

Firearms Technical Assistance Project

Compendium of Return Petition Examples



Firearms Technical Assistance Project

An important component of a firearms surrender plan is addressing requests for return of surrendered firearms, whether due to the expiration of a court order prohibiting possession or for another reason. Jurisdictions should ensure that a safe and effective system is in place to respond to requests by previously prohibited persons who assert that they are no longer subject to a firearms prohibition. The laws in several jurisdictions set forth a specific process to prevent the return of firearms to a person who remains ineligible to possess weapons as a result of a continuing prohibition, including a disqualifying conviction (even after a civil protection order has expired), or a different state, Tribal, or federal prohibition. Whether or not a statutory scheme is in effect, courts should implement a process that includes the following:

- The filing of a sworn petition/affidavit to request the return of firearms, including information about potentially disqualifying factors (similar to ATF Form 4473, which is required to purchase a firearm)
- A court hearing to consider whether the return is legally permissible
- A criminal background check to determine the person's eligibility to receive firearms
- Victim notification regarding the request and the opportunity to participate in the hearing (or to submit relevant information)
- Victim notification upon the return of firearms

To assist jurisdictions in the development of such a process, this compendium contains examples from around the country of petitions/affidavits for return of firearms. We assembled these samples for reference by community stakeholders who are engaged in amending or creating their own forms. Please note that the compendium is like a menu of options; you should read through the examples and decide on language that fits your local process and statutory authority. Not all of these examples are applicable to every jurisdiction.

Ideally, the development of the return process and relevant forms is a collaborative process. Although it is ultimately the court that adopts new forms, meaningful participation in their development by victim advocates, attorneys, law enforcement officers (those responsible for holding and returning firearms), and others can help ensure that the revised forms meet the needs of the various stakeholders.

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Forms provided by the following jurisdictions:

- Duval County, FL
- New Hampshire
- California
- North Carolina

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

CASE NO.: 16-_____-DR-_____-DV_____

DIVISION: FM-V

Petitioner

And

Respondent

MOTION FOR RETURN OF FIREARM(S) AND/OR
AMMUNITION AND SWORN AFFIDAVIT

COMES NOW, the Respondent, _____, who moves this Court requesting the return of his/her firearms and/or ammunition subsequent to the Order of Dismissal of, or the expiration of a Temporary or Final Judgment of Injunction for Protection Against Domestic Violence.

A Temporary or Final Judgment of Protection Against Domestic Violence was entered against me on _____, _____. Said injunction was dismissed, expired or was terminated by court order on the _____ day of _____, _____.

I hereby attest and affirm that:

- a. I am the legal owner of the firearm described as follows: (see attached list of property, police report, bill of sale, receipt of transfer, or any document evidencing ownership)
- b. I have not been found guilty of a Felony in Florida or any other state;
- c. I have not been found guilty of a Misdemeanor crime of domestic violence in Florida or any other state;
- d. There is no injunction or protection order in effect against me in Florida or any other state;
- e. There is no forfeiture action pending against me in another court;

- f. I have never been adjudicated mentally defective or been committed to a mental institution;
- g. I am legally or lawfully in the United States;
- h. I have not been dishonorably discharged from the United States Armed Forces;
- i. I have not renounced United States citizenship;
- j. I am not currently under indictment for a Felony;
- k. I have never been convicted, been on probation, on pre-trial diversion or had adjudication withheld for an act of domestic violence in any state, or in Florida, for a crime involving violence within the past 3 years;
- l. There is no other legal impediment preventing me from owning or possessing a firearm, including but not limited to those mentioned above.

WHEREFORE, I am requesting this honorable Court to issue an order for the return of the firearm(s) described above.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this motion and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Signature of Respondent

Address: _____

State of Florida

County of _____

Before me, the undersigned authority personally appeared _____
being first duly sworn and said that he/she has read the above Motion for Return of Firearm(s)
and/or Ammunition and that he/she acknowledges the signing thereof for the purposes therein
described and that the contents are true.

WITNESS my hand and official seal this _____ day of _____, 20__.

(Seal)

Notary Public/Deputy Clerk of Courts

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: _____
Case Name: _____
Case Number: _____ PNO: _____
(if known)

MOTION AND AFFIDAVIT FOR RETURN OF FIREARMS

Pursuant to RSA 173-B, RSA 633:3-a, or 169-C

_____, V. _____
Plaintiff Defendant Def Date of Birth

NOW COMES the defendant, _____, and respectfully represents and requests the following:

- Pursuant to a Domestic Violence/Stalking Protective Order, or violation of a 169-C Stay Away Protective Order, my firearms(s) and/or ammunition was/were relinquished to:
☐ _____ Police Department
☐ State Police Troop/Unit _____
☐ Fish & Game
☐ _____ County Sheriff's Department
- The Order has expired or will expire on _____ and I would like return of my firearm(s) and ammunition.
- I have no other outstanding civil protection orders issued against me, nor bail orders, and I have not been convicted of any misdemeanor or felony offenses in any state or federal court which would make it unlawful for me to possess any firearm and ammunition pursuant to the Gun Control Act of 1968, as amended, nor am I under any other legal status that would render my possession of a firearm or ammunition illegal.
- My date of birth is _____, and I was born in the State of _____
- My current address and telephone number are: _____

- Race: ☐ White ☐ Black ☐ American Indian/Alaskan Native ☐ Asian or Pacific Islander ☐ Unknown
- Physical Description:
a. Eye Color _____ c. Height _____ (feet) _____ (inches)
b. Hair Color _____ d. Weight _____ (pounds)
- I request a search of all pertinent records by the New Hampshire Department of Safety.
- I request a hearing on my motion.

Date Signature of Defendant
State of _____, County of _____

This instrument was acknowledged before me on _____ by _____

My Commission Expires _____
Affix Seal, if any Clerk of Court/Deputy Clerk/Justice of Peace/Notarial Officer



CALIFORNIA DEPARTMENT OF JUSTICE BUREAU OF FIREARMS

Law Enforcement Gun Release Application

Penal Code Section 33850



This form is to be used only by the owner of a firearm which is in the custody or control of a law enforcement agency or court to redeem the firearm. It only establishes the applicant's eligibility to lawfully possess firearms at the time the application is processed. It cannot be used to transfer a firearm, or to prove ownership of a firearm.

(Instructions and processing fee information on reverse.)

A. Owner Information							
Last Name:			First Name:		Middle Name:		
Alias Last Name (if any):			Alias First Name:		Alias Middle Name:		
Residence Street Address:				City:		State:	Zip Code:
Mailing Address (if different):				City:		State:	Zip Code:
Date of Birth (mm/dd/yyyy):		Place of Birth (state or country):			Sex:	Phone No. (include area code):	
U.S. Citizen?	<input type="radio"/> Yes <input type="radio"/> No	If no, enter Alien Registration No. or I-94 No.:		Country of Citizenship:			
Enter your California driver license (CDL), California ID (CID), Military ID (MIL), or Out-of-State ID (OSID) number in the ID number box to the right. If using military identification you must send a copy of your permanent duty station orders stating you are stationed in California. If using an out-of-state driver's license or identification number you must send a notarized copy of your driver's license or identification card.					ID Type (check one):		ID Number:
					CDL <input type="checkbox"/> MIL <input type="checkbox"/>		
					CID <input type="checkbox"/> OSID <input type="checkbox"/>		
B. Firearm(s) Information (To report additional firearm(s) copy and attach additional applications)							
Firearm Type:		Category: (select from list on page 2)			Serial Number:		
<input type="radio"/> Handgun <input type="radio"/> Rifle <input type="radio"/> Shotgun							
Make:	Model:	Caliber:	Firearm Origin:		Color:	Barrel Length: <input type="radio"/> IN. <input type="radio"/> CM.	
Firearm Type:		Category: (select from list on page 2)			Serial Number:		
<input type="radio"/> Handgun <input type="radio"/> Rifle <input type="radio"/> Shotgun							
Make:	Model:	Caliber:	Firearm Origin:		Color:	Barrel Length: <input type="radio"/> IN. <input type="radio"/> CM.	
Firearm Type:		Category: (select from list on page 2)			Serial Number:		
<input type="radio"/> Handgun <input type="radio"/> Rifle <input type="radio"/> Shotgun							
Make:	Model:	Caliber:	Firearm Origin:		Color:	Barrel Length: <input type="radio"/> IN. <input type="radio"/> CM.	
C. Agency Information							
Name of Law Enforcement Agency or Court in Possession of the Firearm(s):							
Address:			City:		Zip Code:	Case Number:	
D. Declaration							
<p><i>I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am the lawful owner of all firearms that I seek to have returned. I expressly authorize the Department of Justice to perform firearms eligibility checks of all relevant state and federal databases, including the Federal Bureau of Investigation's National Instant Criminal Background Check System. I also understand that if I currently possess or own firearms and the results of this check reveal that I am ineligible either to lawfully possess or purchase firearms, I must relinquish any and all firearms in my possession.</i></p>							
Signature _____				Date _____			
DOJ USE ONLY							
<input type="checkbox"/> AFS REFLECTS APPLICANT AS OWNER. <input type="checkbox"/> UNABLE TO VERIFY OWNERSHIP OF FIREARMS VIA AFS. COURT OR LEA MUST CONFIRM.							
Date Received:		Date Paid:		Date Processed:		Processed By: NTN#:	



CALIFORNIA DEPARTMENT OF JUSTICE BUREAU OF FIREARMS Law Enforcement Gun Release Application



Proper Use of the Law Enforcement Gun Release Application

This form is **only** to be used by the **owner** of the firearm who is seeking to redeem his/her firearm in the custody or control of a law enforcement agency or court. **The applicant must already have a record on file in the California Department of Justice (the Department) Automated Firearms System (AFS) reflecting that he or she is the lawful owner or possessor of the firearm.** It is the responsibility of the court or law enforcement agency with custody or control of the firearm to verify that the applicant is the lawful owner or possessor of the firearm.

Application Submission Requirements

Individuals seeking the return of a firearm that is in the custody or control of a law enforcement agency or court must submit a complete application **with the appropriate fees** to the Department. A firearms eligibility check will be conducted to determine whether the person is eligible to possess firearms under state and federal law. A notice of results will be sent to the applicant via U.S. Mail. Incomplete applications will be returned without processing. If reporting more than three firearms, make extra copies of this form to meet your reporting needs. **Once issued, a determination notice is only valid for 30 days.** Be advised that any unclaimed firearm may be disposed of by a law enforcement agency or court 180 days after the owner has been notified that the firearm is available for return.

Fee Submission Requirements

The processing fee for a Law Enforcement Gun Release is \$20.00 for the first firearm, and \$3.00 for each additional firearm. If the law enforcement agency or court determines the firearm was reported stolen pursuant to Penal Code section 33855, subdivision (d), the fees for the stolen firearm(s) will be waived. **Applicants must provide documentation from the law enforcement agency or court with this application to qualify for the waiver of fees.** The Department will process your application within 30 days from the date of receipt unless delayed by circumstances beyond the control of the Department.

Submit completed application and fees to:

**Department of Justice
Bureau of Firearms - LEGR
P.O. Box 820200
Sacramento, CA 94203-0200**

Part A. Owner Information

Enter the information as requested. If you are using a military number for identification, you must submit a copy of your permanent duty station orders indicating you are stationed in California.

Part B. Firearm Information

For each firearm, you must provide the identification information requested. Please refer to your firearm owner's manual, the firearms manufacturer's website, or the examples below to assist you in providing the required information:

- Firearm Type: Handgun, Rifle, or Shotgun
- Category: Bolt Action, Lever Action, Pump Action, Revolver, Semi-Automatic, or Single Shot
- Serial Number: Usually located on the frame of a handgun, or the receiver of a long gun. May be all numeric or a combination of alpha and numeric characters. (e.g., 98765, US54321G)
- Make: The manufacturer of the firearm. (e.g., Remington, Winchester, Glock, Smith & Wesson)
- Model: The model name of the firearm. (e.g., 870 Express, Model 70, 17C, 29-10)
- Caliber: The caliber of the firearm. (e.g., 12 gauge, .308 Winchester, 9 mm, .44 Magnum)
- Firearm Origin: The country of origin of the firearm. (e.g., United States, Russia, China, Italy)
- Barrel Length: Enter the barrel length as stated either in your owner's manual, manufacturer's website, or measure the barrel length by closing the action of the firearm and inserting a wooden dowel down the barrel until it stops. Mark the dowel with a pen at the muzzle. Remove the dowel and measure the distance between the inserted end of the dowel and the pen mark.

Part C. Agency Information

Enter the name and address of the law enforcement agency or court in possession of the firearm(s).

Part D. Declaration

You must sign and date the declaration on this application. For questions, refer to the Bureau of Firearms website: www.oag.ca.gov/firearms/



CALIFORNIA DEPARTMENT OF JUSTICE BUREAU OF FIREARMS Law Enforcement Gun Release Application



Privacy Notice

As Required by Civil Code § 1798.17

Collection and Use of Personal Information. The Bureau of Firearms in the Department of Justice collects the information requested on this form as authorized by Penal Code Section 33850. The Bureau of Firearms uses this information to process an application for the release of a firearm. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The Department of Justice's general privacy policy is available at <http://oag.ca.gov/privacy-policy>.

Providing Personal Information. All the personal information requested in the form must be provided. This form will not be processed for failure to provide all personal information requested.

Access to Your Information. You may review the records maintained by the Bureau of Firearms in the Department of Justice that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information. In order to process an application for the release of a firearm, we may need to share the information you give us with any peace officer or other person designated by the Attorney General upon request.

The information you provide may also be disclosed in the following circumstances:

- In response to a Public Records Act request, as allowed by the Information Practices Act;
- To another government agency as required by state or federal law;
- In response to a court or administrative order, a subpoena, or a search warrant.

Contact Information. For questions about this notice or access to your records, you may contact the Department of Justice, Bureau of Firearms at P.O. Box 820200, Sacramento, CA 94203-0200 or (916) 227-7527.

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

Name Of Plaintiff

VERSUS

Name And Address Of Defendant

MOTION FOR RETURN OF WEAPONS
SURRENDERED UNDER
DOMESTIC VIOLENCE PROTECTIVE ORDER
AND NOTICE OF HEARING

G.S. 50B-3.1(f), (g)

MOTION BY DEFENDANT FOR RETURN

As required by the Court in the domestic violence protective order in this case, I surrendered the following property to the Sheriff of _____ County: *(check all that apply)*

- ☐ firearms.
- ☐ ammunition.
- ☐ permit to purchase firearms.
- ☐ permit to carry a concealed weapon.

The domestic violence protective order that required the surrender of the property listed above expired on the date listed below and has not been renewed. There ☐ is ☐ is not a pending motion to renew. As indicated by the affidavit on Pages 2 and 3, I am not precluded by any state or federal law from owning or possessing a firearm and I have no pending criminal charges in state or federal court alleged to have been committed against the person who is protected by the domestic violence protective order. I request the court to order the sheriff to return the items I surrendered.

Date Protective Order Expired

Date

Signature Of Defendant

MOTION BY THIRD-PARTY OWNER FOR RETURN

Pursuant to the domestic violence protective order entered in this case, the defendant surrendered to the Sheriff of _____ County the firearms, ammunition, and gun permits on the date listed below. I, and not the defendant, am the owner of the surrendered property described below. I request the Court to return this property to me. I am not precluded by any state or federal law from owning or possessing a firearm as indicated by the affidavit on Pages 2 and 3. This motion is filed not later than 30 days after the surrender of the items.

(Describe firearms, ammunition, gun permits that belong to person filing motion)

Name And Address Of Third-Party Owner (Type Or Print)

Date Weapons Surrendered

Date

Signature Of Third-Party Owner

(See Reverse)

AFFIDAVIT

WARNING: This affidavit must be filled out completely and truthfully. False statements may result in criminal prosecution.

Name (Last, First, Middle)			Maiden Name, Nickname, Alias		
Current Residence	Street	Apartment No.	Previous Residence	Street	Apartment No.
	City, State, Zip Code			City, State, Zip Code	
Other States Of Residence					
Are You A U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No			If No, List Country Of Citizenship		
Home Telephone			Work Telephone		
Social Security Number			Drivers License/ID No.		State
Employer			Occupation		
Employer Address (Street, City, State, Zip Code)					
Race	Sex	Date Of Birth		Place Of Birth	
Height	Weight		Hair Color		Eye Color
Distinguishing Scars, Piercings, Tattoos, Etc. (describe):					

1. Do you have any criminal charges in state or federal court, including traffic offenses, pending against you? ☐ Yes ☐ No
What type of charge and where is it pending? _____
Name alleged victim and relationship to you _____
2. Have you ever been convicted of a misdemeanor crime of violence (including domestic violence) in either a state or federal court? ☐ Yes ☐ No
What was the crime? _____
When and where were you convicted? _____
Who was the victim of the crime? _____
3. Have you ever been convicted of a felony in either a state or federal court? ☐ Yes ☐ No
What was the crime? _____
When and where were you convicted? _____
4. Have you ever been convicted of driving while impaired in either a state or federal court? ☐ Yes ☐ No
When and where were you convicted? _____
5. Are there any outstanding warrants for your arrest? ☐ Yes ☐ No
Where and for what reason? _____
6. Are you under indictment for a crime at this time? ☐ Yes ☐ No
Where and for what reason? _____
7. Are you currently subject to a domestic violence protective order or any other order that restrains you from harassing, stalking, threatening or engaging in any conduct that would place anyone in reasonable fear of bodily injury? ☐ Yes ☐ No
What court issued the order? _____

IMPORTANT: You must attach a copy of the protective/restraining order to this affidavit.

8. Were you ever a member of the military? ☐ Yes ☐ No
If yes, what kind of discharge did you receive? _____
9. Are you currently using or are you addicted to any controlled substance, including marijuana, cocaine, methamphetamine or heroin? ☐ Yes ☐ No

Name Of Defendant	File No.
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10. Have you ever been a patient in any mental institution or hospital? When and where? _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
11. Have you ever been adjudicated incompetent by a court? When and where? _____	<input type="checkbox"/> Yes <input type="checkbox"/> No

VERIFICATION

I, the undersigned being duly sworn, verify that the information submitted above is true, correct and complete to the best of my knowledge and belief.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		Date
Date	Signature Of Person Authorized To Administer Oaths	Signature Of Applicant Name Of Applicant Type Or Print)
Name Of Person Authorized To Administer Oaths		
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court		
<input type="checkbox"/> Notary	Date My Commission Expires	
SEAL		County Where Notarized

NOTICE OF HEARING

Pursuant to a motion made by ☐ the defendant ☐ a third-party a hearing will be held before a district court judge at the date, time and location indicated below to determine whether

☐ to return the weapons surrendered to the defendant.

☐ the third-party claiming the weapons surrendered is the owner of the items listed in the motion and is entitled to have the items returned to him/her.

The plaintiff has a right to appear and be heard at this hearing.

Date Of Hearing	Time Of Hearing <input type="checkbox"/> AM <input type="checkbox"/> PM	Location Of Hearing
Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

NOTE TO CLERK: You must give a copy of this notice of hearing to the defendant or third-party when the motion is filed and you must mail a copy by first class mail to the plaintiff and give a copy to the sheriff. If the motion is filed by a third person, you must also mail notice of the hearing to the defendant.

CERTIFICATION

I certify that on the date of mailing shown below a copy of this Motion And Notice Of Hearing was served on the plaintiff at the address listed below by depositing a copy in a postpaid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

☐ On the same date a copy was served on the defendant at the address listed on this motion by the same method.

Address Of Plaintiff (Type Or Print)	Date Of Mailing	Date Of Certification
	Signature Of Clerk	
	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court	

(See reverse for Federal firearm restrictions)

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18 U.S.C. § 922 provides:

(g) It shall be unlawful for any person --

- (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- (2) who is a fugitive from justice;
- (3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
- (5) who, being an alien --
 - (A) is illegally or unlawfully in the United States; or
 - (B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26))) *[means those aliens not admitted for permanent residence; does not prohibit aliens who possess "green card" from possessing guns or ammunition];*
- (6) who has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) who is subject to a court order that--
 - (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
 - (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or
 - (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
 - (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
- (9) who has been convicted in any court of a misdemeanor crime of domestic violence

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. § 922 (k), (o) and (v) and **26 U.S.C. § 5861** make it unlawful to possess a machine gun, fully automatic firearm, semiautomatic assault weapon, sawed off shotgun, or firearm with altered or obliterated serial number except under certain specified circumstances.