

You stated in your letter that in the various courthouses throughout the State there are various items such as shotguns, rifles, animal traps and tongs, which are being stored as records of the clerks of the courts. You further advised that these items were exhibits in court cases. You requested our opinion as to whether or not these items are records, as contemplated in Article 41, Section 178 of the Annotated Code of Maryland. You further asked if your Commission could set aside these items for destruction, if we ruled that such items were not records as contemplated in Section 178, *supra*.

I have checked all available sources of law and I have been unable to come up with a definite answer to your first question. Generally speaking, the items you mentioned would be considered part of a case record, when such case is appealed to the Court of Appeals. It should, however, be kept in mind that the existence of these items is normally stipulated to in the brief of the attorney in the case. One should also keep in mind that the items which you mentioned are still owned by the individual that owned them at the time they were confiscated by the police or other court officials. It has been the practice in many counties that these items are returned to the true owner following their use in court.

I would suggest that appropriate legislation be enacted by the General Assembly of Maryland to remedy the problem you raised, so as to make available the valuable storage space now being occupied by these items. If you will advise the Department of Legislative Reference of your problem, they will draft the necessary legislation.

If you have any further problems, please call me.

Very truly yours,

Gerard Wm. Wittstadt

Assistant Attorney General

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August 15, 1963

Honorable Thomas B. Finan  
Attorney General

Dear Mr. Finan:

Some months ago the Records Management Division of the Hall of Records Commission surveyed the records of the City of Cumber-