the owner cohabitant in accordance with Subsection VI. E.

VI. DISPOSAL OF SAFE HARBOR FIREARMS

- A. If the surrendered firearm is an illegal firearm, the law enforcement agency shall:
 1. Notify the owner cohabitant attempting to voluntarily commit the firearm that the firearm is an illegal firearm; and
 2. Confiscate the firearm and dispose of it as the Chief or the Chief's designated representative determines appropriate.
- B. If OPD cannot, after a reasonable attempt, locate an owner cohabitant to return a firearm under Section V of this policy, OPD may:
 1. Appropriate the firearm to public interest use in accordance with Subsection VI. D of this policy.
 2. Sell the firearm at public auction as provided by law and appropriate the proceeds of the sale to public interest use; or
 3. Destroy the firearm if unfit for sale.
- C. OPD may take an action in accordance with Subsection VI. B of this policy no earlier than one year after the date on which the owner cohabitant initially voluntarily commits the firearm.
- D. Before appropriating the firearm to public interest use, OPD shall obtain from the court:
 1. Permission to appropriate the firearm to public interest use; and
 2. The designation and approval of the public interest use of the firearm.
- E. If a person other than an owner cohabitant who voluntarily commits a firearm in accordance with this Policy claims ownership of the firearm, the person may:
 1. Request that the law enforcement agency return the firearm in accordance with Subsection VI. E. 3; or
 2. Petition the court for the firearm's return in accordance with Subsection VI. E. 4
 3. Except as provided in Section IV, OPD shall return a firearm to a person other than an owner cohabitant who claims ownership of the firearm if:
 - a. The initial 60-day period described in Section IV has expired;
 - b. The person provides identification; and
 - c. The person signs a document attesting that the person has an ownership interest in the firearm.
 4. After sufficient notice is given to the prosecutor, the court may order that the firearm be:
 - a. Returned to the rightful owner as determined by the court;
 - b. Converted to public interest use; or
 - c. Destroyed
 5. OPD shall return a firearm ordered returned to the rightful owner as expeditiously as possible after a court determination

VII. DESTRUCTION OF RECORDS

OPD shall destroy any record created exclusively to document the safekeeping of a firearm within five (5) days of releasing the firearm to the owner cohabitant or other authorized person, or of otherwise disposing of the firearm under the Firearms Safe Harbor Act.