# 5-04/180.40 - Release of Stolen or Embezzled Property

Penal Code Section 1411 requires that, when the ownership of stolen or embezzled property can be reasonably ascertained, the owner shall be notified by letter of the location of the property and the method by which it may be recovered.

Investigating officers shall be responsible for sending a *Property Owner's Notification* (SH-AD-616) as well the *Authorization to Release Property or Evidence* (SH-AD-121) in the following cases:

- When suitable alternatives to actual storage exist (see section 5-04/000.10 - Necessity for Seizing and Storing);
- Upon conviction of the suspect;
- If the District Attorney's office makes a decision not to file the case; or
- Upon termination of the case proceedings.

Penal Code Section 1413 authorizes the release of stolen or embezzled property to the owner by the clerk or person having charge of the property. This section outlines the procedures to be followed when returning such property.

This does not apply to any dangerous or deadly weapons, narcotic or dangerous drugs, explosives, or any property which is prohibited by law.

The person claiming ownership of stolen or embezzled property and who requests the release of such property shall:

- Present to the person in charge of the property satisfactory proof of ownership of the property;
- Present acceptable personal identification; and
- Sign, under penalty of perjury, a *Declaration of Property Ownership* (SH-AD-614).

The clerk or person in charge of the property shall:

- Make two copies of the proof of ownership and return the original to the claimant;
- Retain the signed *Declaration of Property Ownership* (SH-AD-614); and
- Advise the claimant to return in 15 days;

  **Exception:** In the cases of vehicles released to registered owners, items which are serialized or have identifying marks where the person has proof of ownership or perishable goods, immediate release is discretionary.

- Mail the following to the person from whose custody the property was last removed, either via County mail to the facility at which the person is in custody or to the last known address for the individual if released from custody:
  - A *Notice of a Claim of Property Ownership* (SH-AD-615); and
  - A copy of the proof of ownership accepted. (Address of claimant to be obliterated on this copy.)

The served person shall be advised in the *Notice of a Claim of Property Ownership* (SH-AD-615) that response must be made within 15 days to the Department listing the reasons for challenging the release of the

property.

If the served person requests that the property not be released:

- The person having charge of the property shall review the reasons given as to why the property should not be released;
- The clerk or person having charge of the property shall then make the determination as to whether or not the property should be released to the claimant; and
- This decision shall be reviewed and approved by the watch commander of the handling station/unit prior to releasing the property.

If the decision reached is to release the property to the claimant, the clerk or person having charge of the property shall:

- Photograph the property;
- Release the property to the claimant by having the claimant sign for the item in PRELIMS as outlined in section 5-04/180.20 - Release of Property/Evidence to Owner;
- Upon verification of claimant's identification, the items shall be transferred to a final disposition location of "Disposed from LASD" in PRELIMS and three 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 three copies of the transfer receipt (*Receipt for Property* (SH-R-19)) printed from PRELIMS. One copy is given to the owner; the second copy shall be sent to Records and Identification Bureau; the third copy is first scanned to the case in PRELIMS and subsequently placed in the unit URN file, if appropriate;
- Notify the person from whose custody the property was taken that the property was released to the claimant and advise said person that a review of the Department's decision may be obtained by applying to the court. This notification shall be accomplished by sending the person a copy of the completed notice of a claim of property ownership signed by the watch commander. The court, upon proper application, will review the decision to release the property to the claimant; and
- Scan the photographic record, declaration of property ownership, and copy of proof of ownership into PRELIMS.

The file shall be retained for two years from the date the final property disposition was entered into PRELIMS.

If the decision is not to release the property, the claimant and the person from whose custody the property was taken shall be so advised. The clerk or person having charge of the property shall also advise both parties involved that any further petitions or applications for the release of the property shall be handled directly through the court. This notification shall be accomplished by sending the parties involved a copy of the completed notice of a claim of property ownership signed by the watch commander of the handling station/unit.

In those cases where the property has been transported to the Central Property custodian, the claimant shall be issued an *Authorization to Release Property or Evidence* (SH-AD-121) and be advised to retrieve the property from the Central Property custodian. When presented the *Authorization to Release Property or Evidence* (SH-AD-121), the Central Property custodian shall:

- Photograph the property;

- Release the property to the claimant by having the claimant sign for the item in PRELIMS as outlined in section 5-04/180.20 - Release of Property/Evidence to Owner;
- Upon verification of claimant's identification, the items shall be transferred to a final disposition location of "Disposed from LASD" in PRELIMS and three 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 three copies of the transfer receipt (*Receipt for Property* (SH-R-19)) printed from PRELIMS. One copy is given to the owner; the second copy shall be sent to Records and Identification Bureau; the third copy is first scanned to the case in PRELIMS and subsequently placed in the unit URN file, if appropriate;
- Notify the person from whose custody the property was taken that the property was released to the claimant and advise said person that a review of the Department's decision may be obtained by applying to the court. This notification shall be accomplished by sending to the person a copy of the completed notice of a claim of property ownership signed by the watch commander. The court, upon proper application, will review the decision to release the property to the claimant;
- Scan the photographic record, declaration of property ownership, and copy of proof of ownership into PRELIMS; and
- Advise unit of the date the property was released.

The unit property lieutenant shall notify the concerned parties that the property has been released.

Outlying stations may request that the Central Property custodian return the property to the station for release. The station shall release it to the claimant pursuant to the above procedures.