



DEPARTMENTAL
GENERAL
ORDER

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Disposal of Firearms and Miscellaneous
Weapons
Firearms Disposal
Weapons Disposal

DISPOSAL OF FIREARMS AND MISCELLANEOUS WEAPONS

The purpose of this order is to set forth Department policy and procedures regarding the disposal of firearms and weapons which have come into the custody of the Department during the investigation of a suspected crime or at the request of a citizen.

I. FIREARMS AND WEAPONS WITHIN THE SCOPE OF THIS ORDER

The provisions of this order shall apply to firearms and weapons which come into the custody of the Department under any of the following circumstances:

- A. When firearms or weapons are concealed or carried in violation of Penal Code Section 12020, 12025, or 12031, or which are classified as nuisances as described in Penal Code Sections 12028 and 12276.
- B. When firearms or weapons, the mere possession or carrying of which is prohibited as described in Penal Code Sections 653k, 12020, 12021, 12029, 12091, 12220 or 12420. Such firearms and weapons include tear gas weapons, machine guns, pistols or revolvers with altered or defaced identifying marks, shotguns with a barrel length of less than 16 inches, or firearms made from a rifle or shotgun with an overall length of less than 26 inches, or any instrument or weapon commonly known as a blackjack, slingshot, billy club, karate sticks, metal knuckles, dirk, dagger, switchblade knife, cane gun, wallet gun, ballistic knife, multiburst trigger activator, nunchaku, belt buckle knife, leaded cane, zip gun, shuriken, lipstick case knife, cane sword, shobi-zue, air gauge knife, writing pen knife, explosive bullets, any metal practice grenade, sap, or sandbag.
- C. When firearms or weapons are used in the commission of a crime or in the possession of a person at the time of their arrest.
- D. When firearms are taken into evidence during the investigation of an apparent suicide or an attempted suicide, or when they are confiscated from a person detained or apprehended for examination of his/her mental

condition, or from a person who, since 1 Oct 55, has been involuntarily committed to a mental hospital for 30 days or more.

- E. When firearms or weapons are received by the Department at the request of a citizen for safekeeping, destruction or as a gift to the Department, or received by the Department as found property.

II. GENERAL INVESTIGATIVE PROCEDURES

- A. A Found Property Report (TF-995) or Crime Report (536-933) shall be prepared in all cases involving the receipt of a firearm or weapon.
- B. Any member who takes possession of a firearm or weapon under circumstances listed in Part I of this order shall properly deposit such article into the Property & Evidence Unit in accordance with existing Departmental directives.
- C. Firearms or weapons seized by an outside agency shall not be accepted by the Property & Evidence Unit until an appropriate Found Property or Crime Report has been completed.

Reports resulting from outside agency seizures shall be assigned to the Criminal Investigation Division, Weapons Unit.

- D. When a firearm or weapon is brought to the attention of a member of the Department by a citizen for the purpose of destruction or as a gift to the Department, or is found or received by a member as found property, the member shall assume custody of the firearm or weapon and prepare:
 - a. Found Property Report
 - b. Property Record (336-804)
 - c. Evidence Tag (536-802)
 - d. Firearm Referral Slip (TF-654), if a firearm
 - e. Citizen Property Receipt (TF-1084), if received from a citizen (submit original with report, copy to citizen); and
 - f. Deliver firearm or weapon to the Property & Evidence Unit.

III. DISPOSAL AUTHORIZATION

The following persons may authorize the disposal of a firearm or weapon which has been placed in the Property & Evidence Unit under the provisions of Part II, A of this order.

- A. The assigned follow-up investigator.

- B. Any member specifically authorized by the Chief of Police.
- C. The trial judge or his/her designee.

IV. RESPONSIBILITIES

A. Follow-up Investigator

1. The assigned follow-up investigator shall be responsible for authorizing the disposal of firearms or weapons in custody of the Department as follows:
 - a. Firearms which were unlawfully possessed, carried or concealed, or which were used in the commission of or attempt to commit a crime, shall be released for disposal upon conclusion of the criminal case against the defendant as provided in Penal Code Section 12028.
 - b. Prohibited firearms and weapons as described in Part I of this order shall be disposed of or destroyed as provided in Penal Code Sections 1418, 1419, 12028, and 12029.
 - c. When the custody of firearms or weapons is retained by the trial court, a Property Release (TF-1008) signed by the trial judge or a person authorized by him/her shall be returned to the Property & Evidence Unit in lieu of the firearm or weapon.

Persons who are authorized to withdraw evidence for court presentation shall also be responsible for return of either the firearm or weapon or delivery of a signed Property Release to the Property & Evidence Unit.

- d. Whenever a firearm or weapon, the mere possession of which is not prohibited by law, has been placed into evidence for any reason, and the suspect is released without criminal prosecution or is found not guilty in court, it shall be returned to the owner upon his/her identification of the firearm, presentation of proof of ownership and proper identification.
- e. Whenever a firearm or non-prohibited weapon in the possession of the Department is determined to have been

stolen, it shall be returned to the owner. If the owner cannot be located or is found to be prohibited from owning or possessing the firearm or weapon, the firearm or weapon shall be disposed of in accordance with the provisions of Part IV, A, 1, h, 2 of this order and Penal Code Sections 1408 and 1411.

In appropriate cases such firearms or weapons shall not be released or disposed of until their use as evidence has been served.

- f. Firearms which have been collected at the scene of an attempted suicide or which have been confiscated from a person who is detained or apprehended for examination of his/her mental condition under the provisions of W&I Code Section 8103 shall be released only if such person is released without confinement, or is confined for less than 30 days, or upon the appointment of a guardian for such person. The firearm shall not be released if disposal is required in compliance with a court order or the City Attorney's Office has a petition pending for the destruction of the firearm or weapon within the time span specified by State law.
 - 1) Confiscated firearms shall not be released to persons who have been involuntarily committed to a mental institution for 31 days or more after 1 Oct 55, but shall be held in the Property & Evidence Unit, until receipt of a signed Property Release authorizing disposal of the firearm from an:
 - a) Investigator, or
 - b) Person entitled to authorize the disposal of the firearm, or
 - c) A written statement of competency signed by the superintendent of a California State Hospital releasing the firearm to the owner.
 - 2) Firearms which have been collected at the scene of a suicide shall be released to the guardian of the estate, if that person is not prohibited from owning or possessing firearms, at the conclusion of the

investigation, in accordance with Departmental policy.

- g. Firearms or non-prohibited weapons which have been received by the Department for safekeeping shall be returned to the owner upon conclusion of the follow-up investigation and presentation of proof of ownership and eligibility to possess and/or own such firearm.
- h. Found firearms, the mere possession of which is not prohibited by law, and which are not connected with a criminal offense, shall be held in the Property & Evidence Unit. An investigation shall be conducted by the Weapons Unit to ascertain the identity of the rightful owner.
 - 1) When the owner is located the firearm shall be released to him/her upon identification of the firearm and presentation of proof of ownership and eligibility to possess and/or own such a firearm.
 - 2) Firearms which have not been claimed within 90 days by the legal owner may be released to the finder after he/she properly complies with the provisions set forth in Penal Code Section 485 and Civil Code Sections 2080, 2080.1, 2080.2 and 2080.3.

Members and employees of the Department who have found firearms while on duty shall not claim them in the absence of a claim by the legal owner of the firearm.

- 2. Follow-up investigators and other persons who are entitled to authorize the disposal of firearms shall adhere to the following procedures, as applicable:
 - a. Furnish the Property & Evidence Unit personnel with the assigned Records Division number (RD No.) pertaining to the report involving the firearm.
 - b. Prepare a Property Release whenever the firearm is to be released to a citizen, used as a court exhibit, or destroyed.

- c. Check the criminal history of the citizen receiving the released firearm to ensure he/she is authorized to possess the weapon prior to delivering the Property Release to the Property & Evidence Unit.
- d. Deliver the signed Property Release to the Property & Evidence Unit indicating the final disposition to be taken by the Department concerning the firearm (e.g., "release to owner" or "destroy").

B. Property & Evidence Unit Personnel Responsibilities:

1. Maintain a Firearms Destruction List (TF-524) of all firearms which have been released to the Property & Evidence Unit for disposal.
2. Attach the signed Property Release to the Property Record after receiving the Property Release, indicating final disposition from the investigator or person entitled to authorize the disposal of firearms.
3. The Property & Evidence Unit Supervisor shall determine when a firearms destruction will occur in accordance with Penal Code Section 12028 (d)(c). The cumulative listing of all firearms that have been released for final disposition shall be forwarded to the following units in accordance with Penal Code Section 12030(b):
 - a. Prior to disposal
 - 1) Training Section Rangemaster
 - 2) Criminalistics Division, Firearms Section
 - 3) Criminal Investigation Division, Weapons Unit
 - b. After disposal

Records Division, Warrants Section
4. Personnel assigned to the Property & Evidence Unit shall comply with the directives of authorized personnel concerning the disposal of firearms. Such dispositions include:
 - a. Release of the firearm or weapon to a member or other authorized person for the purpose of exhibition in court.

- b. Release of the firearm or non-prohibited weapon to the owner, finder or other person legally entitled to receive the property upon his/her complying with applicable laws and upon presentation of valid identification.

Should a person legally entitled to reclaim a firearm or weapon fail or refuse to respond to proper notification that the property in the possession of the Department is available for release, such property shall be disposed of not less than 30 days after such notification was given in accordance with Criminal Investigation Division and Property & Evidence Unit directives.

- c. Arrangement for destruction of the firearm or weapon upon receipt of authorization from the follow-up investigator, any member specifically authorized by the Chief of Police, or the trial court judge or his/her designee.

Firearms which are released for destruction shall be destroyed at the discretion of the Property & Evidence Unit Supervisor, in accordance with Penal Code Section 12028 (c) & (d). A list of such weapons shall be submitted to the Chief of Police for his review and authorization to effect the destruction.

- d. Assignment of the firearm to the Oakland Police Department Armory.

The Property & Evidence Unit Supervisor shall ensure that the Training Section Rangemaster is advised of firearms which have been released to the Property & Evidence Unit for destruction and which meet the criteria for acquisition by the Department as set forth below. If the firearms meet the Department's standards, they may be released for Departmental use as granted in Penal Code Section 12030 and as provided in Part IV of this order.

Department Standards

- 1) Semi-automatic pistols: Beretta, Glock, Smith and Wesson or Sig-Sauer, 9mm, .40 & .45 caliber.
- 2) Shotguns: Remington and Smith & Wesson brands, 12 gauge pump type.

- 3) Rifles and carbines: cal .308 and .223.
- 4) Any other firearm required by a unit to further the police mission as deemed appropriate by the Chief of Police.
- e. Firearms may be released to the Criminalistics Division for Departmental use as granted in Penal Code Section 12030 and as provided in Part V of this order.
- f. Firearms may be released to the Department of Justice (DOJ), Investigative Services Branch, for use as granted in Penal Code Section 12030 and as provided in Part VI of this order.
5. The Property & Evidence Unit Supervisor shall notify the Records Division Warrants Supervisor regarding the final disposition of all firearms so that required entries into the Automated Firearms System (AFS) via CLETS can be made in accordance with NCIC directives and Penal Code Section 12030 (d).
6. The Property & Evidence Unit Supervisor shall promptly dispose of all weapons and firearms within six (6) months after the interests of justice have been served. Disposal shall encompass either returning the evidence to the owner or destruction in accordance with State, Local and Departmental regulations.
7. Provide other law enforcement agencies with copies of the Firearms Disposal List upon request.

C. Rangemaster

1. The Range Master shall inspect each firearm selected from the Firearms Destruction List for the purpose of determining the suitability of the particular weapon for inclusion in the Departmental armory. The inspection shall consist of, but not limited to, evaluation of the accuracy, mechanical condition and general serviceability of the firearm. Firearms which, because of their age or mechanical condition, present a hazard to the user or are in need of extensive repair shall not be accepted.
2. In the event that the firearm is deemed suitable for Department needs, the Rangemaster shall forward a letter through channels to

the Chief of Police requesting that the firearm be released from the Property & Evidence Unit and assigned to the Department armory. This shall be accomplished prior to the scheduled date of destruction and a copy of the letter shall be forwarded to the Property & Evidence Unit.

3. If permission to acquire the firearm is granted by the Chief of Police, the Rangemaster shall personally sign the Property Release and the Property Record to acknowledge his/her possession of the firearm. This action shall be completed prior to acceptance of the firearm, and upon completion of the case, the signed Property Release and Property Record shall be forwarded to the Records Division and retained as a permanent document.
4. When a firearm is acquired from the Property & Evidence Unit, as described in this order, the Rangemaster shall prepare a Weapons Inventory Record (TF-385) listing the date and manner of acquisition, make, caliber and serial number of the firearm. The completed record and the letter of approval from the Chief of Police shall be included in the Master Firearms Inventory Database maintained by the Rangemaster. In addition, the Rangemaster shall immediately advise the Personnel and Training Division commander of the acquisition of all such weapons.
5. The Rangemaster shall notify the Accounting Section of any firearm acquired from the Property & Evidence Unit if the actual or appraised value exceeds \$7,000 so that a City asset number can be assigned to the weapon.

D. Crime Laboratory Manager (or designee)

1. The Crime Laboratory Manager (or designee) shall select from the Firearms Destruction List those weapons suitable for inclusion in the Departmental reference collection.
2. In the event that a firearm is deemed suitable for Departmental needs, the Crime Laboratory Manager (or designee) shall forward a letter through channels to the Chief of Police requesting that the firearm be released from the Property & Evidence Unit and assigned to the Criminalistics Division's reference collection. This shall be accomplished prior to the scheduled date of destruction. The original letter shall be forwarded to the Property & Evidence Unit.

3. If permission to acquire the firearm is granted by the Chief of Police, the Crime Laboratory Manager (or designee) shall personally sign the Property Release and the Property Record to acknowledge his/her possession of the firearm. This action must be completed prior to acceptance of the firearm. A copy of the letter shall be attached to the Property Record and forwarded to the Records Division upon completion of the case and retained as a permanent document.
4. Upon acquisition of the firearm, the Crime Laboratory Manager (or designee) shall prepare an Inventory Record on which is listed the date and manner of acquisition, make, caliber, and serial number of the weapon. The completed record and the letter of approval from the Chief of Police shall be included in the Master Firearms Inventory Database maintained by the Rangemaster.
5. The Crime Laboratory Manager (or designee) shall notify the Accounting Section of any firearm acquired from the Property & Evidence Unit if the actual or appraised value exceeds \$7,000 so that a City asset number can be assigned to the weapon.

V. RELEASE OF FIREARMS TO THE DEPARTMENT OF JUSTICE

The Department makes firearms, that have been released for disposal, available to the DOJ.

- A. DOJ personnel may contact the Property & Evidence Unit for a current copy of the Firearms Destruction List in order to place a hold on a firearm they wish to acquire.
- B. In lieu of destruction, the Criminal Investigation Division Commander or designee may notify the criminalistics laboratory of the DOJ of firearms that have been released for disposal. Notification shall be accomplished by forwarding a copy of the Firearms Destruction List to the DOJ no less than 45 days prior to the intended disposal date.
- C. Notification to the DOJ shall be accompanied by a cover letter explaining that firearms deemed suitable for acquisition may be obtained by forwarding a letter to the Chief of Police advising him/her of shipping arrangements and requesting that the weapons be released from the Property & Evidence Unit to the Department of Justice.

- D. Property and Evidence Unit personnel shall, upon approval of the Chief of Police:
1. Complete and make the proper notations regarding the disposition on the Property Release and the Property Record and ensure that the recipient signs the documents.
 2. Carry out the shipping instructions provided by the Department of Justice and indicate the proper disposition upon the Master Firearms Destruction List.

By order of

Richard L. Word
Chief of Police