

**Purpose:**

California Penal Code Section 18005 requires that each law enforcement agency publish, on its website, a policy for the destruction of firearms. This *Firearm Disposal Policy* is intended to satisfy that requirement. Additionally, however, it describes procedures for other firearm disposal methods as well, i.e., the release of firearms to their owners and the transfer of firearms to federally licensed firearms dealers.

**Limitation on Requirement to Hold Firearms:**

Pursuant to California Penal Code Section 33875 the Property Division shall not be “required to retain any firearm... for more than 180 days after the owner has been notified... that the property has been made available for return.”

**Extensions of the 180-Day Hold Requirement:**

If a firearm owner contacts the Property Division to request that their firearm be held beyond the 180-day requirement (PC 33875), Property personnel may, but are not required to, hold the firearm beyond 180 days.

**Documentation:**

Prior to the release or destruction of firearms, Property personnel should ensure that:

1. the associated OnQ record contains a minimum of two photographs (one of each side) for each firearm being released or destroyed. A third photograph of the serial number is also recommended.
2. a *Firearm Disposition Report* (FDR) form is completed for each firearm being released or destroyed, and that the form has been signed by the Property Division Supervisor, or the Property Division Commander.
3. a *Prohibitive Feature Examination* (PFE) form is completed on each firearm being released, or for each firearm being destroyed *solely* because of prohibited features it bears.
4. a *Personal Eligibility Determination* (PED) form is completed on each firearm for which release was sought by the owner, regardless of whether release was ultimately authorized. **Note: The PED should be completed, or updated, no more than 30 days prior to the release of the firearm to its owner.**
5. all applicable forms and photos are attached to each firearm’s associated OnQ case record.
6. applicable firearm storage fees are paid at the Records Division.
7. a copy of the owner’s/recipient’s driver license is collected for Property Division records.
8. Sincere attempts to notify the owner, if they are known, were made. (See *Owner Notification Letters*, below)

**Owner Notification Letters:**

When a *non-contraband* firearm in the possession of the Property Division is, or becomes, available for release, the Property Division shall attempt to identify and notify the owner.

Notification should be achieved by way of a certified letter notifying the owner that the firearm is available for retrieval and directing them to apply for an LER or request an FFL transfer if they qualify for such a transfer.

When a *contraband* firearm in the possession of the Property Division is no longer needed as evidence, the Property Division *can* mail a letter to the firearm's owner, notifying them that the firearm was determined to be illegal. However, such notice is not mandatory, especially when the firearm is obviously illegal, e.g., it is a privately made firearm bearing no serial number, or it is a "sawed off" shotgun with a barrel of less than 18 inches.

If there is a question regarding the illegality of a firearm, a letter can be mailed to its owner. The letter should be mailed via certified mail, and it should invite the owner to challenge the determination of illegality within 90 days if they believe the determination was made in error. If such a challenge is offered, the Property Division should continue to hold the firearm until the firearm's legal status is further studied and thereafter established with sufficient certainty.

Firearms, Ammunition, and Magazines Released to Owner:

Owners seeking the direct return of firearms, ammunition, or magazines held by the Property Division shall obtain a valid Law Enforcement Release (LER) authorization letter from the California Department of Justice (DOJ) as required pursuant to California Penal Code Sections 33850 and 33855. Upon release of the items, the original letter should be retained by the Property Division. Further, once the release has been completed, AFS entries associated with the firearm(s) should be cancelled.

Firearms Released to a Federally Licensed (FFL) Dealer:

In specific circumstances (listed below), firearm owners may authorize the Property Division to release their firearms to a federally licensed firearms dealer (FFL) in lieu of obtaining an LER. The owner is responsible for contacting the dealer and having him/her contact the Property Division to schedule an appointment to receive the firearm(s). Further, the Property Division should obtain a liability release form, signed by the owner, authorizing the Property Division to release the firearm(s) to the owner's FFL of choice. Upon completion of FFL transfers, Property personnel should ensure that applicable AFS entries are cancelled and LEA Transfer entries are submitted.

Pursuant to California Penal Code Sections 29830 and 33870, firearm owners may exercise their right to an FFL transfer in any of the following circumstances:

1. If the person is permanently or indefinitely prohibited from possessing firearms, they may request an FFL transfer for the purpose of surrendering the firearm or having it sold on consignment.
2. If the person is temporarily prohibited from possessing firearms, they may request an FFL transfer for the purpose of surrendering the firearm, having it sold on consignment, or having it stored for the duration of the prohibition.

3. If the person no longer wishes to retrieve, or otherwise regain possession of, the firearm, they may request an FFL transfer for the purpose of surrendering the firearm or having it sold on consignment.

In the absence of at least one of the circumstances listed above, firearm owners who wish to retrieve a firearm must apply for a Law Enforcement Release (LER) authorization via the California Firearms Application Reporting System (CFARS). The owners must pass the subsequent background check, and provide proof of such, before retrieving the firearm(s) from police custody.

Destruction of Non-Prohibited Firearms:

There are a number of reasons the Property Division may destroy non-prohibited firearms, e.g., they were turned in for destruction, or their registered owners cannot be located or otherwise contacted. When Property Division personnel destroy non-prohibited firearms, they should ensure that the firearms, and their destruction, are properly documented as prescribed above.

Destruction of Prohibited Firearms:

Firearms that contain features prohibited by California law should be destroyed. When Property Division personnel destroy prohibited firearms, they should ensure that the firearms, and their destruction, are properly documented as prescribed above.

After Firearms Are Destroyed:

After a firearm is destroyed, Property personnel shall:

1. Update the associated OnQ record to indicate the firearm has been destroyed.
2. Cancel the associated Automated Firearms System (AFS) record.
3. Initiate a new AFS record indicating the firearm has been destroyed.

Firearm Auctions:

California law permits law enforcement agencies, under certain circumstances, to sell firearms via auction. The Clovis Police Department, however, does not auction firearms. All firearms that come into the possession of the Clovis Police Department are released, transferred, or destroyed.