

Firearms Disposal Procedure

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.

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.

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.

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. Prior to release of any firearm it must be recorded in the name of the person seeking its return pursuant to Penal Code section 33865. 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) shall be cancelled. Additionally, before being carried, or otherwise transported, from the Department’s premises, all firearms being released shall be secured in accordance with California Penal Code Section 25610 and California Attorney General guidelines.

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). Upon completion of FFL transfers, Property personnel shall ensure that applicable AFS entries are cancelled, and LEA Transfer entries are submitted. Additionally, before being carried, or otherwise transported, from the Department's premises, all firearms being transferred to the FFL shall be secured in accordance with California Penal Code Section 25610 and California Attorney General guidelines.

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

Destruction of a firearm means destroying the firearms in its entirety by smelting, shredding, crushing, or cutting all parts of the firearm, including any attachments.

Morgan Hill Police Department may contract or utilize a service to complete firearms destruction. Service providers will be required to transport firearms in Cal DOJ approved trailers and verify that all firearms are in a non-recoverable state with logs and firearm destruction photo journal(s) of all destroyed firearms. Sales of any firearm or weapon or any part or attachment to the firearm or weapon is prohibited.

After Firearms Are Destroyed:

After a firearm is destroyed, Property personnel shall:

1. Update the associated master case record to indicate the firearm has been destroyed.
 2. Update the associated Automated Firearms System (AFS) record indicating the firearm has been destroyed.
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Firearm Auctions:

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