5-04/180.30 - Release of Property/Evidence to Owner - Firearms

Firearm may only be released when the following conditions are met:

- Investigating officer and lieutenant or designee approval to release the firearm is recorded in PRELIMS via updating the item's status to READY TO RELEASE TO OWNER. Personnel shall also ensure that the person retrieving the firearm is described as the claimant or owner in PRELIMS;
- The owner of record shall be notified in writing when the firearm is eligible for release. *Authorization to Release Property or Evidence* form shall accompany this written notification;
- The owner of the firearm presents satisfactory proof of identification, as well as an official California Department of Justice (DOJ) letter stating he/she is eligible to possess a firearm;

  NOTE: The DOJ letter must be presented within 30 days from the date of issuance. If the firearm is a handgun, DOJ will issue one eligibility letter for each firearm containing specific information about the gun (make, model, and serial number). By contrast, only one, non-specific letter will be issued for all long guns owned. Upon processing eligibility letters, DOJ will update the AFS files concerning each firearm to reflect the applicant's name. This transaction will be indicated as an "Operation of Law" or "LEGR Application."

- The owner pays the storage/processing fees required by our Department for each firearm released at the station where the firearm was confiscated;
- Each firearm shall be checked via the Automated Firearms System (AFS) to confirm it has been recorded in the name of the person who seeks to recover possession and ensure it has not been reported stolen; and

  NOTE: If the firearm was reported stolen prior to coming into our possession, the fees may be waived.

- If AFS does not indicate a registered owner or shows a registered owner with a different name, but the firearm was legally possessed prior to confiscation, the firearm should be released to the person from whom it was confiscated, as long as that person has an approved Law Enforcement Gun Release letter.

A court may order the release of a firearm to its owner. The owner must still satisfy all of the conditions stated above regarding the release of a firearm.

If DOJ determines the owner is prohibited from possessing any firearm, both the individual and the Department will be notified via U.S. mail. If the firearm is otherwise a legal firearm, personnel shall release these firearm only upon presentation by a licensed firearms dealer of satisfactory proof of identification and a Power of Attorney (POA) for Firearms Transfer and Disposal (DOJ From BOF 110) which has been signed by the owner and notarized. The POA must be presented within 30 days of execution.

The owner must claim, sell, or transfer ownership of the firearms within 180 days of the notice of eligibility for release. Firearms not claimed, sold, or transferred within this time period shall be forwarded to the Central Property/Evidence custodian for disposal (see section 5-04/180.50 - Disposition of Property/Evidence Held by Station or Unit).

When the conditions outlined above are met, the firearm can be released to the owner as described in section 5-04/180.20, Release of Property/Evidence to Owner. The firearm may be released to the owner at the

station by the Central Property/Evidence custodian, or hand delivered to the owner at the discretion of the investigating officer. The owner shall present satisfactory evidence of identification prior to the release of the property. Upon verification of identification, the items shall then be transferred to a final disposition location of "Disposed from LASD" in PRELIMS, and two copies of the transfer receipt shall be printed. To complete the transfer, the owner shall sign for the property in PRELIMS via an electronic signature pad or, if a signature pad is not available, sign each of the copies of the transfer receipt form printed from PRELIMS. One copy is given to the owner, and the second copy shall be scanned to the case in PRELIMS and placed in the unit URN file, if appropriate.

> **NOTE:** PRELIMS has phased out the previous manner in which evidence was booked; however, there may be instances where an *Authority for Release of Property* form (SH-AD-121) will be required to release a firearm.

Property seized as the result of a search warrant shall be released only when the *Authorization to Release Property or Evidence* form or *Receipt for Property* (SH-CR-19e) is accompanied by a copy of the court order (see Penal Code Section 1536). The court order shall be scanned to the case in PRELIMS.