

## 08-16 - Release of Firearms

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Los Angeles County Sheriff's Department

### NEWSLETTER

Field Operations Support Services, (323) 890-5411

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### RELEASE OF FIREARMS

Penal Code sections 33850 and 33855 control the release of firearms by a law enforcement agency. Penal Code section 33850 requires a person who seeks to recover possession of any firearm in the custody of a court or law enforcement agency to contact the California Department of Justice (DOJ) at <https://oag.ca.gov/firearms/lerinfo> for an application to determine if they are eligible to possess a firearm. If eligible, the DOJ will issue a Law Enforcement Gun Release letter for each handgun (specifically identifying the make, model, and serial number). If the weapon is a rifle or shotgun, one non-specific letter will be issued, even if there are multiple rifles or shotguns involved.

The individual may obtain their firearm(s) from either the patrol station where the firearm was stored or from Central Property and Evidence if the firearm had been transferred. Prior to returning the firearm, the following conditions **must** be met per Penal Code section 33855:

- The owner must have the original approved Law Enforcement Gun Release letter with a gold Attorney General seal, dated within the last 30 days;
- The firearm is not listed as stolen in the Automated Firearms System (AFS);
- The firearm is **recorded** in AFS to the individual seeking its return; and
- The firearm fee is paid.

With regard to the firearm being recorded in AFS, it is important for Department personnel to make an entry into AFS when the firearm is confiscated, indicating the name of the person from whom the firearm was confiscated. The DOJ will also make an entry into AFS indicating the name of the person applying for the Law Enforcement Gun Release letter. This will help ensure the firearm is released to the appropriate person when and if the person receives an approved Law Enforcement Gun Release letter from the DOJ indicating they are allowed to legally possess a firearm in the state of California.

In situations where a firearm in 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. Although not required, the investigator should suggest the person

requesting the release of the firearm voluntarily submit a Firearms Ownership Report to the DOJ at the time the person is applying for the Law Enforcement Gun Release letter so the firearm can be properly registered in AFS.

Penal Code section 33880 authorizes a law enforcement agency by regulation, ordinance, or resolution to charge a fee to cover the cost of seizing, impounding, storing, and releasing of a firearm to the owner or a licensed dealer. On November 22, 2005, the County Board of Supervisors adopted a resolution authorizing the Department to charge a fee of \$54.00 for each firearm taken into our custody.

The \$54.00 fee **per firearm** shall be paid in cash, cashier's check, or money order only. All firearm fees shall be paid at the concerned station where the firearm was seized. Personnel are to use the miscellaneous key on the cash register when accounting for this fee.

Department firearm fees may be waived by the watch commander or Detective Bureau supervisor only upon verifiable proof that the firearm was reported stolen at the time the firearm came into the custody or control of the Department.

The Department and the applicant will receive an official letter from the DOJ if the individual is prohibited from possessing firearms. Persons prohibited from possessing firearms may sell or transfer the firearm(s) to a licensed firearms dealer (Penal Code section 33870). The firearms dealer would be allowed to take possession of the firearm from the station or Central Property and Evidence after paying the storage fees.

Two Department forms, Receipt for Property - Firearm (SH-CR-213(F)) and Receipt for Seized Property - Firearm Release Notification, (SH-R-460B) were created as firearm specific receipt for property forms. The Receipt for Property-Firearm is primarily for use by field personnel and shall be filled out in duplicate (this form is presented as two copies with a carbon insert) and may be completed and issued in the field. The Receipt for Seized Property - Firearm Release Notification is for use with search warrants when firearms are seized. This form should be used in conjunction with the Receipt for Seized Property and Notice for Retrieving Property (SH-R-460, SH-R-460(A)) and is available in the Document Library on the Department intranet.

These receipts inform the firearm owner of the process for obtaining a Law Enforcement Gun Release Application through the DOJ and of the storage fee charged by the Department for each firearm. A receipt shall be completed after the firearm is seized or whenever practical. Department personnel shall advise the owner of the potential delay of up to 30 days to receive an approved gun release form from the DOJ. Personnel should recommend that the owner does not apply for a DOJ form until the firearm is ready to be picked up from the Department due to the 30-day expiration period on the Law Enforcement Gun Release form.

The owner or legal possessor of the firearm shall sign the bottom of the receipt and will be issued a copy of the receipt after its completion. If the owner of the firearm is not present, a copy of the receipt will be left at the location where the firearms were seized from.

Firearms not being held as evidence will be available for release no later than five business days after an original, approved Law Enforcement Gun Release form, with a gold Attorney General seal sticker, has been submitted by the owner or lawful possessor to the indicated Sheriff's station.

Personnel handling the release of firearms should refer to Manual of Policy and Procedures sections 5-04/180.30, Release of Property/Evidence to Owner - Firearms and 5-04/180.50, Disposal of

Property/Evidence Held by station/unit.

Any questions regarding the content of this newsletter should be directed to Field Operations Support Services at (323) 890-5411.

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