

**PROBATION DEPARTMENT
ADULT MANUAL**

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Revised:	

**Notes and
References**

**PROHIBITION OF FIREARMS, AMMUNITION AND
AMMUNITION FEEDING DEVICES**

I. General

Pursuant to Penal Code Section 29810, any person who is convicted of any offense listed in Penal Code Sections 29800 or 29805 is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines (effective January 1, 2018). The Court shall, upon conviction of a defendant for an enumerated offense in the above listed codes, order the defendant in said case to relinquish all firearms, ammunition, and ammunition feeding devices.

Penal Code
Section 29810

II. Firearm Investigation

A. The Court shall provide the defendant with a Prohibited Persons Relinquishment Form (PPRF), Bureau of Firearms Form (BOF 1022), and order him or her to report to the Probation Department immediately for initiation of a firearms investigation. This applies to anyone who falls within the following categories and has a qualifying conviction:

Penal Code
Section
29800/29805

1. Convicted felons.
2. Persons convicted of an offense enumerated in Penal Code Section 23515 (a), (b) or (d).
3. Anyone convicted of specific misdemeanors as outlined in Penal Code Section 29805, except as provided in Penal Code Sections 29855 or 29800(a).
4. Any person who has two or more convictions for violation of Penal Code Section 417(a) (2).

B. The defendant shall initiate and complete his or her portion of the process within 5 calendar days of conviction if out of custody and within 14 calendar days of conviction if in custody.

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- C. If the Court sentences a defendant with the firearms investigation still pending, the firearms investigation will be completed and submitted ex-parte within 14 days of sentencing.

III. Investigation Process

- A. An informational flyer detailing the law will be provided to each defendant at the start of the court process. This flyer advises defendants of their responsibilities.
- B. If a defendant with a qualifying offense is convicted of said charges the Court will continue the case for sentencing and will provide the defendant a PPRF form. The defendant will be directed to report to the Probation Department by the end of the next business day if out of custody to initiate the restricted item(s) investigation. If the defendant is in custody the form is provided by the Court and he or she is advised of their need to comply with this law.
- C. Notification of a qualifying conviction will come to Probation via the Court's Odyssey system.
 - 1. When Probation is notified of a defendant with a qualifying offense data entry will occur by an AOP to open the Firearms Investigation matter in IMPACT (This includes both probation and non-probation cases)
 - 2. An AOP will open all cases in IMPACT as an open investigation utilizing the "Firearms" case qualifier. An AOP will then request CLETS is no CLETS is present, or an existing CLETS is over 90 days old. If an existing CLETS is less than 90 days old, an updated check via the Automated Firearms System (AFS) is sufficient. They will also request the police report associated with the qualifying conviction from DAMION.
- D. When a defendant reports to the Probation they must be seen by the appropriate officer for the firearms investigation process. If the defendant has an open Probation case and has been convicted of a new misdemeanor case which will be supervised or a case in which a "prail" sentence was

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- imposed, the assigned supervision officer is the lead contact and will complete the FAI. If the defendant is not open to Probation then the matter is referred to the Court Services unit for the firearms investigation.
- E. The defendant will be provided an AIS for completion.
 - F. If a defendant or designee presents themselves at the reception desk with a restricted item(s) in hand (i.e. a weapon etc) the Adult Supervision unit OD will be advised immediately and the OD will contact the person to secure the restricted item. Once the item is secure the appropriate police department or Sheriff's office will be contacted to take custody of the restricted item(s).
 - G. Depending on the case type, the appropriate probation officer will review the PPRF, information from the Automated Firearms System (AFS) via the CLETS, and solicit verbal validation to ascertain if the person has firearm(s) registered to him or her or has a record of purchasing ammunition, or ammunition feeding devices.
 - H. If the defendant does not own or possess a firearm, ammunition or ammunition feeding device, the probation officer will complete and return a Firearms Investigation Memo (Pro-106), along with the PPRF and the Prohibited Persons Relinquishment Findings form (CR-210) to the Court. This is true for both out of custody cases and in custody matters.
 - I. If the defendant has any of the prohibited items registered in his or her name, or under custody and control, the Probation officer will advise the defendant that all items shall be surrendered, sold, transferred, destroyed, or returned to a Federal Firearms Licensed (FFL) dealer. The relinquishment of the prohibited items must occur 5 calendar days from conviction if the defendant is out of custody and within 14 calendar days if the defendant is in-custody at the time of the conviction.
 - J. The defendant must disclose possession of any restricted item(s) on the PPRF.
 - K. If the defendant owns a restricted item(s) he or she must name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any restricted item(s). The designee shall be either a law

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- enforcement agency or a consenting third party, who is not prohibited from possessing firearms under state or federal law. The defendant must provide a reasonable amount of information as to the location of any restricted item(s) that will assist in finding and retrieving said restricted item(s). The designee must sell, transfer or store the firearms pursuant to Penal Code Section 29830 and obtain receipts or documentation for proof of relinquishment.
- L. The defendant or designee must provide proof that any disclosed restricted item(s) have been disposed of pursuant to Penal Code Section 29810, and sign under penalty of perjury by completing the Designee Firearm Relinquishment form (BOF 1024).
1. The probation officer shall attach the Firearm Disposition Receipt form (BOF 1025), and/or receipts, if applicable, pursuant to Penal Code Section 29810. The information should be complete with type of firearm and/or restricted item, serial number and other distinguishing information.
 2. Once any restricted item(s) have been transferred, stored sold or destroyed, the probation officer will complete a Probation Officer Verification Form (BOF 1026) and send said form to the **Armed and Prohibited Persons section** at:

Bureau of Firearms
PO BOX 820200
Sacramento, CA 94203-0200
- M. The probation officer shall complete and return a Firearms Investigation Memo (Pro-106), along with the PPRF and the Prohibited Persons Relinquishment Findings form (CR-210) to the Court.
- N. If a firearm is registered to the defendant, the assigned officer must submit a second CLETS request for a check of AFS within 60 days to ensure the system has been updated regarding the relinquishment of the reported restricted item(s).

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1. Files will not remain in the Investigations Unit pending the second check of AFS. The assigned supervision officer will be responsible for submitting another PRO 106 to the Court once it has been determined through AFS the firearm(s) is/are no longer registered in the defendant's name.

IV. Assignment of referral

- A. The Adult Court Services Unit shall complete all firearm investigations in which a Presentence report has been ordered and will file the report to coincide with sentencing.
- B. The Adult Court Services Unit shall provide an advisement and document the advisement in the body of the report. If a conviction subsequently occurs then the process outlined above goes into effect and all timelines/requirements apply based on the specifics pertinent to that case.
- C. All Post, Summary probation and/or Jail Imprisonment cases are to be completed by the Court Services Unit, specifically the Firearms investigation officer. The firearms officer will also complete any incoming misdemeanor cases, until it can be ascertained whether or not they will be Summary or formal Court probation matters.
 1. If the matter is determined to be a misdemeanor formal probation case, the firearms investigation is to be completed by the misdemeanor intake officer.
- D. If a defendant is open to Probation with an active supervision case, the Firearms Investigation will be completed by the assigned supervision officer.
- E. Firearms investigations for Specialty Cases or Treatment Court Supervision Cases, where a pre-plea or pre-sentence report was not or is not to be completed, shall be assigned directly to the supervision officer. These caseloads include Sex Offender, Domestic Violence, Prop 36, DDX, MHTC, VTC, SATC.