

Rescue Organization Essentials: California Laws, Resources, and More!

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*Responses to questions submitted during the webinar
Courtesy of Bruce Wagman and the SFSPCA Shelter PALS Program*

Are there a number of days required for a private shelter to hold animals prior to release to rescues?

A truly “**private**” shelter is one that has no government contracts. If a **private** shelter takes in strays from the public, it must keep those animals for the full holding periods specified in Food & Agric. Code Sections 31108 and 31752. But these animals must be held for owner redemption for the first three days of the holding period, and then can be transferred to rescues for live outcome.

Private nonprofit shelters that have government contracts for animal services, and impound **stray** animals under those contracts, are considered “Public” shelters. Public shelters must hold stray animals for 72 hours, subject to statutory exemptions.

With respect to **owner-surrendered** animals in **private and public** shelters, those animals are immediately available for adoption or release to rescue, but must be held for the full holding periods specified above per Food & Agric. Code Sections 31108 and 31752 before being euthanized. There are exceptions to this, allowing immediate euthanasia who are irremediably suffering or have history of aggression documented by a government agency.

The full holding periods referenced above (for **private** shelters only for strays, and for **private and public** shelters for owner-surrenders) include six **business days**, not counting the day of impoundment. The holding period is reduced to four **business days**, not counting the day of impoundment, if:

1. The shelter makes the animal available for owner redemption on one weekday evening until at least 7 p.m. or one weekend day; or
2. If the shelter has fewer than three full-time employees or is not open during all regular weekday business hours, and if it has established a procedure to enable owners to reclaim their dogs by appointment at a

mutually agreeable time when the public or private shelter would otherwise be closed.

When the law says "qualified" does that mean they are a 501c3 or is it that the animal control agency has identified them as "qualified"?

Our interpretation is that it is referring to the "qualification" for the right to pull animals from, and the only requirement for that qualification is 501(c)(3) status. However, shelters still have the discretion to determine if they will accept rescues as partners and grant them the right to pull animals from the shelters.

I thought food and ag says that cities and counties must have a mechanism for taking in stray dogs.

Food & Ag Code § 31105 only requires "the taking up and impounding of all dogs which are found running at large in violation of" state law. But there are no state law prohibitions addressing strays or animals generally running at large outside of agricultural areas. So, there is no real requirement. Additionally, Food & Ag Code § 30501 leaves these decisions to the individual counties and cities. While local governments must have some form of "animal shelter system and a rabies control program," the specifics of those programs are not defined by state law. Health and Safety code § 121690.

My local public shelter has told us that if we shelter the animals at home, we have to keep them for 30 days. True?

This is false. There is no 30-day law in California that transfers ownership of pets. Stray animals must go through a legal stray hold process before ownership transfer can take place. Public shelters can work collaboratively with their community and local rescues by implementing a "Finder Foster Program" which reduces hold times to 72 hours provided certain conditions are met. For more information, please view the recording on this subject at calanimals.org/on.

What about farm animals found and taken in by shelters? Should these too enter finder-foster situations with the shelter?

If the shelters wish to allow these animals to go through their mandated hold period in the care of a third party, the same provisions apply. There may be additional rules applicable to livestock, both at the local and state level, that are outside the coverage of Shelter PALS.

What should we do if the finder of a stray attempts to surrender the animal to our rescue organization?

If you can temporarily house it or bring it to the shelter, you can coordinate the legal hold with the appropriate agency. You are obligated under Civil Code § 1816 to contact animal control once the animal is in your possession. Otherwise the finder should take the animal directly to the shelter.

If someone has been caring for stray, at what point are they considered the legal guardian?

Never. The stray animal must go through a legal stray-hold process to be eligible for an ownership transfer to take place.

When someone dies and a non-family member (such as a neighbor) wants our rescue to take the cat, are we legally able to do that?

No.

How long does an individual not associated with a shelter or rescue have to legally hold an animal before rehoming or keeping?

If they can temporarily house it or bring it to the shelter, they can coordinate the legal hold with the appropriate agency. They are obligated under Civil Code § 1816 to contact animal control once the animal is in their possession. Otherwise the finder should take the animal directly to the shelter.

If someone surrenders a cat to our rescue, do we have to notify animal control?

If the cat was found, then yes. If the cat is being surrendered by its legal owner and the owner signs ownership over to the rescue (just like an adoption or other transfer of ownership), then no holding period is needed.

If a 501c3 demands release, doesn't the shelter have to give the animal to the rescue? Even if the rescue is not "registered" with the shelter?

No. Per the recent opinion by the California Court of Appeals, public shelters have the initial discretion to determine which 501c3 organizations they choose to partner with for the transfer of animals. If a registered partner demands release of an animal who is scheduled to be euthanized and who is not subject to any other legal exceptions, then a ***public*** (but not private) shelter must release the animal.

Assume a shelter takes an owner-surrender where the owner/surrenderer claims the dog bit people but there is no proof of it. The dog then is adopted by a rescue from the shelter and signs agreement that says rescue is aware of the "bite history" and thus takes legal responsibility for the future liability. How does a rescue deal with this when there is no proof of the bite? What if the surrender was lying and there was no bite? Also, should a shelter require proof of that previous bite; and if there is none, then should dog have a bite history legally attached to him/her or not?

It is the rare case that there will be direct evidence or proof of a bite. But the shelter and rescue organization are both responsible for disclosing what was reported including the report of a bite and circumstances around the bite, regardless of their ability to verify what happened.

What if someone is surrendering their dog because it bit and files a bite report (documentation), then the shelter impounds the animal. Then is the shelter allowed to just euthanize the dog without holding period and without seeking rescue?

Yes. If a dog bites and breaks skin, a bite report must be filed and appropriate rabies control quarantine must be followed under state law. The bite report could be interpreted as a "history of vicious or dangerous behavior documented by the agency charged with enforcing state and local animal laws," and thus the shelter is not mandated to hold nor release that animal to rescue.

Can animals be fostered out (not adopted) intact and then adoption finalized at the time of spay/neuter?

Yes. This is a common practice at this time and relieves space in the shelter while the animals await surgery.

Can a rescue enter into a cooperative agreement with new owner to spay neuter animal after transfer? Can shelters or rescues transfer animals to new owners without spaying/neutering them?

Please see slides 24 and 25 regarding spay/neuter requirements in counties depending upon population size. The short answer is, in counties with populations greater than 100,000 people, no. In counties with populations less than 100,000 people, yes, as long as you follow the procedures outlined in the state codes. See Food & Agriculture Code §§ 30520-30523 (dogs); 31760-31763 (cats).

All animals should be altered, however, it is not uncommon for pets to wait in “foster to adopt” situations until their surgery appointment, after which the adoption is finalized.

Are shelters allowed to make rescues prove that we disclosed the bite in writing?

In the cooperative agreements with rescues, shelters can include this requirement, for the safety of all involved.

Our shelter has rescues pulling for other rescues. Is this legal?

The specific facts of what you are doing would have to be examined in more detail in order to answer this question.

What if the shelter scanned the animal for a chip but it isn't found until after the holding period. Do we have to start the holding period over or is it satisfied?

This is an odd situation and would require a closer examination of the facts. In general shelters and rescues are required to make a good faith attempt to contact owners. While the holding period is a set time, the best bet in this rare situation would be to make a few attempts to contact the owner.

If shelters are violating laws, what is the remedy? If shelters are not following the law, how do people go about getting them held accountable?

We recommend you first speak with the management of the shelter in an attempt to resolve your concerns. If you are not satisfied with the outcome, you may go up the chain of command from there within that particular agency or municipality. There is generally a city/county CEO or board of supervisors responsible for overseeing the division of animal services. There is no state agency that currently oversees animal shelters and rescues in California. Litigation should be a last resort, but is a possibility.

How do we handle shelters that euthanize animals after partnered rescues have tagged those for rescue?

This may be a very case-specific situation, and should be dealt with on a case-by-case basis. But whether it is an isolated incident or a pattern and practice, we recommend you document the circumstances, and then first speak with the management of the shelter to in an attempt to resolve your concerns. The shelters do have a right to hold rescues accountable to certain time limits to transfer animals out, which is why the facts of each instance is important. If you are not satisfied with the outcome, you may go up the chain of command from there within that particular agency or municipality. There is generally a city/county CEO or board of supervisors responsible for overseeing the division of animal services. Litigation should be a last resort, but is a possibility.

How do we handle shelters who are telling members of the public that they must hold strays for lengthier time periods?

It is possible that these shelters may either be unaware of current information or have their own local ordinance or internal policy that mandates particular stray-hold periods. But there is nothing illegal with invoking longer holding periods as shelter policy. We always recommend talking with shelter management to resolve your concerns.

Do my foster families need to register the animal they are fostering for my rescue organization with their local animal control agency?

Not usually, subject to any local requirements. Generally, as long as you have established ownership of the animals, animals in foster care are the property of your rescue organization and do not need to be licensed by foster caregivers.

Does CalAnimals provide Insurance for a non-profit rescue? We are currently insured, and the insurance company is REQUIRING us to have Vehicle registrations on file for ALL volunteers. It has become a task to say the least. Volunteers do not want us having that information, feeling violated.

CalAnimals does not provide insurance services. Our best recommendation is to cultivate a positive relationship with your insurance company and/or talk with other carriers about their requirements.

If we remain as SECONDARY contact on our microchips, does that mean we are also seemingly still claiming ownership?

No. Microchipping does not actually establish legal ownership, but simply designates the correct contact for the animal. And state law simply requires that the rescue not be the primary contact.

We are not a shelter, but we are a cat rescue with foster volunteers off site - we do not have building or single location. Can we sign up for help with shelter PALS?

Yes

[Advocacy - San Francisco SPCA \(sfspca.org\)](http://sfspca.org)

How do we work with rescues who pull dogs with serious bites, then don't disclose this, then the animal continues to bite/maul and attack people. Do shelters still have to give those animals to those rescues? Meaning, can the shelter end their relationship with those rescues and rescind the rescues pull rights, even if they are a 501c3?

Shelters have discretion over the rescue organizations they choose to partner with. If a rescue partner is not following state laws or complying with the cooperative agreements (which usually include compliance with state law as a requirement), then the shelters can rescind that organization's cooperative agreement. Rescues can be separately liable for failing to comply with bite disclosure requirements, or be deemed negligent in civil lawsuits related to dog attacks.

We take in cats off the street. In regard to having someone sign a surrender contract so that we can gain ownership, what kind of responsibility do we have

to establish that the person who might sign the animal over to us would be considered the owner and has the legal right to surrender the animal?

You need to make a good faith effort at a diligent investigation to ascertain your belief that the surrenderer is the actual owner. Various indicia of ownership can be considered. But if you are taking cats off the street, they are probably not owned, and the individuals bringing them to you do not have the right to surrender the animal to you and you cannot obtain ownership that way.

Is there a similar legal requirement for bite disclosure agreements for cats being adopted or is it just dogs?

Food & Agriculture Code 30526 only applies to dog bites. However, if a cat has a history of attacking people, disclosure is recommended.

We have been registering microchips for our adopted dogs with ourselves as the primary and adopters as the secondary. Is this legal?

No. See Slide 26. A recent bill passed prohibiting shelters and rescues from remaining on the microchip as “primary owners”. The animal must be chipped at the time of adoption with the current owner’s information. Food & Agriculture Code §§ 31108.3 (dogs), 31752.1 (cats).