

“Young Guns” No Longer

Planning for Mature Firearms Owners in California



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Disclaimer

This presentation is for *informational purposes* only. We are not providing legal advice to anyone here in particular. You should consult an attorney about your situation before doing anything related to planning and firearms. We are estate planning attorneys who help clients address possible issues concerning firearms, but we do not specialize in firearms law. The information in this presentation may be changed without notice due to new laws, changes in existing laws, or corrections made by the presenters.



One Day at the Office, Attorneys share:

- Client's neighbor was robbed, and Client got a gun for self-defense, but Client is weak from illness.
- Client spouse had a stroke. Firearms are in the home, and other spouse does not know how to handle them. Caregivers are now in the home.
- Client's partner passed away – firearms in the home, some in safes, some not. Client and adult children do not know how to handle them.
- Client inherited a handgun from a parent who lives in another state, and Client wants to know how to bring the firearm into CA.
- Client inherited a firearm that was legal in CA at the time it was acquired by the parent, but it is no longer legal. Client doesn't know what to do.
- Client is thinking about surrendering all of deceased's firearms to the police. Client doesn't know if the firearms are worth anything or how to transport them.



This Program Will Cover the Following:

- Why Attorneys Should Discuss Firearms Planning with Clients
- Transfers of Firearms
 - During Life (Owner Has Capacity)
 - During Incapacity
 - After Death
- Special Considerations & Logistics
- Resources

Why Attorneys Should Discuss Firearms Planning

- Some Clients own firearms (or Clients live with someone who owns firearms or Clients will inherit firearms).
- As Clients age, physical and mental capabilities will change.
- Firearms are a special asset and need to be addressed in a way like none other.

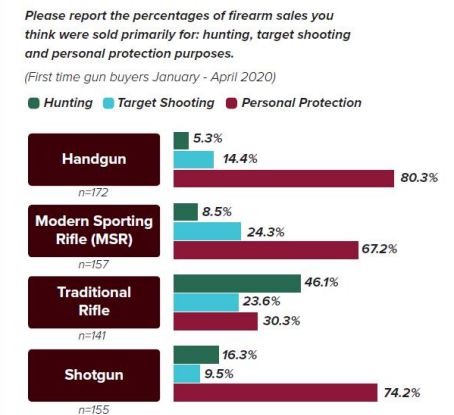
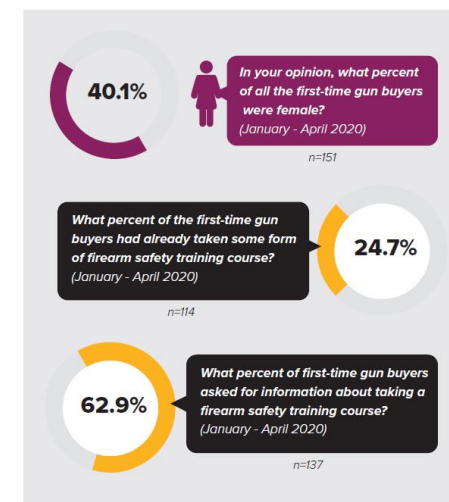
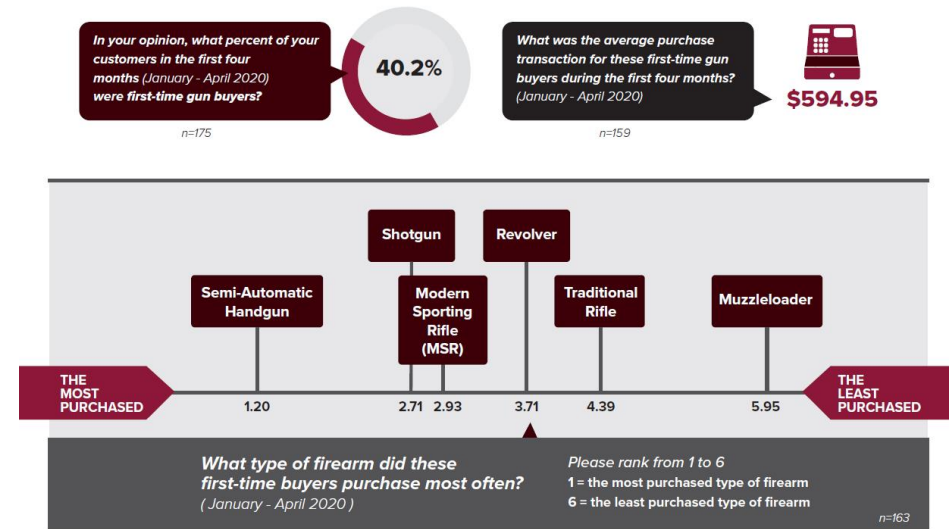
Why Attorneys Should Discuss Firearms Planning Clients own firearms

Recent firearm industry data:

- Particularly high number of new gun owners in 2020 & 2021 (your clients are some of these)
- NSSF Survey for 2020
 - <https://www.nssf.org/wp-content/uploads/2020/06/FirstTimeResearch.pdf>
 - Infographic: National Shooting Sports Foundation, Inc.

NSSF® | FIREARM RETAILER SURVEY FIRST-TIME GUN BUYERS

DURING COVID-19 Online Survey Fielded May 2020 to NSSF Retailer Members



Why Attorneys Should Discuss Firearms Planning Clients own firearms

Recent firearm industry data:

- NSSF Survey for 2021
 - <https://www.nssf.org/wp-content/uploads/2022/01/FirearmRetailerSurveySales2022.pdf>
 - Infographic: National Shooting Sports Foundation, Inc.

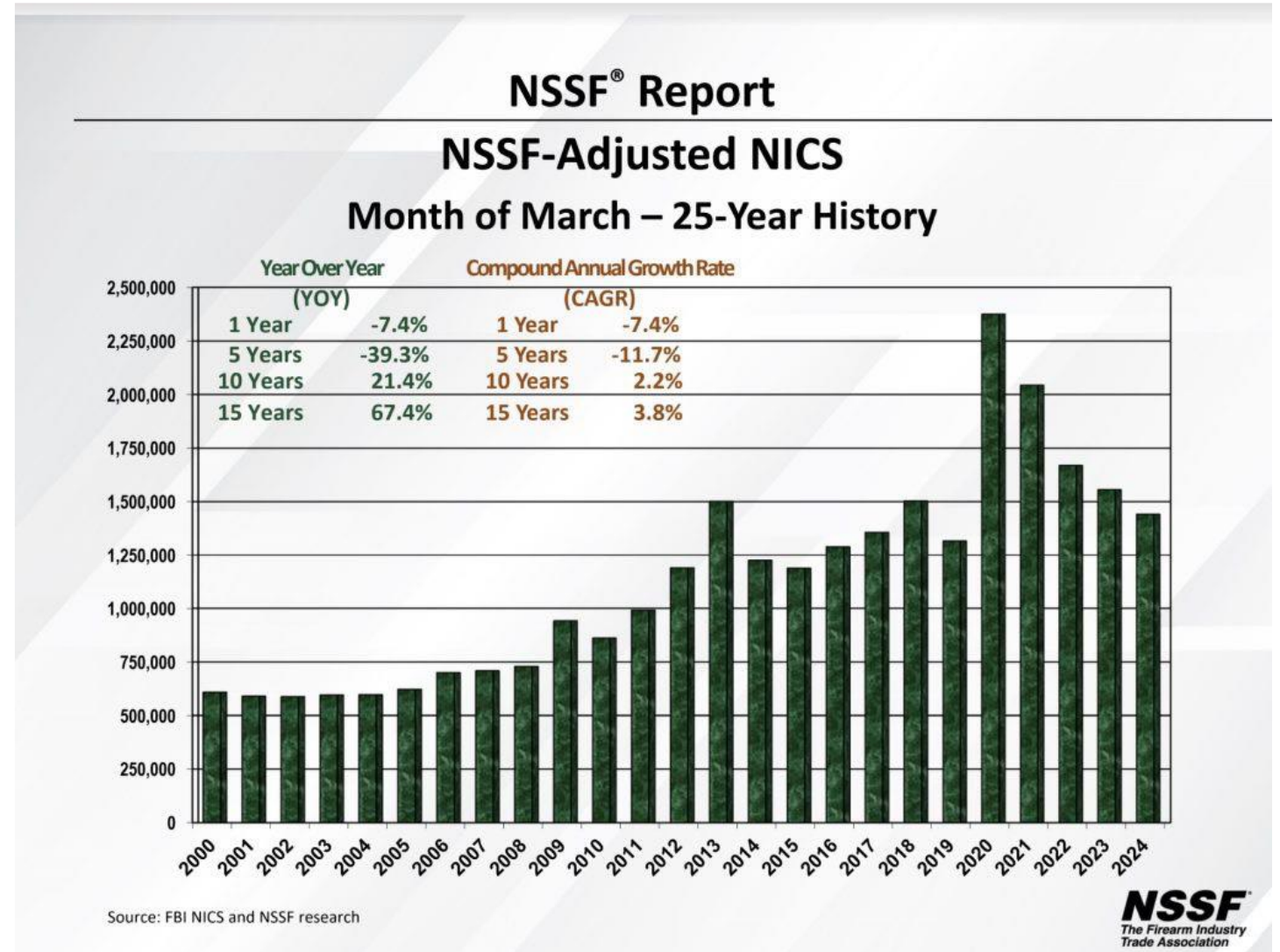


Why Attorneys Should Discuss Firearms Planning

Clients own firearms

Recent firearm industry data – background checks:

- Infographic: National Shooting Sports Foundation, Inc.





Why Attorneys Should Discuss Firearms Planning

Attorneys are in a unique position to raise the topic:

- Attorneys hear private information about Clients and their families.
- Attorneys may connect with Clients regularly and may see physical and mental changes.
- Attorneys provide guidance about assets – firearms are a special asset.
- Attorneys provide insight that can help Clients:
 - minimize safety risks,
 - follow the law,
 - name appropriate representatives, and
 - name appropriate beneficiaries.

Why Attorneys Should Discuss Firearms Planning Conversation Approaches

- If Attorney knows that a Client has firearms:
 - “I recently heard about advance planning for firearms. Have you heard about that? If not, there is planning that can be done to help gun owners and their families follow the law and handle the firearms properly in case the owner becomes incapacitated or passes away.”
- If Attorney does not know whether a Client has firearms:
 - “We’ve discussed your assets, and I want to share that I heard some interesting information about another type of asset – firearms. If someone has firearms, there is planning that can be done to help gun owners and their families stay safe and follow the law in case the owner becomes incapacitated or passes away.”
- Share Introductory Information about Advance Planning for Firearms Owners and Family Members. *See Resources.*

Transfers of Firearms

- When
 - During Life (Owner has Capacity)
 - During Incapacity
 - After Death
- How
 - Gift
 - Sale
 - Beneficiary/Devisee
 - Relinquishment to Law Enforcement



Transfers of Firearms

Two Must-Know Terms

- **Federal Firearms Licensee (FFL):**

- An individual who is licensed to engage in the business of manufacturing, importing and/or dealing in firearms. Person must be licensed by the ATF (Bureau of Alcohol, Tobacco, Firearms and Explosives) to engage in the business of firearms.
- Must be approved by CA DOJ to conduct business in California.

- **Firearm Safety Certificate (FSC):**

- In California, the FSC law was enacted for the purpose of ensuring that persons who obtain firearms have a basic familiarity with firearms, including but not limited to, the safe handling and storage of them. (FSC Study Guide)
- FSC is obtained by scoring at least 75% on a written test administered by a DOJ certified instructor, and the FSC is valid for five years.

See Resources.



PENAL CODE

Transfers of Firearms CA Law

- Who is the Transferee - **Prohibited Persons**
 - What Firearm is Being Transferred - **Illegal Firearms**
 - **Transfers - General Rule** - licensed dealer required for transfers of firearms
 - Penal Code § 27545: Where neither party to the transaction holds a dealer's license, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through a **licensed firearms dealer** (known as a **Federal Firearms Licensee** – often referred to as an **FFL**); **Exceptions** to general rule requiring an FFL - limited situations
- (See *Resources* – California Firearms Laws Summary.)

Transfers of Firearms

Two Initial Legal Issues to Keep in Mind

Before getting into planning or administration, consider the following:



- **PROHIBITED PERSON:** whether any beneficiary, potential beneficiary, proposed executor, proposed trustee, or proposed agent (POA) is a “prohibited person”
 - “Firearms Prohibiting Categories” (see CA DOJ list Rev. 01/2024)
 - E.g., felon, medical marijuana user (under federal law)
- **ILLEGAL FIREARMS:** whether any of the owner's firearms are possibly illegal in California
 - E.g., AR-15 lawfully purchased and possessed, but now non-compliant and/or not registered due to changes in the law
 - E.g., an off-roster handgun that a person bought off a friend in another state and brought into CA (CA OAG “Handguns Certified for Sale”)



Transfers of Firearms

Exceptions to the general rule to use FFL:

- Penal Code § 16990 (in pertinent part):
 - (a) The **executor, personal representative, or administrator of an estate**, if the estate includes a firearm.

 - (h) A firearm passing to a **surviving spouse** pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.

 - (k) The **trustee** of a trust that includes a firearm and that was **part of a will that created the trust**.
 - (l) A firearm passed to a **decedent's successor** pursuant to Part 1 (commencing with Section 13000) of Division 8 of the Probate Code (small estates).

Transfers of Firearms

Exceptions to the general rule to use FFL (cont.):

- Penal Code § 16990 (*continued*):
 - (m) A person acting pursuant to the person's **Power of Attorney** in accordance with Division 4.5 (commencing with Section 4000) of the Probate Code.
 - (n) A limited or general conservator appointed by a court pursuant to the Probate Code or Welfare and Institutions Code.
 - (o) A guardian ad litem appointed by a court pursuant to Section 372 of the Code of Civil Procedure.

Transfers of Firearms

Exceptions to the general rule to use FFL (cont.):

- Penal Code § 16990 (*continued*):
 - (p) The **trustee** of a trust that includes a firearm that is **under court supervision**.
 - (q) The **trustee** of a trust that is not referenced in subdivisions (k) or (p).
 - (r) A **special administrator** appointed by a court pursuant to Section 8540 of the Probate Code.
 - (s) A guardian appointed by a court pursuant to Section 1500 of the Probate Code.

Transfers of Firearms - Requirements

	Retail Sales	Private Party Transfers	Intra-familial Transfers	Pawn Returns
Proof of Residency Requirement (handguns)	Yes	Yes	No	Yes
Proof of Residency Requirement (long-guns) *	No	No	No	No
Firearm Safety Certificate Requirement	Yes	Yes	Yes	No
Safe Handling Demonstration Requirement	Yes	Yes	No	No
Firearms Safety Device Requirement	Yes	Yes	No	No
Roster of Handguns Certified for sale in California	Yes	No	No	No
One Handgun per 30 Days Requirement	Yes	No	No	No

**Federal requirements may apply.*

FSC Study Guide June 2020 edition, page 37

Transfers During Life

- **Gift**

- To *Immediate Family* (see limitations) – exceptions to law provide that transfer can occur without FFL (Federal Firearms Licensee). (*Can choose to use FFL.*)
- To non-Immediate Family or Others – law requires use of FFL.

- **Sale by Owner**

- Private party sale – law requires use of FFL.

- **Relinquishment to Law Enforcement by Owner**

- Research in advance about where and how to do so. (See Resources.)

Transfers During Life Gift

- Gifting to *Immediate Family* (see limitations)
 - In California
 - Outside of California
- Gifting to those who do not qualify as *Immediate Family*
 - In California
 - Outside of California



Transfers During Life

Gift to/from *Immediate Family** within California

- **Intra-CA transfers** (Pen. C. §27875(a)) – **No FFL required for transfer of a firearm by gift from one individual to another**, if all of the following requirements are met:
 - (1) The transfer is **infrequent**, as defined in Section 16730 (fewer than 6 transactions and no more than a total of 50 firearms per calendar year).
 - (2) The transfer is between members of the same immediate family. (***Limited to parent/child and grandparent/grandchild**. Pen. C. 16720.)
 - (3) Within 30 days of taking possession of the firearm, the transferee submits to the CA DOJ a **Report of Operation of Law or Intra-Familial Firearm Transaction**. (See Resources.)
 - (4) Transferee must have a valid **firearm safety certificate** before transfer. (See Resources.)
 - (5) The person receiving the firearm is **18 years of age or older**.

Transfers During Life

Gift from *Immediate Family** outside of California to California Resident

- **If person to person** – complete *Report of Operation of Law or Intra-Familial Firearm Transaction Form* and abide by transportation rules - storage in vehicle or airplane. (See Resources.)
- **If using a common carrier (such as FedEx or UPS)** – law requires use of FFL for transfer of a firearm by gift from one individual to another.

(*Limited to parent/child and grandparent/grandchild. Pen. C. §16720.)

Transfers During Life Gift

Special note regarding *Immediate Family** transfers from outside CA

- When gifting a firearm, the parent or grandparent must provide a **letter** to the child or grandchild stating that the firearm is a gift (include make, model and serial number) and a copy of parent/grandparent's **identification**.
 - The letter and identification from parent/grandparent are not in the instructions on the form, but one FFL said CA DOJ wants the letter and identification with the form
- Be aware that CA has a list of approved firearms ("handgun roster") Pen. C. section 32015
 - However, firearms not on the approved list ("off-roster") may be able to be transferred to a child or grandchild. Pen. C. section 32110(b)

(*Limited to parent/child and grandparent/grandchild. Pen. C. section 16720.)



Transfers During Life

Gift to *non-Immediate Family**

- **Intra-California transfers** – law requires use of FFL.
- **Outside of California transfers** – law requires use of FFL.

**Immediate Family* is limited to parent/child and grandparent/grandchild. Pen. C. section 16720.

Transfers During Life Sale

Law requires use of FFL:

- When selling firearms to *Immediate Family* members
- When selling firearms to *non-immediate family* members
- When selling firearms to third parties



Transfers During Incapacity

Planning Ahead - Naming a Special Agent/Special Trustee

- Firearm owner may, in advance, name an individual to transfer and/or possess firearms that belong to an owner who has become incapacitated.
 - Power of Attorney – person is named as Agent of property (including firearms) or named as a Special Agent for Firearms and Related Accessories
 - Trust – person is named as Trustee or named as a Special Trustee of Firearms and Related Accessories
- Scope of Authorization:
 - When does authorization become effective?
 - Is Agent/Trustee limited to transfer/storage/possession? Is use authorized?
 - Is Agent/Trustee authorized to make a gift or sale?
 - Is Agent/Trustee authorized to relinquish firearms to law enforcement?



Transfers During Incapacity

Planning Ahead - Considerations about Representatives Named in Estate Planning Documents (POA and Trust)

- Keep in mind:
 - (Firearms) Agent/Trustee role has added complexities such as potential criminal liability, safety, and appreciation for the asset in terms of value and meaning to the firearm owner.
 - Who may be a **prohibited person**? Who is an appropriate person?
 - Comfort handling firearms - consider choosing someone who already has a Firearms Safety Certificate.
 - Note - Penal Code section 31700(b)(7)-(13) provides agents such as POA and certain trustees are exempt from the Firearms Safety Certificate requirement. **Caution** – this exemption does not appear to include trustees of “regular” revocable living trusts. Exemption addresses other trustees, such as testamentary trusts and trusts under court supervision. Therefore, assume that trustees of a non-testamentary trust need a Firearms Safety Certificate.

Transfers During Incapacity

Planning Ahead - Sample Agent Language

- Naming Agent in Power of Attorney:
 - I appoint _____ to serve as my Firearms Agent. If _____ is unable to serve, then I appoint _____ as my alternate Firearms Agent.
- Considerations for (Firearms) Agent:
 - When is appointment effective (incapacity determination and regaining capacity).
 - Authorization is given only if federal, state, and local law is followed.
 - Specifying authorizations: removal from owner's possession, storage, use, transfer (gift or sale) to someone named in estate planning documents, completion of forms, return of firearms.
 - Acceptance of appointment.



Transfers During Incapacity

CA POA Form

General Notice of Firearm Prohibition and Power of Attorney for Firearms Relinquishment, Sale, or Transfer for Storage

<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/poafirearmsdecl.pdf>

Note – very limited use, 30-day max.



CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF FIREARMS
General Notice of Firearm Prohibition and
Power of Attorney for Firearms
Relinquishment, Sale, or Transfer for Storage



I, _____, hereby designate _____
Printed Name of Firearm Owner/Possessor *Printed Name of Power of Attorney Designee*
to have Power of Attorney for the purpose of transferring or disposing of my firearm(s). This Power of Attorney designation is only effective for 30 days from the date of this designation. This designation shall become null and void after 30 days. As the firearm owner, I hereby declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that to the best of my knowledge, the above designee is not prohibited from possessing firearms pursuant to Penal Code sections 29800-29875 or 29900-29905, or Welfare and Institutions Code sections 8100 or 8103.

Signature of Firearm Owner/Possessor *Date*

I, _____, hereby agree to accept appointment as Power of Attorney for the
Printed Name of Power of Attorney Designee
sole purpose of transferring or disposing firearms on behalf of _____, the owner
Printed Name of Firearm Owner/Possessor
or possessor of the firearm(s). I understand that it is my legal responsibility to carry out one of the actions listed on the second page of this form. I declare, under penalty of perjury under the laws of the State of California, after reviewing the included list of prohibitions, that I am not prohibited by law from possessing firearms.

Signature of Power of Attorney Designee *Date*

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT
Must be notarized by a person who is not a party to this transaction

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____
On _____ before me, _____, personally
appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Questions concerning a prohibited persons legal status or questions pertaining to the use of this form may be directed to the Department of Justice, Bureau of Firearms at (916) 210-2300.

Transfers During Incapacity

Planning Ahead - Sample Trustee Language (for incapacity and after death)

- Special (Firearms) Trustee:
 - I appoint _____ to serve as my Special Trustee for Firearms. If _____ is unable to serve, then I appoint _____ as my alternate Special Trustee for Firearms.
- Considerations for (Firearms) Trustee:
 - Effectiveness (incapacity determination and regaining capacity).
 - Authorization is given only if federal, state, and local law is followed.
 - Specifying authorizations: removal from owner's possession, storage, use, transfer (including gift or sale) to someone named in estate planning documents, completion of forms.
 - Acceptance of appointment.



Transfers During Incapacity

Representative acting pursuant to POA or Trust

- Agent is permitted to receive firearms without going through a Federal Firearms Licensee (FFL).

Penal Code §16990: As used in any provision listed in subdivision (a) of Section 16585, the phrase “a person taking title or possession of a firearm by operation of law” includes, but is not limited to, any of the following instances in which an individual receives title to, or possession of, a firearm:

(m) A person acting pursuant to the person’s Power of Attorney in accordance with Division 4.5 (commencing with Section 4000) of the Probate Code.

(q) The **trustee of a trust** that is not referenced in subdivisions (k) or (p).

((q) is often considered to include a revocable living trust.)

Transfers After Death

- Beneficiary/Devisee named in Estate Planning Documents
- Sale by Trustee or Executor
- Relinquishment to Law Enforcement by Trustee or Executor (See *Resources* slide for information.)

Trustee/Executor can consider completing Notice of No Longer in Possession form. (See Resources.)



Transfers After Death

Planning Ahead – Naming Recipients of Firearms in a Trust or Will

- Specific Distribution Language

Specific Distribution to ____ (name of spouse, hunting buddy, shooting buddy)

As soon as practicable after my death, all my firearms, ammunition, and related accessories to ____ (name of spouse, hunting buddy, shooting buddy).

If ____ (spouse, hunting buddy, shooting buddy) is deceased or if it is a violation of any local, state or federal law for my Trustee/Executor to deliver this property to ____ (spouse, hunting buddy, shooting buddy), my Trustee/Executor shall distribute this property among my then-living adult children as my Trustee/Executor, in my Trustee's/Executor's sole and absolute discretion, deems reasonable and appropriate and in a manner in compliance with local, state and federal law.

Property passing under this Section passes free of any administrative expenses or death taxes.

- Personal Property Memorandum with names of recipient accompanying Trust or Will.
- Included in Trust by General Assignment or use of Schedules.

Transfer After Death

Planning Ahead – Special Firearms Trust

Consider use of special purpose trust that is dedicated to firearms and related accessories:

- Provides way to address firearms separately from other assets including separate designation of trustees who may be better suited to handle firearms.
- Provides opportunity to highlight legacy planning such as including specific instructions pertaining to beneficiaries and remainder beneficiaries (for example, education and training to accompany transfer).

Additional language for consideration in any trust:

- Firearms are to be transferred in accordance all applicable laws.
- Trustee is authorized to seek assistance and guidance from others such as a Federal Firearms License holder, appraisers, and experienced counsel.
- Opportunity to provide direction regarding sale of firearms and related accessories.

Transfers After Death

Executors & Trustees

- Firearms **in** CA: Executors and Trustees can receive firearms under the exception to FFL transfer (Pen. C. 16990(a) or 16990(q)); FSC not required for Executors (Pen. C. 31700(b)(1)) but FSC required for Trustees of (revocable living) trusts; must submit to CA DOJ a Report of Operation of Law or Intra-Familial Firearm Transaction within 30 days. (Pen. C 27920(a)(1)) .
- Firearms coming from **outside** CA (Pen. C 16990(a) & 27920(b)): The Executor/Trustee may receive the firearm without going through an FFL if:
 - The executor is at least 18 years old;
 - If acquisition of the firearm had occurred within this state, the receipt of the firearm by the executor would be exempt from the provisions of Section 27545 (FFL requirement) pursuant to paragraph (1) of subdivision (a) [of §27920], if this is an in-person transfer.
 - Within 30 days of taking possession of the firearm and importing, bringing, or transporting it into CA, submit a Report of Operation of Law or Intra-Familial Firearm Transaction (see Resources slide) that includes the executor's information, how title was obtained and from whom, and a description of the firearm;
 - If the Executor (exempt from FSC) is the heir/beneficiary who will receive the firearm, then must have a valid FSC prior to transfer to himself/herself. Trustee must have FSC.

Transfers After Death

Transfers pursuant to "Operation of Law"

- Transferee must submit a “**Report of Operation of Law or Intra-Familial Firearm Transaction**” form to the CA DOJ within 30 days if receiving a firearm as: executor, surviving spouse; decedent’s successor, successor trustee. (Penal Code § 27920(a)(1) and § 27920(a)(2)(A))
<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/oplaw.pdf>
- Transferee must have a **Firearm Safety Certificate**. (Penal Code § 27920(a)(2)(B))
- No FFL required, but you can still use an FFL if that makes sense in a particular situation.

Transfers After Death

*Immediate Family** Transfers within CA

- **Transfers within CA** (Pen. C. section 27875(a)) – No FFL for transfer by bequest, intestate succession or "other means" if **all** of the following requirements are met:
 - (1) The transfer is infrequent.
 - (2) The transfer is between members of the same *Immediate Family*.*
 - (3) Within 30 days of that person taking possession of the firearm, the transferee submits to the CA DOJ a "Report of Operation of Law or Intra-Familial Firearm Transaction" form.
 - (4) Must have a valid FSC.
 - (5) The person receiving the firearm is 18 years of age or older.

****Immediate Family*** is limited to parent/child and grandparent/grandchild. Pen. C. section 16720.

Transfers After Death

*Immediate Family** Transfers from Outside of CA

- **Transfers from outside CA** (Pen. C. section 27875(b)) – No FFL for person who imports, brings, or transports a firearm into this state if **all** of the following requirements are met:
 - (1) The person acquires ownership of the firearm from an immediate family member by bequest or intestate succession.
 - (2) The person has obtained a valid firearm safety certificate.
 - (3) The receipt of any firearm by the individual by bequest or intestate succession is infrequent, as defined in Section 16730.
 - (4) The person acquiring ownership of the firearm by bequest or intestate succession is 18 years of age or older.
 - (5) Within 30 days of that person taking possession of the firearm and importing, bringing, or transporting it into this state, the transferee submits to the CA DOJ a “Report of Operation of Law or Intra-Familial Firearm Transaction” form.

***Immediate Family** is limited to parent/child and grandparent/grandchild. Pen. C. section 16720.

Transfers After Death

Transfers to All Others (**not *Immediate Family****)

- Must use FFL.
- Recipient must have FSC.



**Immediate Family* is limited to parent/child and grandparent/grandchild. Pen. C. section 16720.

LAST WILL AND TESTAMENT

I, _____
County of _____
mind, not acting under
and extent of all my pr
and declare this docu
and all other wills and

I. EXPENSES

I direct that all my
soon after my dea
Personal Repres
absolute discret

I further direct
estate and int
included in th
Said taxes s
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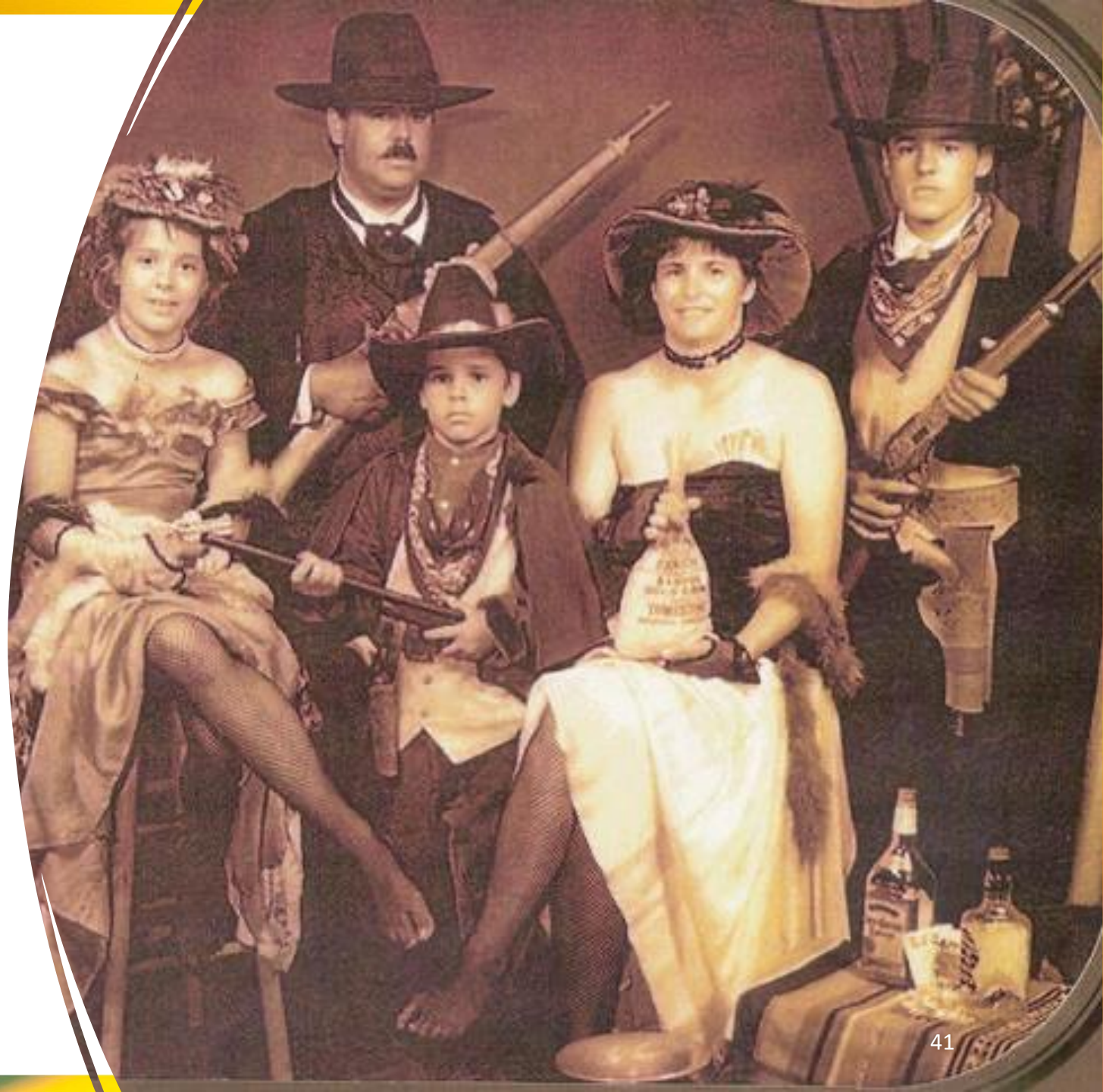
Transfers After Death Potential Issues

- Firearms coming from outside CA via a will after parent died:
 - An FFL said CA DOJ has accepted a Report of Operation of Law or Intra-Familial Firearm Transaction form based on inheritance only with a copy of the will and a death certificate
 - What about a will that is contested?
 - What about a fraudulent or forged will?

Special Considerations and Logistics

Federal, State and Local Laws

- Firearms are a Special Asset governed by hundreds of federal, state and local laws that regulate:
 - who can own firearms
 - who can possess firearms
 - who can have access to firearms
 - transfer of firearms
 - who can be a representative for a firearm owner
 - who can be a beneficiary (recipient) of a firearm
 - what is a legal firearm
 - what is legal storage



Special Considerations and Logistics

Timeline of Firearm Ownership



Obtain firearm by Purchase, Gift, or Inheritance

- Appropriate Paperwork/Process Complete
- Storage
- Maintenance/Use

Incapacity

- Storage/Access

Death of Firearms Owner

- Storage/Access
- Transfer of Deceased's Firearms
 - Who is Making Arrangements?
 - Beneficiaries and Transportation?

Aging

- Physical Changes
 - Stability/Balance/Agility
 - Hand Strength
 - Reaction Speed
 - Medication
- Logistical Changes
 - Home Safety Concerns
 - Grandchildren Visiting
 - Housekeepers in Residence
 - Caregivers in Residence
 - Downsizing of Residence

Special Considerations and Logistics

Common Concerns & Approaches

- Safety concerns including physical safety when seniors are at home as well as out of the house
 - Attend firearm safety and training courses and senior self-defense courses
 - Consider non-lethal alternatives ready at home, in car and on person
- Physical and mental changes of owner and family members
 - Maintain or implement appropriate storage that considers who lives in, works in, or visits the home (see Resources for safety kits)
 - Plan in advance for a time to gift or sell firearms
- During incapacity, firearms will be tended to appropriately
 - Do advance planning with a Power of Attorney and/or Trustee naming appropriate individuals to handle firearms
- Beneficiary appreciates that firearms are a Special Asset
 - Do advance planning with a Trust or Will naming appropriate individuals to be firearms recipients



Special Considerations and Logistics

Tread Carefully

Examples:

- A professional fiduciary is named as trustee in a revocable living trust. Under Penal Code section 16990(q), the trustee is exempt from the requirement to use FFL (Federal Firearms Licensee). However, under Penal Code sections 31615 and 31700, the trustee may not pick up the firearms unless has FSC (Firearm Safety Certificate).
- If a recipient is a medical marijuana card holder in California, the recipient can take possession of the firearm under California law, but that same recipient cannot legally take possession of the firearm under federal law because the recipient is a prohibited person due to the marijuana use. (ATF Form 4473)
- The FSC Guidebook reads in the Introduction (PC 31610), "It is not the intent of the Legislature to require an FSC for the *mere possession* of a firearm." However, it notes in the Preface, "...any person who *acquires* a firearm must have a Firearm Safety Certificate." (PC 26840)

Special Considerations and Logistics

Storage of Firearms

Consider:

- Are there applicable local laws?
- Is the firearm owner in decline?
- Are there children or grandchildren in the home?
- Are caregivers or other assistants in the home?
- Is a room being rented out in the home?
- Are firearms and ammunition stored separately?
- Resources on new safe technology should be explored. Digital safes/options available.
- See Resources Slide for link to storage information.



Special Considerations and Logistics

Additional tools or alternatives

- Pepper spray
- Personal alarms
- Non-lethal defense kits



Special Considerations and Logistics

Inventorying Firearm Assets

Documenting firearms and related accessories during life/incapacity/after death:

- Inventory list to include make, model, serial number and caliber, notes regarding features such as history or other comments, and a link to a photo.
- Tools when taking inventory - fold out table, markers, paper, tags with string so it can be attached to firearms, camera. Be methodical. Place one firearm on table, write number on card and include in photo. This is the number that will be on inventory list to reference to the photo, which will be attached.
- Keep electronic and hardcopy stored in a safe place.
- Owner/agent may consider putting hanging tags on each firearm, particularly if spouse, agent or trustee are not familiar with them.

Special Considerations and Logistics

Sample Inventory of Firearm Assets



Firearm Inventory Template 1/1/22

Assembled by Howard Eastwood

Edit date: 5/13/22

Make-Model-Type

Caliber or Gauge Serial number Manufacture Date Accessories

Notes

Photo

Smith Bolt Action-Rifle

Smith Model 2 Bolt-Action Rifle

Smith Praire Over and Under Shotgun

Smith Pump-Action Shotgun

Smith Service Revolver Pistol

Brown Semi-Automatic Pistol

Brown Revolver Pistol

Smith Semi-Automatic Pistol

Resources

- CA Firearm Laws Summary 2021 <https://oag.ca.gov/system/files/media/cfl2021.pdf>
- FAQs – CA General <https://oag.ca.gov/firearms/pubfaqs#5>
- CA Firearm Safety Certificate <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/hscsg.pdf>
- CA Report of Operation of Law or Intra-Familial Firearm Transaction Form <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/oplaw.pdf>
- CA General Notice of Firearm Prohibition and Power of Attorney for Firearms Relinquishment, Sale, or Transfer for Storage Form <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/poafirearmsdecl.pdf>
- CA Form Notice of No Longer in Possession <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/bof-4546-nlip-09-2016.pdf>
- Firearms Prohibiting Categories: <https://oag.ca.gov/sites/default/files/4-Firearms-Prohibited-Categories-FINAL-Rev-012024.pdf>
- CA Handguns Certified for Sale (Handgun Roster): <https://www.oag.ca.gov/firearms/certified-handguns/search>
- California based – FFL: <https://oag.ca.gov/firearms/dealer-vendor>
- Sample firearm relinquishment information (Santa Clara): <https://countysheriff.sccgov.org/services/how-voluntarily-relinquish-firearms-sheriffs-office>

Resources

- Types of Federal Firearms Licensees (FFL) <https://www.atf.gov/resource-center/types-federal-firearms-licenses-fflsCA>
Firearm Laws Summary 2021 <https://oag.ca.gov/system/files/media/cfl2021.pdf>
- Transportation Security Administration (TSA) Information <https://www.tsa.gov/travel/transporting-firearms-and-ammunition>
- Free safety kit (Ventura County Sheriffs Department): <https://projectchildsafe.org/get-a-safety-kit/>
- Ventura County District Office video on storing firearms: <https://www.youtube.com/watch?v=CUF3u5Xdybs>
- LAMC §55.21 (Firearm Storage): https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-289450
- Education materials including video on how to store firearms: <https://projectchildsafe.org/educational-materials/>

Resources

Report of Operation of Law or Intra-Familial Firearm Transaction Form

<https://oag.ca.gov/sites/all/files/agweb/pdf/s/firearms/forms/oplaw.pdf>



STATE OF CALIFORNIA
BOF 4544A (Rev. 01/2020)

CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF FIREARMS
Report of Operation of Law or
Intra-Familial Firearm Transaction



California Penal Code sections 27875 or 27920, respectively.
A total processing fee of \$19.00 must accompany this report.
(Instructions on Page 2)

All fields marked with an asterisk (*) are mandatory

A. Owner Information									
*First Name:	Middle Name:	*Last Name:	Suffix:						
Alias First Name (if any):	Alias Middle Name:	Alias Last Name:	Suffix:						
*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):	*Gender:	Height:	Weight:	*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), or Military ID (MIL) 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.		*ID Type (check one): CDL <input type="checkbox"/> CID <input type="checkbox"/> MIL <input type="checkbox"/>		*ID Number:	*Firearm Safety Certificate (FSC) No.:				

B. Firearm(s) Information (To report additional firearm(s) copy and attach additional applications)									
*Firearm Type: <input type="radio"/> Handgun <input type="radio"/> Rifle <input type="radio"/> Shotgun <input type="radio"/> Rifle/Shotgun Combo		*Category (select from list on page 3)			*Serial Number:				
*Make:	*Model:	*Caliber:	*Firearm Origin:	*Barrel Length: <input type="radio"/> IN. <input type="radio"/> CM.					
*Firearm Self-Built? <input type="radio"/> Yes <input type="radio"/> No	*Did You Obtain A Serial Number From The DOJ? <input type="radio"/> Yes <input type="radio"/> No	*Frame/Receiver Only? <input type="radio"/> Yes <input type="radio"/> No	*Is Firearm In Law Enforcement Custody? <input type="radio"/> Yes <input type="radio"/> No						
*Color:	*Date Acquired (mm/dd/yyyy):	*Acquired From: <input type="radio"/> Spouse <input type="radio"/> Family Member (Specify Relationship): _____ <input type="radio"/> Estate Executor <input type="radio"/> Other _____							

*Firearm Type: <input type="radio"/> Handgun <input type="radio"/> Rifle <input type="radio"/> Shotgun <input type="radio"/> Rifle/Shotgun Combo		*Category (select from list on page 3)			*Serial Number:				
*Make:	*Model:	*Caliber:	*Firearm Origin:	*Barrel Length: <input type="radio"/> IN. <input type="radio"/> CM.					
*Firearm Self-Built? <input type="radio"/> Yes <input type="radio"/> No	*Did You Obtain A Serial Number From The DOJ? <input type="radio"/> Yes <input type="radio"/> No	*Frame/Receiver Only? <input type="radio"/> Yes <input type="radio"/> No	*Is Firearm In Law Enforcement Custody? <input type="radio"/> Yes <input type="radio"/> No						
*Color:	*Date Acquired (mm/dd/yyyy):	*Acquired From: <input type="radio"/> Spouse <input type="radio"/> Family Member (Specify Relationship): _____ <input type="radio"/> Estate Executor <input type="radio"/> Other _____							

C. Declaration	
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. 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.	
Signature _____	Date _____

Resources

Notice of No Longer in Possession

<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/bof-4546-nlip-09-2016.pdf>

STATE OF CALIFORNIA
BOF 4546 (Rev. 12/2019)

DEPARTMENT OF JUSTICE
PAGE 1 of 4

**CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF FIREARMS
Notice of No Longer in Possession**
(Pen. Code § 28000)

DOJ/BOF Case No.: _____

Check appropriate box: Handgun/Long Gun (complete sections A,B,D,E) Assault Weapon/.50 BMG Rifle (complete sections A,C,D,E)

A. Owner Information

Last Name	First Name	Middle Name	Date of Birth	
Residence Street Address	City	State	Zip Code	
Mailing Address (if different)	City	State	Zip Code	
CA DL, ID, or Military ID No.	Telephone Number ()	Is the owner deceased? <input type="checkbox"/> Yes <input type="checkbox"/> No	Date of Death	County of Death

B. Handgun/Long Gun Information

Date Purchased/Acquired	Serial Number	If Handgun: <input type="checkbox"/> Semi-auto <input type="checkbox"/> Revolver <input type="checkbox"/> Single Shot <input type="checkbox"/> Other	If Long Gun: <input type="checkbox"/> Rifle <input type="checkbox"/> Shotgun	
Make (as stamped on firearm)	Model (3032 Tomcat, KP95, 17C)	Caliber	Firearm Origin (US, Italy, China)	Barrel Length

C. Assault Weapon/.50 BMG Rifle Information - Voluntary cancellation of registration (Cal. Code Reg., tit. 11, § 5473)

AWR/.50 BMG Registration No.	Serial Number	Make (as stamped on firearm)	Model (e.g., AK47, AR15, TEC 9)	Caliber
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D. Disposition (see detailed instructions on reverse)

Seized by or surrendered to law enforcement agency - law enforcement agency name and signature required:
Law enforcement agency: _____ Report No.: _____
and/or agent or representative: _____ Signature: _____ Date: _____

Reported to law enforcement as: Lost Stolen Report No.: _____ Date: _____

Sold/transferred to a licensed firearms dealer: Dealer name: _____ Date: _____
Dealer address: _____

Sold/transferred to a family member or private party: Transferee name: _____ Transfer date: _____
Transferee address: _____ Transferee telephone: _____
 Firearms Ownership Record/Operation of Law/Intra familial transfer submitted Copy of completed form or DOJ acknowledgement letter attached

Verified destroyed: Destruction method: _____ Verification (i.e. insurance claim) attached. Destruction date: _____

No longer resident of California: New state/country of residence: _____ Date residency established: _____
 Copy of government issued identification attached from new state/country of residence

Transferred firearms to person/dealer in another state: Transferee name: _____ Transfer date: _____
Transferee address: _____ Transferee telephone: _____
 Documentation of sale/transfer attached Federal Firearms License No. (if applicable): _____

Returned to dealer/manufacture: Dealer/manufacture name: _____ Return date: _____
Dealer/manufacture address: _____ Documentation from manufacturer attached

E. Declaration

I declare under penalty of perjury under the laws of the State of California the forgoing is true and correct.

Signature: _____ Date: _____

Resources

FFL & FSC table

For informational purposes only – not legal advice. Subject to revision/change without notice.

	FFL	FSC (CA)
Gun Purchaser	Required	Required
Power of Attorney Agent	Exempt	Not Required
Executor	Exempt	Not Required
Trustee	Depends	Required, if trust under PC section 16990(q) Not required, if other type of trust that is exempt by statute
Beneficiary	Depends	Required
Spouse	Exempt	Required
Recipient (Gift)	Depends	Required

For Clients

Introductory Information about Advance Planning of Firearms for Owners and Family Members

- Firearms are a special asset that should be addressed carefully and separately than financial and other commonly-held assets.
- Has the Firearms Owner considered the following:
 - Who will handle firearms if Owner becomes incapacitated?
 - Who will handle firearms and who will receive firearms after Owner passes away?
 - How can Owner document in advance selected agents/trustees to handle firearms?
 - How can Owner document in advance selected beneficiaries of firearms?
 - Are firearms currently stored in a proper manner if Owner unexpectedly does not return home?
 - When is an appropriate time to gift or sell firearms as Owner ages?
 - Are there other options (size, fit, function) or alternative non-lethal options that Owner should consider acquiring in coming years?
- Have Family Members considered or been informed of the following:
 - What to do and what not do with firearms if Owner is incapacitated or passes away?

(Months later), Attorneys share how mentioning Firearms Planning to Clients helped:

- Client bought self-defense alternatives until his health improves, and he obtained a digital safe.
- Client named a Special Agent in a Power of Attorney to handle firearms, and firearms are not accessible to visitors to the residence.
- Client hired FFL to transport firearms and complete required paperwork. Client got FSC, is receiving training, plans to sell firearms later, and has addressed them in his estate planning documents.
- Client had the inherited firearm legally brought into California, has joined a shooting club, and is enjoying a new hobby.
- Client had ATF pick up the firearms.
- Client was able to sell some firearms and had others properly disposed.

Take Aways for Attorneys with Clients Who are No Longer “Young Guns”

- You may be the only one raising the topic of firearms with your Clients.
- You may be the only one to hear Firearms Owners’ and Family Members’ concerns about safety and aging.
- You may be the only one introducing the possibility and the benefits of Clients doing advance planning of firearms.
- You may be the reason that Clients or Family Members develop a plan.

