

**CHAPTER 11**  
**RELEASE/DISPOSAL OF WEAPONS**

**REVISED SEPTEMBER 2024**

**TABLE OF CONTENTS**

<u>INTRODUCTION</u> .....	11-3
<u>NUISANCE WEAPONS</u> .....	11-3
<u>RELEASE OF FIREARMS, AMMUNITION, OR AMMUNITION FEEDING</u>	
<u>DEVICES TO LAWFUL OWNERS</u> .....	11-4
Procedure.....	11-4
Sale or Transfer of a Firearm for Lawful Owner or Prohibited Person.....	11-7
Firearm Shipping.....	11-9
<u>SPECIAL CONDITIONS FOR RELEASE OR RETENTION OF FIREARMS AND</u>	
<u>WEAPONS</u> .....	11-9
Section 5150 Welfare and Institutions Code .....	11-9
Mental Illness .....	11-10
Specified Criminal Convictions.....	11-10
Gun Violence Restraining Orders.....	11-11
Domestic Violence.....	11-11
Next of Kin Transfers.....	11-12
Assault Weapons .....	11-12
Ammunition or Ammunition Feeding Devices.....	11-13
Minors .....	11-13
Destroyed or Obliterated Identification Numbers.....	11-13
Found Firearms .....	11-14
Machine Guns .....	11-14
Firearms Manufactured by Unlicensed Subject.....	11-14
Court-Ordered Release .....	11-15
<u>DISPOSAL OF FIREARMS AND WEAPONS</u> .....	11-15
Document Preparation .....	11-15
Preparation and Packing of Firearms .....	11-16
Electronic Database Entries .....	11-19
Transportation of Firearms and Weapons .....	11-20
<u>DISPOSAL AND DEPARTMENTAL USE OF AMMUNITION</u> .....	11-22
Document Preparation .....	11-22
Packaging of Ammunition.....	11-22
Use of Ammunition for National Integrated Ballistic Information Network/Integrated Ballistic Identification System Testing .....	11-22
<u>FIREARMS TO BE RETURNED TO AREA</u> .....	11-22
Returned Firearms .....	11-22

Returned Delivery Receipts.....	11-22
Verify Returned Firearms .....	11-23
Sign and Date Receipts.....	11-23
Follow-Up on Lost or Stolen Firearms .....	11-23
<u>TRANSFER OF CONFISCATED FIREARMS AND WEAPONS</u> .....	11-23
Procedure.....	11-23
<u>PREPARING NUISANCE ITEMS FOR DESTRUCTION</u> .....	11-24
Types of Items Submitted.....	11-24
Document Preparation .....	11-24
Packaging .....	11-24

## CHAPTER 11

### RELEASE/DISPOSAL OF WEAPONS

1. INTRODUCTION. This chapter is intended to provide information and instruction for the management of firearms and nuisance weapons from the point of seizure through the varying final dispositions. All weapons that come into the Department's possession shall be disposed of in a manner consistent with current applicable statutes and departmental policy.

NOTE: Ensure the highest level of safety when handling any firearm or nuisance weapon throughout this process. Ensure all firearms are unloaded and the action is open each time they are handled.

2. NUISANCE WEAPONS. The term "nuisance weapon" includes any weapon that is or was: (i) identified under Section 16590 of the California Penal Code (PC); (ii) possessed, carried, or concealed as described in Sections 19190, 21390, 21590, 25700(a), 25400(a), and 29300 PC; or (iii) used in the commission or attempted commission of a misdemeanor or felony. Weapons which meet the definition of a nuisance weapon shall not be released. They are to be destroyed pursuant to Sections 18005, 18010(b) and (c) PC. When the Department receives a firearm which is deemed a nuisance weapon solely based on the nature of the offense, the Department shall attempt to notify the owner that the firearm will remain in the possession of the Department until the case is adjudicated, and upon conviction, the owner shall be notified the firearm will be destroyed pursuant to Section 29300(a) PC, unless a court order is received to return the firearm.

NOTE: Section 18005(b) PC provides that if any weapon has been stolen and then is later recovered from the thief or the thief's transferee, or is used in a manner as to constitute a nuisance without the prior knowledge of its lawful owner that it would be so used, the weapon shall be returned to the lawful owner as soon as it is no longer needed for evidence. The lawful owner must identify the weapon and provide proof of ownership. However, if a firearm was modified after its theft and in its current state meets the definition of a nuisance weapon (e.g., barrel shortened to less than legal standards or a machine gun), it shall not be returned to the lawful owner. In such instances, the firearm shall be destroyed and is not eligible for transfer to a licensed firearms dealer for resale. The lawful owner must be notified prior to the destruction of the firearm. The Area shall send a notice by **certified mail, with return receipt requested**, advising the lawful owner. The Area shall wait until the period for appeals has expired (refer to Chapter 9 of this manual) before sending the weapon to the Academy, Weapons Control Unit (WCU), for destruction. This period may run concurrently with the required 180 days the Department must hold a firearm. This

excludes any weapon modified into a nuisance weapon prior to the theft. For a current example of a notice, contact the Office of Internal Affairs (OIA), Evidence Unit, or the Division Property and Evidence Program Coordinator.

### 3. RELEASE OF FIREARMS, AMMUNITION, OR AMMUNITION FEEDING DEVICES TO LAWFUL OWNERS.

a. Procedure. The following explains the process for returning a legal firearm not considered a nuisance weapon, held for safekeeping. Additionally, firearms seized as evidence in a case that was either rejected, dismissed, or the adjudication process is complete, may be returned to their lawful owner by following the same process. **The lawful owner of the firearm(s) who does not reside in the state of California must also follow the procedures outlined below.** Proof of ownership; a current, valid, government-issued identification card; and a determination notice from the Department of Justice (DOJ), Bureau of Firearms (BOF), indicating eligibility for the lawful owner to legally possess the firearm, ammunition, or ammunition feeding device is required before any firearm, ammunition, or ammunition feeding device can be returned. Unless expressly stated otherwise, any description in this paragraph 3 of a particular procedure for returning firearms shall also be the procedure for returning ammunition and ammunition feeding devices.

(1) Notification to Owner. For firearms being stored for safekeeping, the Area shall send a property letter by **certified mail, with return receipt requested**, to the lawful owner after receiving the firearm into the evidence room. For criminal cases which are rejected, dismissed, or adjudicated with no court order for destruction (confirm the disposition of the firearm with the court for adjudicated cases), the Area shall send a property letter by **certified mail, with return receipt requested**, to the lawful owner. This notification begins the 180-day time frame during which the Department is required to retain the firearm before it is considered unclaimed and eligible to process for destruction. If the lawful owner fails to take possession of the firearm or contact the Department to advise the Area of their intent to take possession within the 180-day waiting period, the Area may begin the process of preparing the firearm for destruction (refer to Sections 34000 and 33875 PC).

(2) Allied Agency-Registered Firearms. If the Department takes possession for safekeeping of a firearm that is registered to an allied agency it may be transferred to the allied agency. This means the firearm is registered to the allied agency. This exception does not apply to a firearm registered to an individual and used by that person while on duty. Allied agency-registered firearms held for safekeeping may be returned to a uniformed representative of

that agency following a formal written request. The written request shall be uploaded to the evidence records management system (RMS). The person receiving the firearm shall be documented in the RMS and shall sign the chain of possession.

(3) Application for Release of a Firearm, Ammunition, or Ammunition Feeding Device. Before releasing a firearm, ammunition, or an ammunition feeding device, the Area shall advise the claimant of the Area's pickup procedure and the documents required to receive the firearm, ammunition, or ammunition feeding device (i.e., proof of ownership; a current valid, government-issued identification card; a determination notice from the DOJ, indicating the claimant is eligible to legally possess the firearm, ammunition, or ammunition feeding device; and, if applicable, a court order of return). Additionally, the Area shall advise the claimant requesting the return of a firearm, ammunition, or ammunition feeding device of the California Firearms Application Reporting System (CFARS), Law Enforcement Release (LER) Application process to obtain a determination notice from the DOJ, indicating the claimant is eligible to legally possess the firearm, ammunition, or ammunition feeding device. The online application contains information which instructs the claimant how to obtain a determination notice from the DOJ, indicating the claimant is eligible to legally possess the firearm, ammunition, or ammunition feeding device and explains the processing fee. Advise the claimant any fees associated with the application is not the responsibility of the Department.

(a) Effective December 1, 2021, claimants must electronically submit a LER Application for the return of firearm(s), ammunition, or ammunition feeding device(s) through the CFARS. Claimants that do not already have a CFARS account are required to create an account in order to directly communicate with the DOJ and to check the status of an application. This website also allows the claimant to complete the necessary forms, submit other firearms-related forms, pay any fees, and allows the DOJ to contact the claimant electronically regarding any issues arising from their application. The CFARS may be accessed at <https://cfars.doj.ca.gov>.

(4) Owner's Responsibility. Pursuant to Section 2080.10 of the Civil Code the person from whom the property was taken is responsible for advising the Area of their intent to retrieve their firearm within 60 days of having received notification of its availability for release from the Department. However, if the owner does not respond within this 60-day period, the Department is not relieved from its obligation to maintain possession of the firearm for at least 180 days from the date the notification to the owner was mailed. The owner shall log onto the CFARS and submit an LER Application along with the required fee(s). If the person notifies the Department that they are unable to

retrieve the property within 60 days, the property shall not be held for longer than 10 additional months. If the Department has knowledge that the person from whom the property was taken is not the owner, reasonable efforts to identify the owner shall be made. If the owner is identified, the Department shall mail, by first-class mail, a receipt, and instructions for the retrieval of the property.

(5) Proof of Ownership. In addition to providing a valid determination notice from the DOJ, the claimant shall identify the firearm and provide proof of ownership. This can be accomplished by the claimant logging in to the CFARS and completing the Firearm Ownership Record, at the same time they submit a LER Application. If the Area finds the claimant has not proven ownership of the firearm, the claimant shall be advised of an option to obtain an order of return from the local court office.

NOTE: Questions regarding this application should be directed to the DOJ, BOF, at (916) 210-2300 or by e-mail to [firearms.bureau@doj.ca.gov](mailto:firearms.bureau@doj.ca.gov).

(6) Reported Stolen Firearm. Pursuant to Section 33855 PC, the CFARS, LER Application fee is required to be waived by the DOJ if the claimant had reported the firearm stolen. The firearm must have been reported stolen to a law enforcement agency prior to the date the firearm came into the custody of the Department, or within five business days of the firearm being stolen from its owner. This exemption of the processing fee is contingent upon the DOJ verification. In this instance, a letter from the Area describing the reason for the request to waive all fees shall be provided to the claimant for submission to the DOJ with their application. Additionally, a firearm that was stolen out-of-state and recovered in California may be transferred to the allied agency which received the report for the stolen firearm when the firearm is no longer required to be kept as evidence. In both situations, the claimant receiving the firearm shall be documented in the evidence RMS and all documentation shall be uploaded into the evidence RMS file.

(7) California Department of Justice Determination Notice of Eligibility. Once the eligibility check has been completed, the applicant will receive a determination notice from the DOJ, either approving or denying eligibility to possess a firearm, ammunition, or ammunition feeding device. The notice will be on DOJ letterhead. A DOJ embossed stamp or sticker will be clearly visible on the approved notice. In the event the eligibility check is approved by the DOJ, the owner must provide the original notice to the Department. The notice is only valid for 30 days from the date noted on the notice. Claimants presenting an expired notice shall be directed to contact the DOJ to request an extension. If the extension is approved, the DOJ will provide a new notice to

the applicant. If the application was denied, the DOJ will provide a copy of the denial notice to the Department by U.S. Postal Service.

(8) Final Background Check Prior to Release. If the LER Application was approved by the DOJ, the claimant shall provide the original determination notice to the Area. Prior to the release of any firearm, the Area shall ensure a criminal history check is performed on the claimant who is seeking the release of the firearm (refer to Section 11105 PC). An inquiry in the Armed and Prohibited Persons System (APPS) of CLETS shall also be performed. The purpose of the criminal history check and an APPS inquiry is to determine if any restraining orders, warrants, or other court orders have been issued against the claimant during the period of time between the DOJ check and the determination notice being sent, and when the claimant came into the Area office to present their determination notice to retrieve the firearm. The presence of restraining orders, warrants, or other court orders would prohibit the claimant from possessing the firearm. Verify the claimant's identification and confirm proof of ownership by checking the firearm in AFS.

(9) Documents. The Area shall keep the original determination notice from the DOJ and make copies of all other documents and identification provided by the claimant. The Area may make a copy of the determination notice from the DOJ and provide it to the claimant. The Area shall also document the lawful owner taking possession of the firearm(s) in the evidence RMS and have the lawful owner sign the chain of possession. All documents shall be uploaded to the evidence RMS.

b. Sale or Transfer of a Firearm for Lawful Owner or Prohibited Person. If the lawful owner does not wish to obtain possession of a legal firearm, ammunition, or ammunition feeding device or is determined to be ineligible to possess a legal firearm, ammunition, or ammunition feeding device by the DOJ, the lawful owner may sell or transfer the firearm, ammunition, or ammunition feeding device to a licensed firearms dealer, or licensed ammunition vendor, as applicable, pursuant to Section 33870 PC. Additionally, if the lawful owner is prohibited from owning or possessing a firearm, ammunition, or ammunition feeding device for a limited period of time that will expire on a specified ascertainable date, whether or not that date is specified in a court order, the owner shall be entitled to have the firearm, ammunition, or ammunition feeding device stored by a licensed firearms dealer for the duration of the prohibition pursuant to Section 29830 PC. The Area shall facilitate the sale or transfer of the firearm, ammunition, or ammunition feeding device to a licensed firearms dealer, or licensed ammunition vendor, as applicable.

(1) Initial Request and Authorization. The lawful owner shall present a letter requesting the sale or transfer of the firearm(s), ammunition, or ammunition

feeding device in person. If the lawful owner is unable to appear in person, they must mail an original notarized letter to the Area. The Area shall upload the formal request into the evidence RMS case file. The lawful owner shall be advised of their responsibility for any fees incurred. The licensed firearm dealer shall be advised that the Department is not liable or responsible for the business transaction between parties. The lawful owner shall request, in writing, to transfer or sell the firearm and provide the following:

- (a) The licensed firearm dealer's name.
- (b) The business name, if different from above.
- (c) The physical address of the licensed firearms dealer.
- (d) The Federal Firearms License (FFL) number of the licensed firearms dealer.

(2) Verification of the Licensed Firearms Dealer. The Area shall request confirmation of the licensed firearms dealer's eligibility by submitting the dealer's information on CHP letterhead to the DOJ. The request may be sent by e-mail to [CL-AVL@doj.ca.gov](mailto:CL-AVL@doj.ca.gov). The following information must be contained in the request submitted to the DOJ for the licensed firearms dealer's eligibility:

- (a) Business telephone number.
- (b) Business name.
- (c) Physical business address.
- (d) Person's name (listed as the person to whom the FFL is assigned).
- (e) The FFL number.

(3) The response from the DOJ shall be uploaded into the evidence RMS case file. When completing the transfer to the licensed firearms dealer, the Area shall obtain a photocopy of the dealer's identification and the dealer's signature shall be obtained on the chain of possession to document the transfer. Unsuccessful transfer of ownership through a licensed firearms dealer may result in return of the firearm to the Area for destruction. For a current example of a letter notifying the owner of the firearm being returned to Area for destruction, contact the OIA, Evidence Unit, or the Division Property and Evidence Program Coordinator.

(4) Financial Responsibility. The Area shall advise the parties involved, including the licensed firearms dealer, the Department is not financially responsible for any fees incurred upon the sale or transfer of the firearm, or for any fees for storage of the firearm.

c. Firearm Shipping. All firearms which require shipping shall be shipped via overnight or next-day services with a signature required upon receipt. Area-to-Area and out-of-state shipping of firearms is authorized in cases where the lawful owner or licensed firearms dealer cannot pick up their firearm from the seizing Area office. The lawful owner or licensed firearms dealer shall be responsible for any shipping fees incurred which shall be paid up front by direct arrangements with the courier. The lawful owner or licensed firearms dealer shall use the Area's preferred shipping courier and method. Exceptions may be considered if the preferred courier does not service the area. In cases where the lawful owner does not reside in the state of California, the firearm must be shipped to either a licensed firearm dealer with a valid FFL, which is preferable, or a local law enforcement agency willing to accept the firearm. Prior to shipping a firearm, the lawful owner or licensed firearm dealer shall present all required documents to the Area where the firearms will be retrieved. Areas shall not agree to cash-on-delivery type payment. The lawful owner shall be advised the process shall be completed before the expiration of the determination notice received from the DOJ, if applicable. For additional instructions and details contact the OIA, Evidence Unit, or the Division Property and Evidence Program Coordinator.

NOTE: The lawful owner should be advised that the Department is not financially responsible for a lost or undelivered firearm or ammunition feeding device once possession is taken by the shipping courier. It is recommended the lawful owner obtain insurance for the shipment through the shipping courier at their expense.

#### 4. SPECIAL CONDITIONS FOR RELEASE OR RETENTION OF FIREARMS AND WEAPONS.

##### a. Section 5150 Welfare and Institutions Code.

(1) Five-Year Prohibition. Section 8103(f)(1)(A) of the Welfare and Institutions Code (W&I) provides that if all three of the following occur—a person has been: (i) taken into custody pursuant to Section 5150 W&I; (ii) assessed within the meaning of Section 5150 W&I; and (iii) admitted to a designated facility within the meaning of Sections 5150 and 5152 W&I because that person is a danger to themselves or others, then that person shall not own, possess, control, receive, or purchase and firearm for a period of five years after the person is released from the facility.

(2) Lifetime Prohibition. Section 8103(f)(1)(B) W&I provides that if a person has been taken into custody, assessed, and admitted as specified in subparagraph 4.a.(1) above, and if that person was also previously taken into custody, assessed, and admitted as specified in subparagraph 4.a.(1) above one or more times within a period of one year before the most recent admittance, then that person shall not own, possess, control, receive, or purchase any firearm for the remainder of their life.

(3) Court-Ordered Modification of Prohibition. Section 8103(f)(1)(C) W&I provides that a person subject to the prohibitions described in subparagraph 4.a.(1) and (2) above may own, possess, control, receive, or purchase a firearm if the Superior Court has entered a court order stating as much.

(4) Court-Ordered Evaluation for Mentally Disordered Persons. Section 5201 *et seq.* W&I provides that a person, including the Department, may petition for a court-ordered evaluation of a person's condition if that person (including, for example a person release from a Section 5150 W&I custody) is alleged to be a danger to him or herself or others "as a result of mental disorder" or is alleged to be "gravely disabled." This evaluation process is distinct from the automatic prohibitions described in subparagraph 4.a.(1) and (2) above.

b. Mental Illness. No firearm or deadly weapon shall be released to any of the following:

(1) Any person admitted to a facility and receiving inpatient treatment that has been deemed by the attending health professional who is primarily responsible for the person's treatment of a mental disorder. This includes a leave of absence from such a facility (refer to Section 8100[a] W&I).

(2) For a period of five years, any individual who has communicated to a licensed psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims. The five-year denial period begins on the date the psychotherapist reports to a local law enforcement agency the identity of the person making the threat (refer to Section 8100[b] W&I).

(3) Any person found not guilty of any crime by reason of insanity (refer to Section 8103[b] and [c] W&I).

(4) Any person found by a court to be mentally incompetent to stand trial (refer to Section 8103[d] W&I).

(5) Any person placed under a conservatorship (refer to Section 8103[e][1] W&I).

- c. Specified Criminal Convictions. A firearm shall not be released to any person:
- (1) Convicted of or under indictment for a felony (refer to Section 29800[a][1] PC and U.S. Code, Title 18, Section 922[d][1]).
  - (2) Addicted to the use of any narcotic drug (refer to Section 29800[a][1] PC).
  - (3) Convicted of an offense enumerated in Section 23515 PC.
    - (a) Section 245 PC–Assault with a firearm.
    - (b) Section 246 PC–Discharge of a firearm at inhabited dwelling.
    - (c) Section 417(a)(2) PC–Brandishing a firearm.
    - (d) Section 417(c) PC–Brandishing a firearm in the presence of a peace officer.
  - (4) Subject to a restraining order issued pursuant to Division 10, commencing with Section 6200 of the Family Code (refer to Section 29825 PC).
  - (5) Convicted within the last 10 years of a misdemeanor violation of any of the sections enumerated in Sections 29805 PC.
- d. Gun Violence Restraining Orders. Firearms or ammunition may be seized upon the issuance of a Gun Violence Restraining Order (GVRO) pursuant to Sections 18125 and 18155 PC. If, at the termination of the GVRO, the owner wishes to have their firearm(s) or ammunition returned, the lawful owner shall submit a completed CFARS, LER Application to the DOJ for processing. If the DOJ approves the return of the firearm(s) or ammunition, they will send the lawful owner a determination notice, which they can submit to the Area office with supporting documentation as stated earlier in this chapter. The Area will then return the property utilizing the process outlined in paragraph 4.a. of this chapter.
- e. Domestic Violence. Any firearm or other deadly weapon seized pursuant to Section 18250 PC (domestic violence incidents) shall be held at least 48 hours pursuant to Section 18265 PC before being made available for return. A completed CHP 36 shall be provided to the possessor at the time of seizure. Lawful owners seeking firearms which are eligible for return are required to complete the CFARS, LER Application process. Eligibility for the return of the firearm is dependent upon such considerations as its need to support criminal charges, whether it was illegally possessed, or whether its return would likely endanger others. When the firearm is eligible for return, a property notice shall be sent to the registered owner, by means of **certified mail, with return receipt requested**, providing them with the

appropriate DOJ, CFARS contact information to facilitate the return of the firearm or the option to transfer the firearm, through a licensed firearms dealer with a valid FFL, to another individual.

(1) In situations in which the Department believes the return of the firearm would likely endanger the victim or person reporting the assault or threat, the Department has 60 days from the date of seizure to initiate a petition with the court to determine whether the firearm should be returned [refer to Section 18400(a) PC]. A notice shall be sent to the registered owner or lawful possessor, via **registered mail, with return receipt, requested**, advising them of this. Their response to the court clerk is required within 30 days of receipt of the notice to confirm their desire for a hearing. Failure to respond shall result in a default order forfeiting the firearm. If the person fails to respond within the 30 days, the Area shall file a petition for an order of default with the court and, if granted, shall prepare the firearm for destruction. The Area shall work in consultation with the district or city attorney during the petition process. If the petition is denied by the court and the firearm is ordered to be returned, then the CFARS, LER Application process described in paragraph 3 of this chapter shall be followed. The OIA, Evidence Unit, or the Division Property and Evidence Program Coordinator may be contacted for guidance. If the charge(s) are changed to Section 5150 W&I, or Section 5150 W&I is added to other charges, then paragraph 4.a. of this chapter shall apply.

NOTE: There is a difference between certified mail and registered mail in this section. When mailing notices, ensure the prescribed method is used based upon the type of notice being sent. Certain notices are required by statute to be mailed in a specific manner.

f. Next of Kin Transfers. Firearms in the Department's possession for safekeeping where the registered or lawful owner is deceased may be transferred to a spouse or other next of kin.

(1) A surviving spouse must complete the Firearm Ownership Report, in addition to the necessary forms for the CFARS, LER Application process. It is recommended the spouse submit a copy of the death certificate along with these reporting forms.

(2) An immediate family member, as defined by Section 16720 PC, who is a parent and child or grandparent and grandchild, must complete the Report of Operation of Law or Intra-Familial Firearm Transaction, in addition to the necessary forms for the CFARS, LER Application process.

NOTE: The use of the Report of Operation of Law or Intra-Familial Firearm Transaction is limited to residents of California.

- g. Assault Weapons. Firearms that meet the definition of an assault weapon and are not registered to the owner as an assault weapon, cannot be released. Registered assault weapons are not eligible to be transferred in California except to a licensed gun dealer or as provided in Section 31100 PC (refer to Section 30910 PC). Stolen firearms that were modified after the theft and now meet the definition of an assault weapon can only be transferred to a licensed gun dealer with a dangerous weapon permit issued through the DOJ, to be returned to a pre-theft condition. The stolen firearm must have been reported as stolen prior to the Department taking possession or within 5 days of the theft.
- h. Ammunition or Ammunition Feeding Devices. Effective July 1, 2020, any person who claims title to any ammunition or ammunition feeding devices that is in the custody or control of a law enforcement agency shall make application for a determination by the DOJ as to whether the applicant is eligible to possess the ammunition or ammunition feeding device (refer to Section 33850 PC). The release of ammunition and ammunition feeding devices now requires the same procedures as releasing firearms. The BOF 119, Law Enforcement Gun Release, has been updated to the CFARS, LER Application. The process includes sections to accommodate ammunition and ammunition feeding devices and shall be submitted electronically. Refer to the steps outlined in paragraph 3.a.(2)(a) of this chapter and use the latest process for applying for ammunition and ammunition feeding device release. If the ammunition and ammunition feeding device is listed on the determination notice, they may be released to the person claiming title at the same time as the firearm. Officers shall give instructions that the unloaded firearm is to be locked inside a fully enclosed container or placed in the trunk of a motor vehicle (refer to Section 25610 PC). Also, the ammunition shall not be readily accessible or in immediate possession within their motor vehicle (refer to Section 16850 PC). Officer safety risks should be considered when releasing firearms, ammunition, or ammunition feeding devices.
- i. Minors. Pursuant to Sections 29610 and 29650 PC, a minor shall not possess any firearm or live ammunition. Firearms, ammunition, or ammunition feeding devices shall not be release to minors, unless circumstances as prescribed within Sections 29615-29655 PC exist. A "BB device" as defined in Section 16250 PC shall not be released to any minor. This item is to be released to a parent or legal guardian.
- j. Destroyed or Obliterated Identification Numbers. Section 11108.9 PC requires that an attempt be made to restore the serial number of all firearms that have altered or obliterated serial numbers. If an Area does not have a local lab capable

of performing serial number restorations or the lab cannot accomplish the request within a reasonable time frame, contact the OIA, Evidence Unit, or Division Property and Evidence Program Coordinator, for additional information on departmental services for serial number restorations. If it is not possible to restore the serial number, these weapons should normally be destroyed. However, the DOJ **may** assign a new number if the weapon is being converted to a departmental firearm (refer to Section 23910 PC).

k. Found Firearms. Found firearms and stun guns shall not be returned to the finder. Found firearms shall be submitted to a lab for ballistic testing and entry into the National Integrated Ballistic Identification Network (NIBIN)/Integrated Ballistics Identification System (IBIS). Consult with the lab regarding the type of firearm prior to submission to determine if it is a viable firearm for testing. Refer to Chapter 8, Management of Electronic Databases, of this manual for more information on NIBIN/IBIS. If the lawful owner is not located, and ballistic testing does not link the firearm to any outstanding investigation, and the firearm is unclaimed after 180 days, it shall be sent to the Academy, WCU, for destruction.

l. Machine Guns. Machine guns, as defined by 16880 PC, shall be sent to the Academy, WCU, following the procedures outlined in paragraph 6 of this chapter.

m. Firearms Manufactured by Unlicensed Subject. Pursuant to Section 29180 PC, Firearms Manufactured by Unlicensed Subject (FMBUS) are firearms made by an individual who does not possess a license for the manufacture of firearms. These firearms are also referred to as “ghost guns” and may or may not have serial numbers.

(1) A FMBUS weapon meeting the definition of an assault weapon shall have a serial number and other required information and must be registered with the DOJ as an assault weapon. A FMBUS weapon meeting the definition of an assault weapon that has a serial number and is registered as an assault weapon may be returned through the CFARS, LER Application process. Assault weapons which do not have a serial number and, subsequently, are not registered with the DOJ, shall not be returned to the owner and are not eligible to be sold or transferred.

(2) All FMBUS weapons that do not meet the definition of an assault weapon and do not have a serial number shall not be returned to the owner (refer to Section 18005 PC).

NOTE: No later than January 1, 2024, all FMBUS weapons possessed in the state of California must contain a unique serial number provided by the DOJ or must surrender the unserialized firearm to law enforcement. If the firearm is

made from plastic, the serial number must be engraved or affixed on a piece of metal large enough to be detected by metal detectors and embedded within the plastic. The FMBUS weapon(s) are not eligible to be sold or transferred to another individual. The laws on FMBUS weapons are constantly changing. Contact the OIA, Evidence Unit, or the Division Property and Evidence Program Coordinator, to determine if the firearm is eligible for return.

EXCEPTION: Pursuant to Section 29180(c) PC, a new resident to the state, within 60 days of arrival, shall submit a Unique Serial Number Application via CFARS, for any firearm the resident wishes to possess in the state that the resident previously manufactured or assembled or a firearm the resident owns that does not have a unique serial number or other mark of identification.

n. Court-Ordered Release. The court-ordered release of a firearm may be appealed. Before release of a firearm by a court order, the Area shall review the arrest report or property report and attempt to discuss the case with the investigating officer. A supervisor shall be notified if the Area becomes aware of facts or circumstances which in their judgment should prevent the return of the firearm. With approval of a supervisor, the firearm shall not be released. The commander or designee will immediately contact the district or city attorney and request a hearing on the matter before the judge who issued the release order. The Department has ten days to appeal the court order. Owners of firearms released through court order must still complete the CFARS, LER Application process to obtain a determination notification from the DOJ, indicating eligibility for the lawful owner to legally possess the firearm prior to the firearm being released.

5. DISPOSAL OF FIREARMS AND WEAPONS. The Academy, WCU, shall be the centralized location for all firearms and weapons disposal and will be responsible for preparing them for destruction or conversion to departmental use (refer to Sections 33875, 34000, and 18000-18005 PC). No firearms or other weapons which have come into departmental possession as evidence, contraband, found or surrendered property, or for safekeeping, shall be solicited or retained by departmental employees. Generally, a court order is not necessary for the destruction of a firearm. However, a court order should be obtained when a firearm is compliant with federal and state laws, but the firearm was utilized as a nuisance weapon (e.g., felon in possession of a firearm, used in the commission of a felony, or the brandishing of a firearm [refer to Sections 29800 and 29805 PC]). Additionally, any firearm seized by a warrant shall require a court order for destruction.

a. Document Preparation.

(1) CHP 37A, Firearms for Destruction. Prepare a CHP 37A, Firearms for Destruction, listing all the firearms to be destroyed. All long guns shall be

listed either at the beginning of the list or at the end of the list. Enter a "0" or "L" in the "BOX #" for long guns. If using more than one page of a CHP 37A is necessary, the item numbering shall be continued on the second page and not restarted. Be sure to write down all 12 digits when entering the blue evidence tape serial numbers. Do not include other weapons and items for destruction on the CHP 37A (e.g., knives, clubs, brass knuckles, ammunition). Refer to paragraph 8, for information on processing these items.

(2) CHP 36, Property Receipt. Attach a copy of the CHP 36, Property Receipt, printed from the evidence RMS, for all firearms listed on the CHP 37A.

(3) Automated Firearms System Printout. Obtain an AFS printout, including both California Law Enforcement Telecommunications System (CLETS) and National Crime Information Center (NCIC) returns dated no more than 30 days prior to shipment. Refer to Chapter 8, Management of Electronic Databases, of this manual, for additional information on AFS.

(4) Checking the Printouts. When checking the printouts, run a single vertical line through any near miss (e.g., a Smith and Wesson and a Winchester with the same serial number returns stolen). Confirm for each firearm that there is an AFS entry listing the firearm in Area's possession as either "evidence" or "safekeeping." **Do not** clear any records from AFS at this point.

(5) Stolen or Lost Firearms. If the AFS entry indicated the firearm is stolen or lost, do not send it to the Academy. Follow-up will need to be completed before the firearm can be sent for destruction.

(6) Packets. Staple the copy of the CHP 36, CLETS, and NCIC printouts together, in that order. Write the corresponding item number from the CHP 37A at the top of each copy of the CHP 36. Assemble the packets in order as listed on the CHP 37A and place them in a manila envelope.

(7) Document Retention. All documents relating to the disposal of firearms and/or other weapons, such as court or prosecution reports, shall be uploaded to the evidence RMS and retained by the command for five years from the date the firearms and/or weapons were shipped to the Academy, WCU. Retention of the documents shall be in a secure, electronic format.

(a) The Academy, WCU, shall retain all copies of documents received from the commands for the current year plus ten years from the date the firearm was destroyed. Retention of the documents may be in a secure, electronic format.

b. Preparation and Packing of Firearms.

(1) Marking of Firearms. Place a small piece of cloth tape, or masking tape, on the grip of each pistol and on the buttstock of each long gun and write the corresponding item number from the CHP 37A on the tape. Long guns also need the Area number written on the tape (refer to Figure 11-1). Do not place tape over serial/model numbers. Do not use evidence tape, scotch tape, or strapping tape on the firearm.



- Place cloth or masking tape on the buttstock of long guns and handgrip of pistols.
- Write the corresponding item number from the CHP 37A on the tape.
- Additionally, write the Area number on long guns.

Figure 11-1. Examples of the proper marking of firearms.

(2) Check Firearms. Ensure that each firearm is unloaded and the action is secured using a plastic cable tie, as shown in Figure 11-2 of this chapter. The Academy, WCU, can be contacted for assistance in unloading a firearm. If the firearm cannot be unloaded, for example due to a mechanical defect, the box shall be labeled "LOADED FIREARM."



Figure 11-2. Examples of properly secured firearms.

(3) Verify Firearms. A two-person rule shall be used when packaging firearms. One person shall be the primary evidence officer, and the second person should be a supervisor. If a supervisor is not available, the second person should be the back-up evidence officer. The evidence officer shall verify the make, model, and serial number of each firearm and confirm all information matches the CHP 37A as the firearm is placed into the box. A supervisor shall then verify the make, model, and serial number of each firearm matches the CHP 37A. The box shall be sealed using strapping tape. A strip of blue serialized evidence tape shall be placed across the seal, with the initials, IDs, and date written across the tape and seal by the evidence officer and the supervisor. Multiple blue serialized evidence tape strips may be necessary depending on the type of box used, such as boxes with top and bottom openings or boxes with lids, in order to adequately prevent tampering (refer to Figure 11-3). All serial numbers from the blue evidence tape shall be notated on the CHP 37A. The evidence officer shall then sign and date all pages of the CHP 37A. The supervisor shall sign and date all pages of the CHP 37A as a witness that all the firearms were verified and packaged.

(a) Handguns. Pack the handguns in a durable box. Include the magazines for all handguns in the same box in which the handguns are packed.

(b) Long Guns. Long guns are not to be boxed; however, they must be marked as previously described with the corresponding item number from the CHP 37A and the Area number.

NOTE: If using more than one box, number each box, including the items contained therein, based on the corresponding CHP 37A (e.g., Box 1 of 2-Items 1-15, Box 2 of 2-Items 16-27). Each package shall also be marked on all four sides with the Area name, Area number, and date shipped (refer to Figure 11-3). Do not pack other evidence items in the same box with firearms.



Figure 11-3. Examples of proper sealing and labeling of packages.

c. Electronic Database Entries. Entries to both AFS and CLETS Electronic Record Tracking (CERT) will be required when transferring firearms from Area to the Academy, WCU. Movement of a firearm from Area to the Academy, WCU, or vice versa, shall be noted in CERT and the evidence RMS. Utilize the following instructions when making entries into the respective databases for each firearm.

(1) California Law Enforcement Telecommunications System Electronic Record Tracking Entry.

(a) Area Responsibilities. Prior to transporting the firearm, go to the "Recovery Status" tab for the CERT record. Select "Partial" from the radial button selection. Enter "Evidence" in the "CAD Log Number" box, or a CAD log number if available. Enter the evidence officer's ID number in the "Reporting ID" box. Enter the date the firearm was sent to the Academy, WCU, in the "Date Sent for Destruction" box. In the "Transport Method" box enter "Vehicle" if the firearm is being driven. If the firearm is being shipped via an approved contract courier, enter the name of the courier and the tracking number in the "Miscellaneous Information" box. In the "Transport Destination" box enter "Academy WCU." Click the "Save" button.

(b) Academy, Weapons Control Unit, Responsibilities. After receiving the firearm from the Area, go to the "Recovery Status" tab for the CERT record. Enter "Received by Academy WCU" and specify the date received. Click the "Save" button.

(2) Automated Firearms System.

(a) Academy, Weapons Control Unit, Responsibilities. After inventorying the firearms from the Area, send an e-mail to the Area requesting the AFS entries for those firearms listed on the CHP 37A be canceled. After receiving confirmation from the Area that the AFS entries have been canceled, the firearms shall immediately be entered into AFS under the Academy, WCU's, Originating Agency Identifier (ORI), using "Safekeeping" as the document code, regardless of the firearm's previous document code. Once the firearm is physically destroyed, the record shall be modified by the Academy, WCU, changing the document code to "Destroyed." The Academy, WCU, shall be the only one to declare a firearm is destroyed and make the appropriate entry.

(b) Area Responsibilities. The Area must cancel the AFS entry after receiving the request from the Academy, WCU. This must be done in order for the Academy, WCU, to enter it under their ORI. The Area **shall not** modify their entry to indicate the firearm was destroyed.

d. Transportation of Firearms and Weapons.

(1) Academy, Weapons Control Unit. Prior to any firearm being transported for destruction, it shall be **unloaded** and secured using plastic cable ties. Employees shall use extreme caution when handling confiscated firearms. When checking a firearm, the muzzle shall be directed at the clearing tube. If the employee is not certain how to safely unload and lock the action open on a particular firearm, the procedure shall not be attempted. Any firearm not

rendered safe shall be temporarily secured in a suitable location until knowledgeable assistance is available. The Academy, WCU, may be contacted from 0800 to 1200 hours and 1300 to 1700 hours, Monday through Friday, for assistance. All firearms and nuisance weapons ready for destruction should be hand-carried to the Academy, WCU, during the months of March, June, September, and December. In situations where firearms cannot be delivered during the acceptable months, the Academy, WCU, shall be contacted to make other arrangements. The Academy, WCU, staff will not be available to receive hand-carried deliveries during the lunch hour (1200 to 1300 hours), or on Fridays.

(2) Transportation of firearms and weapons should be conducted by two uniformed employees for security purposes. The transporting officer shall sign and date the CHP 37A. If a second officer is accompanying, they shall sign and date this fact in the remarks/notes section of the CHP 37A. Upon delivery, the Academy, WCU, will issue a signed delivery receipt for the number of sealed boxes, number of long guns, and number of nuisance items too large to be placed in a box.

(3) Shipping Firearms. On a case-by-case basis, firearms may be shipped to the Academy, WCU. The Academy, WCU, shall be contacted for instructions and information.

(4) Division Coordination of Transportation. Divisions may coordinate the transportation of firearms to the Academy, WCU, for those Areas that may only have a few firearms to send for destruction. Areas will still be responsible for updating the electronic databases. Areas shall document their transportation of the firearms to Division in the remarks/notes section of the CHP 37A. Division uniformed personnel that transport the firearms from Division to the Academy, WCU, shall sign as the transporting party in the corresponding box on the CHP 37A. Division uniformed personnel shall confirm all blue evidence tape seals on boxes are intact and the corresponding serial numbers match those listed on the CHP 37A prior to accepting the items from the Area.

(5) Receipts. After the shipment is inventoried by the Academy, WCU, a signed and dated copy of the CHP 37A will be sent to the Area's evidence officer. Any changes or corrections will be noted. If Areas require hand-carried shipments inventoried at the time of delivery, prior arrangements must be made at least two weeks in advance with the Academy, WCU. Shipments will be returned to the Area if proper procedures are not followed, or the paperwork is incorrect or not in proper order.

6. DISPOSAL AND DEPARTMENTAL USE OF AMMUNITION. The Academy, WCU, shall be the centralized location for disposal of confiscated and unclaimed ammunition. Alternative methods may be utilized on a limited basis after receiving written approval from the Academy, WCU.

NOTE: Do not attempt to destroy, or render inoperable or unusable, any ammunition. Doing so creates a significant risk of injury and greatly inhibits the Academy, WCU's, ability to properly dispose of the ammunition.

- a. Document Preparation. All ammunition sent to the Academy, WCU, for destruction shall be documented on a CHP 51, Memorandum. The CHP 51 must provide a detailed list of the ammunition and an accurate count of each type/caliber.
- b. Packaging of Ammunition. Loose ammunition shall be consolidated and packaged separately by type/caliber, preferably in a plastic bag or manila envelope. Full boxes of ammunition are not required to be emptied into a bag or envelope. Ammunition shall not be transported in the same box as firearms. Care should be taken when placing ammunition in the box with other nuisance items to prevent the other items from striking the primer on the ammunition.
- c. Use of Ammunition for National Integrated Ballistic Information Network/Integrated Ballistic Identification System Testing. Refer to Chapter 8, Management of Electronic Databases, Section 6, National Integrated Ballistic Information Network/Integrated Ballistic Identification System Testing, for instruction on obtaining ammunition to be used exclusively for National Integrated Ballistic Information Network/Integrated Ballistic Identification System (NIBIN/IBIS) testing.

7. FIREARMS TO BE RETURNED TO AREA.

- a. Returned Firearms. Once a firearm has been received by the Academy, WCU, and is determined to be stolen or lost through NCIC or CLETS, the firearm will be returned to the Area for proper disposition. This usually occurs when the serial number was either misidentified or incorrectly entered into AFS. Errors in AFS records must be fixed. Firearms may also be returned upon request by the district or city attorney's office or the Area. The evidence RMS and CERT record for each firearm being returned will need to be updated to show the transportation back to the Area as well as the Area's receipt of the firearm.
- b. Returned Delivery Receipts. The firearm will be returned to the Area with two copies of a delivery receipt. The receipt will list the reason(s) the firearm was sent back to the Area. Copies of the Area's CHP 37A, CHP 36, CLETS, and NCIC printouts (if available) will accompany the firearm.

- c. Verify Returned Firearms. Match the make, model, and serial number of the firearm with the delivery receipt. This will ensure that the correct firearm was returned to the proper Area.
- d. Sign and Date Receipts. Sign and date one copy of the receipt and return it to the Academy, WCU.
- e. Follow-Up on Lost or Stolen Firearms. Follow-up must be completed if the firearm is lost or stolen. Immediately contact the agency responsible for the AFS entry to determine if the report is still active and the firearm is outstanding. If the report is still active, the original CHP Area must initiate a "locate" message through the AFS. The evidence officer shall make arrangements with the agency holding the report to return the firearm to them for further disposition.

8. TRANSFER OF CONFISCATED FIREARMS AND WEAPONS. The Academy, WCU, may transfer confiscated firearms and weapons, in lieu of destruction, to the criminalistics laboratory of the DOJ or the California State Military Museum. All transfers pursuant to Section 34005 PC shall be prohibited, except when authorized by the Commissioner.

a. Procedure. When the DOJ or the California State Military Museum requests a specific firearm that the Academy, WCU, has in their confiscated weapons inventory, the following shall occur:

- (1) A formal request shall be made, in writing, to the Department from the DOJ or the California State Military Museum.
- (2) The Academy, WCU, shall set aside and not destroy the requested firearm(s) until approval or denial is received from the Commissioner.
- (3) The Academy, WCU, shall prepare an authorization letter, to be signed by the Commissioner, authorizing the transfer of the requested firearm(s).
- (4) The firearm(s) shall be inspected by an Academy, WCU, Gunsmith. The condition of each firearm shall be noted in the authorization letter.
- (5) An inventory list of the requested firearm(s) from the Weapons Inventory Control System (WICS) shall accompany the authorization letter.
- (6) The firearm(s) shall not be transferred until the requesting agency receives the authorization letter signed by the Commissioner.

(7) The Academy, WCU, shall update the WICS, AFS, and CERT databases of the disposition of the transferred firearm(s).

9. PREPARING NUISANCE ITEMS FOR DESTRUCTION.

a. Types of Items Submitted. The Academy, WCU, destroys nuisance items such as knives, swords, clubs, ammunition, brass knuckles, and stun guns. No drugs or drug paraphernalia will be accepted by the Academy, WCU.

b. Document Preparation. All items sent to the Academy, WCU, for destruction that are not firearms shall be documented on a CHP 51. The CHP 51 must provide a detailed list and accurate count of the items submitted. The CHP 51 shall be placed in the manila envelope containing the paperwork for the firearms. For a current example of a CHP 51 documenting items for destruction, contact the OIA, Evidence Unit, or the Division Property and Evidence Program Coordinator.

c. Packaging. Nuisance items should be placed in a suitably sized box. Those items that are too large to fit in a box shall have a piece of cloth medical tape, or masking tape, placed on the item with the Area number written on the tape. The box shall be sealed with strapping tape and a strip of blue serialized evidence tape placed across the strapping tape to create an evidentiary seal. The officer sealing the box shall write their initials, ID number, and date across the seal created with the blue serialized evidence tape. The serial number and corresponding box number shall be recorded on the CHP 37A. If using a banker's box that contains holes for use as handles, cover the holes with strapping tape. The following information, either handwritten or printed on paper, shall be attached on all outer sides, excluding the bottom, of the box: Area name and number, sequential box number, "Nuisance Items," and the date of packaging/sealing (refer to Figure 11-4).



Figure 11-4. Example of proper labeling of nuisance items box.

(1) Ammunition. Loose ammunition shall be consolidated and packaged separately by type/caliber, preferably in a plastic bag or manila envelope. Full boxes of ammunition are not required to be emptied into a bag or envelope. An accurate count of each type/caliber shall be noted on the CHP 51. Ammunition shall not be transported in the same box as firearms. Care should be taken when placing ammunition in the box with other nuisance items to prevent the other items from striking the primer on the ammunition.

NOTE: **Do not** attempt to destroy, or render inoperable or unusable, any ammunition. Doing so creates a significant risk of injury and greatly inhibits the Academy, WCU's, ability to properly dispose of the ammunition.

(2) Knives. Do not use any tape, especially red evidence tape, to secure folding knives or fixed-blade knives as this makes them difficult to destroy. Open-bladed or fixed-blade knives shall be covered and the cover shall be properly secured to the knife. It may also be placed in a padded envelope, or other container, and then secured. Knives that have a cover or sheath should be left in the sheath. Several knives may be placed in a knife box and clearly marked with "Safety Hazard, Sharp Objects." An accurate count of each basic type of knife shall be noted on the CHP 51. Different types of knives include fixed-blade, folding, switchblade, etc.

(3) Biohazard. Nuisance items that contain biohazard material shall be placed in a separate container and have a biohazard label affixed to the outside of the container, as well as on the outside of the main box of nuisance items. A notation should also be placed on the CHP 51, advising that items within the box contain biohazard material.

(4) Large-Capacity Magazines. Large-capacity magazines, as defined in Section 16740 PC, that are voluntarily surrendered to the Department in accordance with Section 32310 PC shall be forwarded to the Academy, WCU, for destruction. Large-capacity magazines relinquished to the Department shall be documented on a CHP 36 as contraband with a notation made indicating the items are surrendered property. All available information such as the number of magazines surrendered, as well as type, style, color, model, and manufacturer, shall be noted on the CHP 36. Surrendered large-capacity magazines shall be placed in the box with other nuisance items. A copy of the completed CHP 36 shall be provided to the individual surrendering the magazines.

THIS PAGE INTENTIONALLY LEFT BLANK