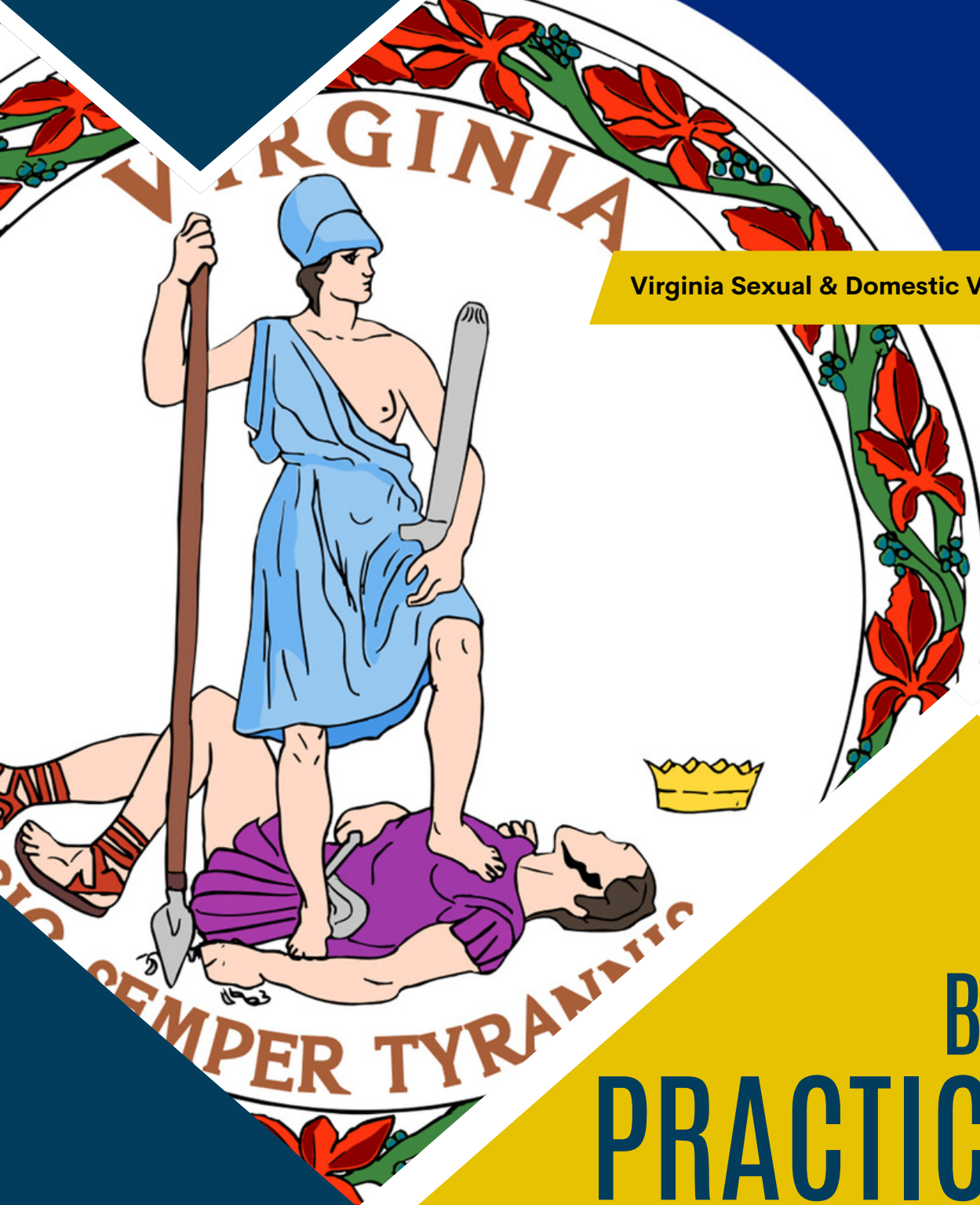




Virginia Sexual & Domestic Violence Action Alliance



BEST PRACTICES

FIREARMS RESTRICTIONS & PROTECTIVE ORDERS

A GUIDE FOR VICTIM ADVOCATES, COURTS,
LAW ENFORCEMENT AND COMMUNITY PARTNERS

AUTHORS

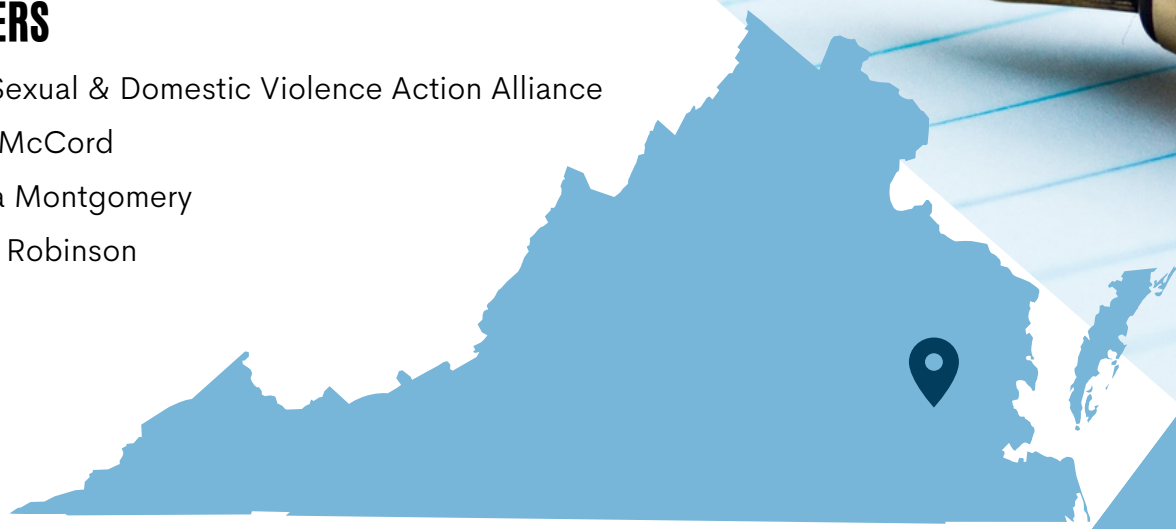
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ABOUT THE ACTION ALLIANCE

VIRGINIA'S LEADING VOICE ON SEXUAL & DOMESTIC VIOLENCE

As an **advocacy organization**, we provide the expertise needed to ensure an effective response.

We train professionals and ensure that Sexual & Domestic Violence Agencies across Virginia meet standards that affirm/safeguard quality responses to survivors.

Our public policy work builds relationships with key decision makers to strengthen state laws that help make victims safer and hold offenders accountable.



We share our fresh ideas and effective tools to address root causes of violence, recognizing that violence will always exist where oppression is present. Our prevention work promotes healthy communities and relationships so that violence doesn't happen in the first place.

As a **service provider**, we offer people resources for making informed choices.

We operate the statewide Virginia Statewide Hotline, LGBTQ Partner Abuse & Sexual Assault Helpline, and PREA Hotline (for incarcerated individuals who have experienced sexual violence) and develop resources for Virginia communities.



We operate the Project for Empowerment of Survivors (PES) to offer trauma-informed legal information, advice, and referrals to callers from Virginia who are experiencing sexual or intimate partner violence, dating violence, human trafficking and hate crimes.

We offer support and safety planning to people in crisis, friends and families, and professionals. Our advocates provide a lifeline to survivors so they can reclaim their lives.

As a **membership organization**, we build diverse alliances across the state.

We create an inclusive network of agencies, individuals, task forces and caucuses to speak in a unified and powerful voice.

We are survivors, advocates, attorneys, law enforcement, health professionals, educators, and community members. We are stronger because of our diversity, and we believe in one principle: *everyone deserves to live a life free of violence.*

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Chat: www.vadata.org/chat

LGBTQ Partner Abuse &
Sexual Assault Helpline
Voice: 1.866.356.6998
Text: 804.793.9999
Chat: www.vadata.org/chat

Resources
Training
Data Collection
Public Policy
Prevention

Virginia's leading voice
on sexual and
domestic violence
for over 30 years.



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BEST PRACTICES
FIREARMS RESTRICTIONS
& PROTECTIVE ORDERS

BACKGROUND

Firearms restrictions and protective order laws have been rapidly changing in Virginia

In recent years, the Virginia General Assembly has recognized the incredible risk that firearms pose to survivors of sexual and domestic violence by enacting laws that prohibit the purchase, transport, and possession of firearms by those who commit violence as well as those who exhibit significant risk factors for violence against themselves or others in the community. As Virginia's leading voice on sexual and domestic violence, the Action Alliance supports policies to remove firearms from these dangerous and potentially lethal situations while giving advocates, systems partners, and courts the additional tools needed in order to effectively enforce these measures and to ensure safety for survivors, their families, and the broader community.

Education, collaboration, and implementation are arguably more important than the laws themselves when it comes to successfully preventing intimate partner homicide in communities.

While changing the law is certainly an important tool in our toolbox, it is a strategy that can only be effective if advocates and communities know how to properly implement and enforce them. For example, in 2016, Virginia passed landmark bipartisan legislation making it a Class 6 felony for any person subject to a final 2-year protective order for family abuse (Va.Code Ann. §16.1-279.1) to possess a firearm while that order is in effect. However, a number of factors, including a lack of awareness of the new law, inability to properly implement, and in some communities, a lack of political willingness to adopt reforms regarding firearms restrictions all resulted in very few Virginia localities upholding and practicing that law, even years after its initial passage. So what was the lesson here? **Education, collaboration, and the availability of implementation resources are arguably more important than the laws themselves when it comes to successfully preventing intimate partner homicide in communities.**



INTRODUCTION

This toolkit is intended to provide you with a starting place — with the knowledge and resources necessary in order to successfully implement the law and cultivate safety for survivors and communities. Under the section titled “Recommendations and Best Practices for Professionals”, you will find distinct and separate tools to support Advocates, Respondents, Judges, Law Enforcement, and Coordinated Community Response Teams.

VIRGINIA DOMESTIC VIOLENCE & FIREARMS WORKGROUP

This toolkit is the result of ongoing efforts by the Virginia Sexual & Domestic Violence Action Alliance (Action Alliance), and a product of Virginia’s Domestic Violence & Firearms Workgroup which includes representatives from Virginia’s Office of the Attorney General, the Office of the Executive Secretary, the Department of Criminal Justice Services, Virginia Victim Assistance Network, Fairfax County Sexual & Domestic Violence Services, Loudoun Abused Women’s Shelter, Project Horizon, City of Richmond Police Department, the Carol Adams Foundation, City of Alexandria Sexual Assault Center & Domestic Violence Program, YWCA Richmond, the Johns Hopkins University Center for Gun Violence Solutions, and the Gifford’s Law Center. Several Virginia-based Juvenile and Domestic Relations Court Judges and content experts provided technical guidance as needed. The general purpose of this workgroup is to promote a better understanding of the intersections of domestic violence and firearms, to determine opportunities for education and the prevention of firearms-related intimate partner homicide, and to continue to build best practices in policy and program implementation at the local, state, and federal levels.



GUNS & DOMESTIC VIOLENCE: A LETHAL COMBINATION

In recent years, the Virginia General Assembly has recognized the risk that firearms pose to victims of domestic violence by enacting laws that prohibit the purchase, transport, or possession of firearms when a person is subject to a final 2-year protective order and/or when a person is convicted of misdemeanor domestic violence. As Virginia's leading voice on sexual and domestic violence, the Action Alliance supports policies that enact measures to remove firearms from dangerous and potentially lethal situations and provide courts and systems partners with additional tools to enforce these measures to protect victims, their families, and the broader community.



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GUNS & DOMESTIC VIOLENCE

What are the connections between guns and domestic violence?

Intimate partner homicide makes up nearly a third of all fatal homicide events in Virginia.

In 2018, the Virginia Office of the Chief Medical Examiner (OCME) reported that intimate partner homicide represented 32% of all homicides in Virginia. It is also reported that 83% of these homicides occurred in the home.

Most intimate partner homicides in Virginia are committed with the use of a firearm.

In 2018, OCME reported that most victims of intimate partner homicide were women (74.5%) and were killed using a firearm (65.5%), a trend that has remained consistent since the inception of Virginia's Family and Intimate Partner Homicide Surveillance Project in 1999.

Guns are frequently used in non-fatal domestic violence.

A study by the Harvard School of Public Health concluded that "hostile gun displays against family members are more common than gun use in self-defense, and that these are acts of domestic violence directed against victims." According to a 2018 medical study, "about 4.5 million women have had an intimate partner threaten them with a gun and nearly 1 million have been shot or shot at by an intimate partner."

Is it evidence-based for victims to carry or obtain firearms for self-defense?

No. Evidence does not support the theory that introducing a firearm into volatile situations — where a history of domestic violence exists — makes victims and their families safer.

On the contrary, the presence of a gun, regardless of who owns it, makes it five times more likely that homicide will occur — in fact, gun access is the strongest risk factor for victims of domestic violence to be killed by an intimate partner.



GUNS & DOMESTIC VIOLENCE

Handguns have not been correlated with increased victim safety.

A 2003 study found that women who were murdered were more likely, not less likely, to have purchased a handgun in the three years prior to their deaths, in direct contradiction to the idea that a handgun has a protective effect against homicide.

Expecting potential victims to arm themselves puts the onus of prevention in the wrong place.

The focus on arming victims is a dated and illegitimate self-defense strategy that focuses on changing the behavior of potential victims to reduce the risk of violence, rather than focusing on preventing perpetration and holding offenders accountable. It is also rooted in the myth that the greatest risk comes from strangers rather than intimate partners, family members, and other people known to the victim.

What happens when domestic violence victims use firearms to defend themselves?

Victims of domestic violence are routinely sentenced to long prison terms when they are forced to defend their lives and the lives of their children with the use of a firearm.

A study by the New York State Division of Criminal Justice Services found that 93% of the women convicted of killing an intimate partner had been abused by that partner.

Women of color often face harsher penalties for defending themselves against abusive partners and protecting their children. Case in point: Marissa Alexander was sentenced to 20 years in prison for firing a single shot near her abusive husband. She testified he had physically abused her and that on that day threatened to kill her. No one was injured, but a jury convicted her in 12 minutes.

People react to crisis differently. Victims of sexual and domestic violence, like all people, may experience a variety of reactions to life-threatening situations, ranging from mobilizing to immobilizing reactions. The implicit directive to “fight back” by using a firearm to defend oneself may not be an option available to all trauma survivors in a physiological sense. The complexity of the situation is compounded in cases where the threatening person is a friend and/or intimate partner, where children may be present, or where fear of the abuser immobilizes a victim.



GUNS & DOMESTIC VIOLENCE

Are there connections between mass shootings and domestic and sexual violence?

Yes. According to a recent analysis of F.B.I. data on mass shootings in the U.S. that occurred between 2009 and 2017, **offenders of domestic violence, sexual assault, and stalking accounted for 54% of all mass shooters.**

Furthermore, a 2021 study by the CDC found that over one-third (or 35%) of mass homicide events involved violence toward a current or former intimate partner.

The connections between domestic violence and mass shootings have prompted many states to require judges issuing final 2-year protective orders to obtain certification from a respondent, affirming their understanding that firearms possession for the duration of an order is a violation of state and federal law.

The assumption and message that guns save lives not only contradicts what we know about the dynamics of sexual and domestic violence, but it also contradicts the best available research evidence and public health strategies to prevent violence.

Guns and domestic violence are a lethal combination.



of intimate partner homicide victims are killed with firearms.



of intimate partner homicides occur in the home.

4.5m women have been threatened with a gun by an intimate partner.



The presence of a gun, **regardless of who owns it**, makes it five times more likely that a victim will be killed.

Domestic violence, sexual assault, and stalking offenders account for 54% of all **mass shootings.**



The Action Alliance supports policies to remove firearms from potentially lethal situations and give law enforcement officers, prosecutors, and courts tools to protect victims, their families, and the broader community.

References:
Violence Policy Center (VPC) study When Men Murder Women: An Analysis of 2014 Homicide Data (September 2016); (ii) Sorensen S, Schut R. Nonfatal gun use in intimate partner violence: A systematic review of the literature. Trauma, Violence, & Abuse. 2018 Oct;19(4):431-442.; (iii) Testimony before US Senate July 30, 2014 Jacquelyn Campbell, PhD, RN, FAAN, Anna D. Wolf Chair and Professor Johns Hopkins University School of Nursing; (iv) Violence Policy Center (VPC) study When Men Murder Women: An Analysis of 2014 Homicide Data (September 2016); (v) New York State Division of Criminal Justice Services, Homicide by Women, June 1996; (vi) Everytown Research study Mass Shootings in the U.S.: 2009-2017 (December 2018)



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(i) Violence Policy Center (VPC) study When Men Murder Women: An Analysis of 2014 Homicide Data (September 2016); (ii) Sorensen S, Schut R. Nonfatal gun use in intimate partner violence: A systematic review of the literature. Trauma, Violence, & Abuse. 2018 Oct;19(4):431-442.; (iii) Testimony before US Senate July 30, 2014 Jacquelyn Campbell, PhD, RN, FAAN, Anna D. Wolf Chair and Professor Johns Hopkins University School of Nursing; (iv) Violence Policy Center (VPC) study When Men Murder Women: An Analysis of 2014 Homicide Data (September 2016); (v) New York State Division of Criminal Justice Services, Homicide by Women, June 1996; (vi) Everytown Research study Mass Shootings in the U.S.: 2009-2017 (December 2018)

UNDERSTANDING VIRGINIA LAW AND FIREARMS RESTRICTIONS

Common Legal Terminology

This section is intended to serve as a reference point or baseline for those using this toolkit. It includes common legal terminology used in Virginia's courtrooms and by system partners as well as the firearms restrictions that are currently outlined in Virginia code. Because the law frequently changes, it may be helpful to reference relevant code sections (linked below) pertaining to prohibitions on firearms purchase, transport, and possession in Virginia.

Roles

Advocate — That's YOU!!! An advocate may work for a local domestic or sexual violence program. Some jurisdictions have hired their own advocates who are not associated with a local domestic or sexual violence program to assist victims with obtaining services. Some law enforcement agencies hire advocates to assist victims, too. There are Victim/Witness Advocates, often housed in the Commonwealth's Attorney's Office or the local law enforcement agency's office, who are available to assist victims as they navigate the criminal justice system. Some Victim/Witness Advocates only help victims who are involved in criminal cases. Others will assist them with obtaining services in civil matters, such as protective orders, too.

Bailiff — A law enforcement officer who is responsible for court safety. Often the bailiff will announce the entrance of the judge or take evidence from lawyers for the judge or a witness to examine.

Clerk — A court employee who helps the judge with paperwork and research. If the clerk is the judge's clerk, that person is usually a lawyer, often fresh from law school. If the clerk is at the Clerk's Office in the General District (GDC) or Juvenile and Domestic Relations (JDR) Court, that person is usually not a lawyer, but an administrative employee of the Court and manages paperwork either at the Clerk's Office or in the judge's courtroom. If the clerk is the head clerk of the Circuit Court, they are elected to that position.



COMMON LEGAL TERMS

Commonwealth's Attorney/Prosecutor — The lawyer responsible for prosecuting the crime against the defendant. Because the government is the party bringing the case in a criminal matter, the Commonwealth's Attorney represents the Commonwealth of Virginia, not the victim. The prosecutors who handle domestic or sexual violence matters are usually not the elected Commonwealth's Attorney for a particular jurisdiction, but an Assistant Commonwealth's Attorney (ACA).

Court Reporter — The court employee who types up a record of everything anybody says in the courtroom while the judge is present. JDR and GDC courts are not courts of record in Virginia. Accordingly, in 37 civil cases, court reporters are not present in those courts unless the parties have arranged for and paid for them in advance. Court reporters are always present in criminal cases.

Defendant (or Respondent) — This term is important, especially in the criminal context. It refers to the person who has been charged with a crime in a criminal case. In a civil case such as a divorce, it refers to the person who has been sued. In protective order matters, however, instead of "Plaintiff" and "Defendant," the terms are "Petitioner" and "Respondent," respectively.

Intake Officer — Intake Officers are only in the JDR Court Services Unit, which is operated by the Virginia Department of Juvenile Justice, not the Office of the Executive Secretary of the Supreme Court of Virginia, which manages the other court employees, including the judge and most of the clerks. An Intake Officer in the JDR court will help a victim who has a family or household member relationship to her abuser, or who is a minor, fill out the paperwork necessary to request a Preliminary Protective Order ("PPO") and/or a two-year Protective Order ("PO"). The General District Court ("GDC") does not have an intake officer. For that reason, GDC petitioners should consider using I-CAN! in order to complete the paperwork necessary to file for a Non-Family Abuse Protective Order in GDC Court.

Interpreter — If the victim, the alleged abuser, or any witnesses do not understand English or are deaf or hard of hearing, they should arrange to have an interpreter in the courtroom ahead of time.



COMMON LEGAL TERMS

Judge — The person in charge of the courtroom. The judge will make all the decisions about what the law means. In some trials, the judge, not a jury, will also decide if the defendant is guilty of a crime or liable for a civil wrong. In divorce, custody and child support matters, the judge will make all the final decisions – there are no juries in these types of cases. The judge should be treated with respect at all times and addressed as “Your Honor” or “Judge.”

Juror — In criminal or civil cases, somebody often needs to decide a question of fact. In a criminal trial, the question is usually whether the defendant committed the crime. In a full protective order hearing or a divorce matter, the person deciding these questions will be the judge. There are no juries in protective order, divorce, custody or other types of civil matters such as these. In a criminal case, the defendant may choose to have a jury decide the facts. In felony cases, 20 prospective jurors are called with a final jury of 12. In misdemeanor cases, 13 jurors are called with a final jury of 7.

Law Enforcement — A law enforcement officer is a police officer. A law enforcement officer may work for the local police department, the Sheriff’s Office and/or be assigned to address court security in the courthouse. A law enforcement officer is responsible for activities such as investigating crimes and serving court documents.

Magistrate — A magistrate is a kind of judge who makes decisions about a limited type of emergency action. They are usually lawyers. Magistrates can issue emergency protective orders and warrants and can set the terms for bond and bail.

Petitioner — The person who brings the protective order case (i.e., the survivor or victim).

Plaintiff — The person who brings a suit in a civil case (except in protective order cases where the person filing is the petitioner). When a survivor files for a divorce, he/she/they are the plaintiff.

Public Defender — The Public Defender is the free attorney assigned to a criminal defendant who cannot afford to hire a private attorney to defend them.

Respondent — The person who allegedly abused the survivor in a civil case like a protective order.



COMMON LEGAL TERMS

COURTS

Circuit Court — The Circuit Courts are where felony trials happen in Virginia, as well as misdemeanor appeals. If your case is in Circuit Court, you probably will want to have an attorney represent you. Circuit Courts are open courts, and they are courts of record, which means that there is a court reporter who types a transcript of everything said while the judge is present. The Circuit Court is also where divorce hearings are held. There are no juries for divorce hearings in Civil Court.

General District Court ("GDC") — GDC is the first level court in the Virginia system. It is an open court, which means that anybody can sit in the courtroom and watch the proceedings. The district courts hear Non-Family Abuse Protective Order hearings (unless one of the parties is a minor), traffic violations, and some misdemeanor crimes. It is not a court of record, which means that there is no court reporter and no transcript of what people say unless the parties have arranged beforehand to pay for a court reporter. There is no jury in a GDC civil matter.

Juvenile and Domestic Relations Court ("JDR") — JDR Courts are special courts that handle cases in which one of the parties is a minor (younger than 18 years old), or in which the subject of the case is a family matter (e.g., custody, visitation, or child support). These courts will hear all Family Abuse Protective Orders, as well as Non-Family Abuse Protective Orders in which one of the parties is a minor. They are usually closed courts, which means that only the people involved in the case can sit in the courtroom. (For instance, before starting a protective order hearing, the judge may ask the people in the courtroom who are not either the petitioner, the respondent or the attorneys to leave the courtroom. Even if a person is a witness for either the petitioner or the respondent, the judge may ask that witness to leave the courtroom; so, their testimony is not biased by what they hear of the proceedings.) It is not a court of record, which means that there is no court reporter and no transcript of what people say unless the parties have arranged beforehand to pay for a court reporter. There is no jury in a JDR civil matter.



COMMON LEGAL TERMS

CRIMES

Felony — Felonies are crimes for which the punishment is no less than one year in prison, and a fine up to \$100,000. Code § 18.2-10.

Misdemeanor — Misdemeanors are crimes for which the punishment is no more than one year in jail, and a fine of not more than \$2,500 (either or both) for Class 1 misdemeanors; no more than one year in jail and a fine of not more than \$1,000 (either or both) for Class 2 misdemeanors; a fine of no more than \$500 for Class 3 misdemeanor; and a fine of no more than \$250 for Class 4 misdemeanors. Code § 18.2-11.

OTHER TERMS

Affidavit — An affidavit is a signed declaration of facts from a person who takes an oath of truthfulness in the presence of an official who is authorized by law to administer that oath. For purposes of immigration visas, affidavits are the story of the victim in his own voice, written down and signed by the victim.

Bail — In a criminal case, the money or property that the court will often require that a defendant give the court to let him out of jail before the trial begins.

Bond — This is a promise, often secured by the use of bail money, that a defendant will return to court for all future appearances.

Burden of Proof (related to "Standard of Evidence" below) — In a civil case such as a protective order, the victim (the petitioner) has the burden of proving that the abuser (the respondent) committed an act of violence, force, or threat against the victim by a "preponderance of the evidence." In a criminal case such as a trial to determine if the abuser (defendant) committed the misdemeanor crime of domestic violence, the prosecutor (usually an Assistant Commonwealth's Attorney) has the burden of proving that the abuser committed the crime "beyond a reasonable doubt."



COMMON LEGAL TERMS

Deposition — Before lawyers try cases, they need to learn everything they can about what has happened in the case. To do this, they usually want to speak with the people involved. To make sure that what people tell them is true, they often do this in a deposition. In a deposition, the lawyer will ask the person, called the “deponent,” questions about their part in the case or their own personal history. The person is under oath while this happens, and what they say is recorded. The lawyers may use this testimony to prove things in their case in the future.

Standard of Evidence (related to “Burden of Proof” above) — In a civil case such as a protective order hearing, the standard of evidence is by a preponderance of the evidence (i.e., the judge will issue a protective order if the evidence indicates that it is more likely than not that the abuse happened or if the judge believes the victim’s version of the story 51% over the abuser’s version of the story). In a criminal case such as a trial to determine if the abuser committed the misdemeanor crime of domestic violence, the standard of evidence is beyond a reasonable doubt (i.e., the abuser/defendant will be convicted of the crime if the evidence indicates that there is no reasonable doubt that the defendant committed this crime). In other words, the standard of evidence for obtaining a protective order (civil) is much lower than the standard of evidence for obtaining a conviction (criminal), however, the burden of proof still rests with the victim in a civil case.

Subpoena — Lawyers may ask a court to require people to testify, by getting a document called a subpoena. A subpoena means the person has to testify, and the judge can order jail time or a fine if the person refuses.

Testimony — This word refers to anything a person says at a deposition, a hearing, or a trial if the person has sworn an oath of truthfulness.



RECENT CHANGES TO VIRGINIA LAW

Family Abuse & Acts of Violence Protective Orders

In 2016, the Virginia General Assembly passed landmark bipartisan legislation recognizing the lethal intersection of domestic violence and firearms access, making it a Class 6 felony for any person who is subject to a final 2-year protective order for family abuse (Va.Code Ann. §16.1-279.1) to possess a firearm while the order is in effect.

In 2020, Virginia State Law, was further updated to reflect the Federal Gun Control Act, prohibiting any person subject to final 2-year protective orders (Family Abuse, Va.Code Ann. §16.1-279.1 and Acts of Violence, Va.Code Ann. §19.2-152.10) from knowingly purchasing, possessing, or transporting firearms, including concealed handgun permits and ammunition while the order is in effect. A violation of this law is a class 6 felony in Virginia (Va.Code Ann. §18.2-308.1:4).

The 2020 law included clarifying language outlining a process for the surrender of firearms as well as a clear and consistent process for Virginia courts to certify that respondents have disposed of their firearms when a final 2-year Protective Order is issued.

Assault and Battery of a Family or Household Member

In 2021, the Virginia General Assembly passed legislation bringing Virginia law into closer alignment with federal law by prohibiting individuals who have been convicted of assaulting a family or household member from purchasing, possessing, or transporting a firearm for three years following their conviction date. A violation of this law is a class 1 misdemeanor in Virginia.

An important distinction for advocates to be aware of is that this law applies a slightly different definition of "family or household member" - excluding dating and non-married partners.

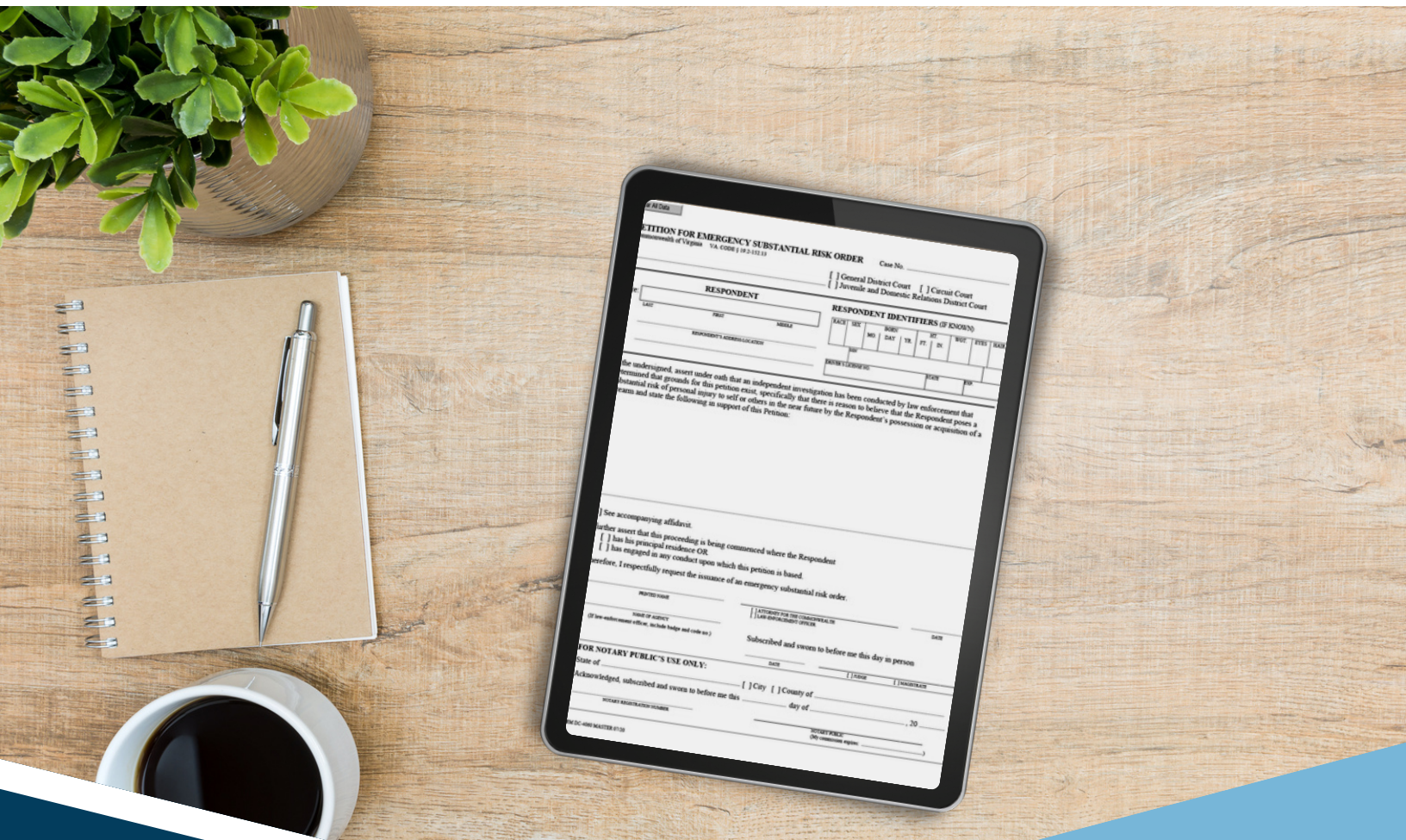
From Va. Code Ann. §18.2-308.1:8 Section B: For the purposes of this section, "family or household member" means (i) the person's spouse, whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or not he resides in the same home with the person; or (iii) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time."



RECENT CHANGES TO VIRGINIA LAW

Substantial Risk Order

In 2020, the Virginia General Assembly passed legislation to create new **Substantial Risk Orders** (Va. Code Ann. §19.2-152.13, Emergency Substantial Risk Orders and Va. Code Ann. §19.2-152.14, Substantial Risk Orders) designed to remove firearms from individuals who pose an immediate threat to themselves or others.



SUBSTANTIAL RISK ORDER VS PROTECTIVE ORDER

A SIDE-BY-SIDE COMPARISON



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	Substantial Risk Order (SRO)	Family Abuse & Acts of Violence Protective Orders (PO)
Who initiates the process?	Commonwealth's Attorney or Law Enforcement Officer.	Survivor/Victim or Petitioner.
What must be proven?	That the respondent poses a substantial risk of personal injury to themselves or others in the near future by their possession or acquisition of a firearm.	That the respondent has committed any act involving violence, force, or threat that results in physical injury or places one in reasonable fear of death, sexual assault, or bodily injury. Such acts include, but are not limited to, any forceful detention, stalking, criminal sexual assault or any criminal offense that results in bodily injury or places you in reasonable fear of death, sexual assault, or bodily injury.
Standard of proof	Probable cause for Emergency SRO, Clear and convincing evidence for Final SRO.	Preponderance of evidence.
Factors considered in deciding whether or not the burden has been met	The Judge or Magistrate shall consider any relevant evidence, including any recent acts of violence, force, or threat by such person directed toward another person or toward themselves.	The Judge or Magistrate shall consider any relevant evidence, including any recent acts of violence, force, or threat by such person directed toward the petitioner.
Court Review/Approval	Court review or approval is required prior to the prohibition on purchase/possession and removal of firearms taking effect.	Court review or approval is required prior to the prohibition on purchase/possession and removal of firearms taking effect.

	Substantial Risk Order (SRO)	Family Abuse & Acts of Violence Protective Orders (PO)
How are firearms removed?	The respondent is advised to surrender their firearms to law enforcement. The law enforcement agency that executed the order shall take custody of all firearms voluntarily relinquished. Law enforcement may also seek a search warrant if the law-enforcement officer has reason to believe that the person who is subject to the substantial risk order has not relinquished all firearms in his possession.	The respondent is required to surrender their firearms – to a designated law enforcement agency, firearms dealer, or third party who is legally able to possess firearms – within 24 hours of being served with the order. The respondent must also surrender any concealed weapons permits to the court who issued the protective order or to the court who issued the concealed weapons permit for the duration of that order.
Is a hearing to challenge the removal of firearms automatically scheduled? If so, when is it held?	Yes, within 14 days of a Temporary Ex Parte SRO being granted.	No.
Length of prohibition on purchase/possession of firearms	A Temporary Ex Parte SRO lasts for up to 14 days, a Final SRO may be issued for a period of up to 180 days.	For the duration of the order, up to 2 years.
Renewal of Order	Yes, a petitioner may request that an SRO be extended up to 180 additional days before its expiration. The court may extend the order for a period not longer than 180 days if the court finds by clear and convincing evidence that the respondent continues to pose a substantial risk of personal injury to himself or to other individuals in the near future by such person's possession or acquisition of a firearm at the time the request for an extension is made.	Yes, a petitioner or respondent may request to modify, dissolve, or extend the protective order at any time before its expiration.

	Substantial Risk Order (SRO)	Family Abuse & Acts of Violence Protective Orders (PO)
Is third party transfer available?	<p>Yes, a respondent may transfer their firearms to another individual 21 years of age or older who is not otherwise prohibited by law from possessing such firearm if:</p> <ul style="list-style-type: none"> • The person subject to the order and the transferee appear at the hearing; • At the hearing, the attorney for the Commonwealth advises the court that a law-enforcement agency has determined that the transferee is not prohibited from possessing or transporting a firearm; • The transferee does not reside with the person subject to the order; • The court informs the transferee of the requirements and penalties under § 18.2-308.2:1; and • The court, after considering all relevant factors and any evidence or testimony from the person subject to the order, approves the transfer of the firearm subject to such restrictions as the court deems necessary. 	<p>The respondent may transfer or sell firearms in their possession to another individual who is legally able to possess a firearm.</p>
Referral to Community Services	No.	Yes, a Judge can refer a respondent to appropriate community-based services for batterer's intervention programming, etc.
Early Termination of Order	Yes, the respondent may request the termination of an SRO at least 30 days after it was issued. Who bears the burden of proof was not stated.	Yes, the respondent or petitioner may request dissolution or modification of the order, including provisions of protection included in the order at any time.
Full Faith and Credit	No, these orders are not valid across state lines.	Yes, these orders are valid in other states and territories.
Statute(s)	VA Code Ann. §§ 19.2-152.13 – 19.2-152.17	VA Code Ann. § 16.1-279.1

EMERGENCY PROTECTIVE ORDER (EPO) PROCESS

Va. §19.2-152.8 and 16.1-253.4

For those subject to these orders, purchase and transport of a firearm is illegal, but possession of a firearm is not.



An act or threat of violence occurs.



Go to local magistrate or Juvenile and Domestic Relations Court Services Unit to petition for EPO.



Law enforcement responds to incident and asks local magistrate or judge for EPO on survivor's behalf.

OR



Ex parte hearing for EPO occurs with magistrate or judge.



GRANTED

The order is issued.
The order will last for 72 hours (3 days) or until the next day court is in session.



DENIED

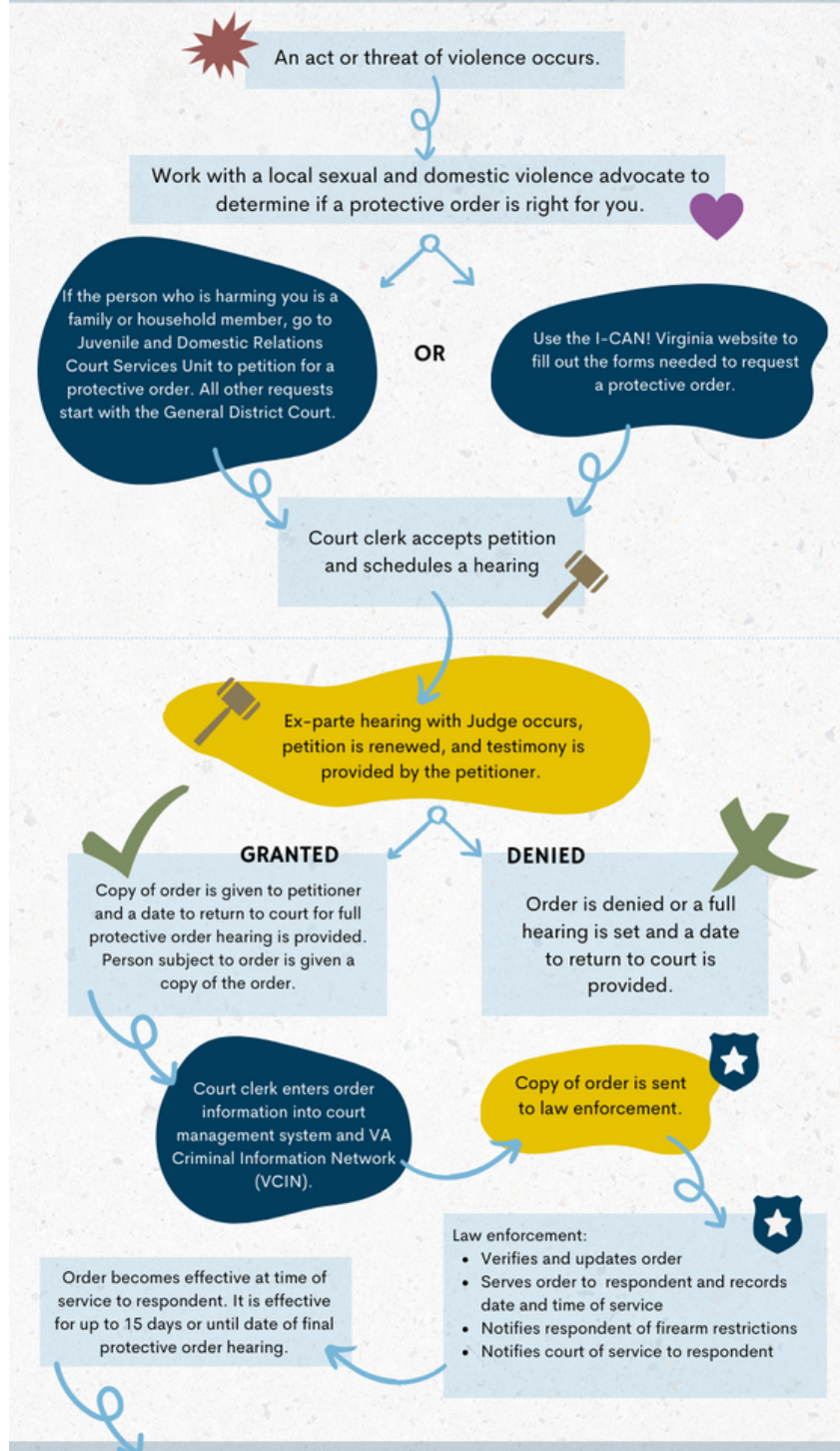
Order is denied.
Petitioner may still file for a preliminary protective order (PPO).



PRELIMINARY PROTECTIVE ORDER (PPO) PROCESS

Va. §19.2-152.9 and 16.1-253.1

For those subject to these orders, purchase and transport of a firearm is illegal, but possession of a firearm is not.



CHANGES TO ORDER:

CONTINUATION

Respondents may file a motion to continue the court hearing and if court finds good cause for the motion, it will be granted. The PPO remains in effect until the hearing.

MODIFICATION

Either party, petitioner or respondent, may file a motion with the court at any time to amend or review the order. A hearing shall be given precedence on the court's docket.

EXTENSION

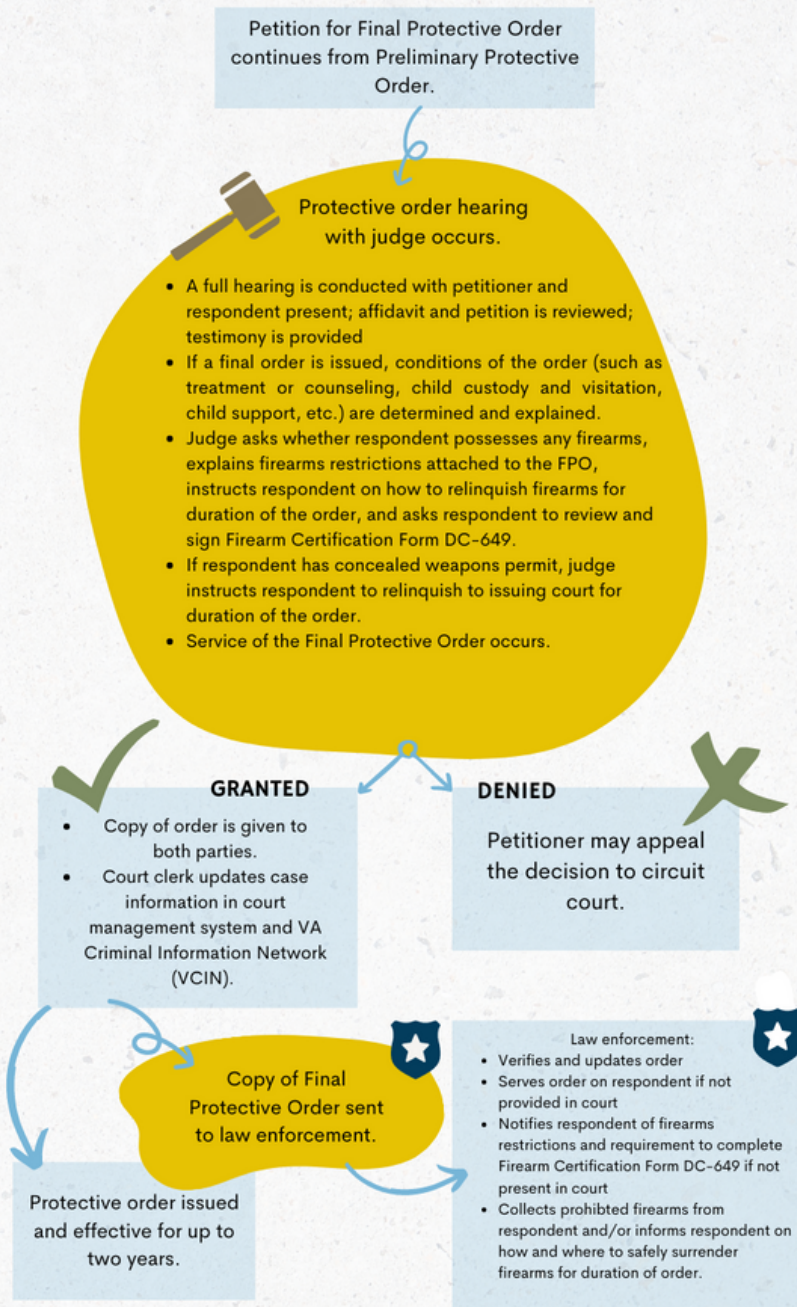
For respondents who are incarcerated, a judge may extend the PPO for up to six months.



FINAL PROTECTIVE ORDER (PO) PROCESS

Va. §19.2-152.10 and 16.1-279.1

All final protective orders prohibit the purchase, transport, and possession of firearms to anyone subject (respondent) to the order. This prohibition is in effect for the duration of the order and courts are required to notify the respondent of these firearms restrictions verbally and in writing. Law enforcement are required to enforce firearm restrictions.



CHANGES TO ORDER:

DISSOLUTION

Either party, petitioner or respondent, may file a motion with the court at any time to review or dissolve the order.

MODIFICATION

Either party, petitioner or respondent, may file a motion with the court at any time to amend, review, or dissolve the order. A hearing shall be given precedence on the court's docket.

EXTENSION

If the petitioner wishes to extend the order, they must file a motion requesting a hearing before the order expires. A hearing shall be given precedence on the court's docket. If an extension is granted, a new order is issued.





Virginia Sexual & Domestic Violence Action Alliance



BEST PRACTICES

FIREARMS RESTRICTIONS & PROTECTIVE ORDERS

WHAT ADVOCATES NEED TO KNOW

BACKGROUND

Firearms restrictions and protective order laws have been rapidly changing in Virginia

In recent years, the Virginia General Assembly has recognized the incredible risk that firearms pose to survivors of sexual and domestic violence by enacting laws that prohibit the purchase, transport, and possession of firearms by those who commit violence as well as those who exhibit significant risk factors for violence against themselves or others in the community. As Virginia's leading voice on sexual and domestic violence, the Action Alliance supports policies to remove firearms from these dangerous and potentially lethal situations while giving advocates, systems partners, and courts the additional tools needed in order to effectively enforce these measures and to ensure safety for survivors, their families, and the broader community.

Many of the recent changes to Virginia code substantially impact the lives and safety of survivors of sexual and intimate partner violence. In order to effectively assist survivors in making decisions regarding petitioning for protective orders and with safety planning, **it is essential that advocates are knowledgeable about both the legal remedies** (as they pertain to firearms) **and the processes and procedures in their communities for implementation of these new remedies.**



INTRODUCTION

PURPOSE OF THE TOOLKIT

This tool is intended to serve as a foundational resource for sexual and domestic violence advocates - in their work with survivors and communities - to maximize safety and to ensure compliance with Virginia law. For more information on how to best use this tool and/or for technical assistance and training to support implementation in your community, please contact the Virginia Sexual & Domestic Violence Action Alliance.

For more information on the intersections of sexual and domestic violence and firearms access, see our Guns and Domestic Violence: A Lethal Combination Fact Sheet and Guns and Domestic Violence Infographic.

If you are an advocate or survivor in need of safety planning, support, or legal assistance, please contact our Statewide Hotline toll-free (24 hours a day, 7 days a week, 365 days a year) by telephone at 1.800.838.8238, by text at 1.804.793.9999, or by chat at <https://www.vadata.org/chat/>.



RECENT CHANGES TO VIRGINIA LAW

Family Abuse & Acts of Violence Protective Orders

In 2016, the Virginia General Assembly passed landmark bipartisan legislation recognizing the lethal intersection of domestic violence and firearms access, making it a Class 6 felony for any person who is subject to a final 2-year protective order for family abuse (Va.Code Ann. §16.1-279.1) to possess a firearm while the order is in effect.

In 2020, Virginia State Law, was further updated to reflect the Federal Gun Control Act, prohibiting any person subject to final 2-year protective orders (Family Abuse, Va.Code Ann. §16.1-279.1 and Acts of Violence, Va.Code Ann. §19.2-152.10) from knowingly purchasing, possessing, or transporting firearms, including concealed handgun permits and ammunition while the order is in effect. A violation of this law is a class 6 felony in Virginia (Va.Code Ann. §18.2-308.1:4).

The **2020 law** included **clarifying language** outlining a process for the surrender of firearms as well as a clear and consistent process for Virginia courts to certify that respondents have disposed of their firearms when a final 2-year Protective Order is issued.

Assault and Battery of a Family or Household Member

In 2021, the Virginia General Assembly passed legislation bringing Virginia law into closer alignment with federal law by prohibiting individuals who have been convicted of assaulting a family or household member from purchasing, possessing, or transporting a firearm for three years following their conviction date. A violation of this law is a class 1 misdemeanor in Virginia.

An important distinction for advocates to be aware of is that this law applies a slightly different definition of "family or household member" - excluding dating and non-married partners.

From Va. Code Ann. §18.2-308.1:8 Section B: For the purposes of this section, "family or household member" means (i) the person's spouse, whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or not he resides in the same home with the person; or (iii) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time."



RECENT CHANGES TO VIRGINIA LAW

Substantial Risk Order

In 2020, the Virginia General Assembly passed legislation to create new **Substantial Risk Orders** (Va. Code Ann. §19.2-152.13, Emergency Substantial Risk Orders and Va. Code Ann. §19.2-152.14, Substantial Risk Orders) designed to remove firearms from individuals who pose an immediate threat to themselves or others.



CONSIDERATIONS FOR ADVOCATES

Early and ongoing conversations with survivors regarding firearms and firearms access is vital to safety planning, whether they chose to petition for a protective order or not. The presence of firearms can greatly impact a survivor's decision-making and safety.

All survivors should be educated on the connections between intimate partner violence and firearms access. As an advocate, it may help to become familiar with the Action Alliance's fact sheet *Guns & Domestic Violence: A Lethal Combination* and to be able to use data and trends in survivor experiences to not only validate a survivor, but also to help them understand lethality in these situations.

Be aware of how your community and the courts implement notification and surrender procedures for respondents in protective order cases and be able to communicate the process to survivors/petitioners.

Inform the survivor about the process by which the court/judge will notify the respondent of the firearms provisions and how compliance will be enforced including the requirements for the respondent to surrender firearms and the penalty for failure to surrender.

Utilize I-CAN! Virginia (the online forms completion program for protective orders) to assist survivors in the preparation of court forms required to ask the court for a protective order: <https://vacourtformhelp.courts.state.va.us/>



CONSIDERATIONS FOR ADVOCATES

Inform survivors about how to report violations of protective orders and violations of firearm restrictions. Support them in their decision-making process regarding reporting violations and in making plans for their safety.

Make sure you have a clear understanding of the differences between a Family Abuse or Acts of Violence Protective Order and a Substantial Risk Order and that you can inform survivors of the differences.

Work in your community to ensure that processes are in place to implement these new laws.

For additional technical assistance and training for your agency or community partners contact the Virginia Sexual and Domestic Violence Action Alliance at 804-377-0335 or on our website www.vsdvalliance.org

For Law Enforcement Training contact the Virginia Department of Criminal Justice Services Substantial Risk Order Training Coordinator.



WWW.VSDVALLIANCE.ORG



Virginia Sexual & Domestic Violence Action Alliance



BEST PRACTICES

FIREARMS RESTRICTIONS & PROTECTIVE ORDERS

SUPPORTING RESPONDENT EDUCATION

INTRODUCTION

Recent changes in Virginia code pertaining to firearms, firearm restrictions, surrender of firearms, and new Substantial Risk Orders can substantially impact the lives and safety of survivors of intimate partner violence. It is essential that advocates, courts, and local law enforcement agencies are knowledgeable about both the legal remedies as they pertain to firearms and the processes and procedures in their communities for implementation of these new remedies.

This document is intended to serve as a resource for sexual and domestic violence advocates and systems partners to maximize safety and to ensure compliance with Virginia law. For more information on how to best use this tool and/or for technical assistance and training to support implementation in your community, please contact the Virginia Sexual & Domestic Violence Action Alliance.

In addition to supporting safety planning and helping to navigate legal options for survivors, advocates can work with local courts, law enforcement, and systems partners to ensure that respondents of final protective orders fully understand the firearms restrictions that may be impacting them and how to comply with those laws most effectively. Clear, consistent, and accessible respondent education is key to supporting survivor and community safety.



INTRODUCTION

Some of the questions (regarding respondent education and compliance) that advocates, courts, and law enforcement can be working together to address include:

What kind of information will a respondent need to know to safely comply with Virginia law?

- Start with some basic information like the deadline to surrender, where to surrender, how to surrender, and the type of proof required if any.
- Note that Virginia law requires respondents in final protective order cases to relinquish access to their firearms within 24 hours after being served with the order. See Va. Code Ann. § 18.2-308.1:4.

How can courts, law enforcement, and advocates clearly communicate these requirements with a respondent? What points of contact exist (i.e. service of the order, court hearing, etc.)?

- Be sure that language accessibility is considered in any educational materials produced. Avoid using overly technical or legal terminology – use plain and simple language.

How will a respondent's firearms be turned over, stored, and returned?

Are there best practices (i.e. compliance hearings, respondent liaisons) that your locality might consider adopting?



HOW DO I TRANSFER MY FIREARMS?

RESPONDENT EDUCATION FORM TO ACCOMPANY FORM DC-649 MASTER 07/20

1 What is a firearm (as defined by Virginia law)?

- Handgun
- Shotgun
- Rifle
- Assault Weapon

2 If I have firearms, what am I required to do by Virginia law?

Within 24 hours after being served with a protective order, you must:

- Transfer your firearms to the designated local law enforcement agency;
- Sell or transfer your firearms to a dealer as defined in Va. Code Ann. § 18.2-308.2:2, or
- Sell or transfer your firearms to any person who is legally allowed to possess such firearms.

3 How do I sell or transfer my firearms?

Ask the judge or court services staff about the local procedure for transferring firearms to law enforcement. If they do not have this information, call your local law enforcement agency to ask about their procedures for transfer and storage. **DO NOT show up to the local law enforcement agency with your firearms. Call first, ask them how to proceed and what to expect before traveling anywhere with your firearms.**

DO

- Unload your firearm.
- Put your firearm in the trunk.
- Call ahead to the law enforcement agency.

DO NOT

- Bring a loaded firearm to the law enforcement agency.
- Bring ammunition with the firearm when you turn in the firearm.
- Put your firearm in a locked glove compartment.
- Bring a firearm to court.



HOW DO I TRANSFER MY FIREARMS?

If you wish to sell or transfer your firearms to a local, licensed firearms dealer, look under “firearms dealers” in your Yellow Pages or in an internet search. Make sure they are a licensed dealer as defined in Va. Code Ann. § 18.2-308.2:2 and call to inquire about their transfer process, storage details, and/or selling guidance before showing up.

4 If I transfer my firearms to law enforcement, a licensed dealer, or to a person who can legally possess a firearm, how long will they have to keep them for me?

Firearms are to be kept out of your possession as long as the order is in effect. This is required by state and federal law and is punishable as a class 6 felony, 1-5 years imprisonment and/or a fine up to \$2,500, in Virginia. If you have transferred your firearms to law enforcement or to a licensed dealer, ask about their process for firearms return when the order has expired or is no longer in effect.





Virginia Sexual & Domestic Violence Action Alliance



BEST PRACTICES

FIREARMS RESTRICTIONS & PROTECTIVE ORDERS

A BENCH GUIDE FOR JUDGES

INTRODUCTION

Recent changes in Virginia code pertaining to firearms, firearm restrictions, surrender of firearms, and new Substantial Risk Orders can substantially impact the lives and safety of survivors of family and intimate partner violence. It is essential that courts, advocates, local law enforcement agencies, and systems partners are knowledgeable about both the legal remedies as they pertain to firearms and the processes and procedures in their communities for the implementation of these new remedies.

As a judge, understanding how to effectively elicit information on firearms possession or access and how to educate respondents on firearms restrictions required by law is a critical step in supporting safety and accountability. This bench guide is intended to serve as a resource to maximize public safety and to ensure compliance with Virginia law. For more information on how to best use this tool and/or for technical assistance and training to support implementation in your locality or courtroom, please contact the Office of the Executive Secretary of the Supreme Court of Virginia or the Virginia Sexual & Domestic Violence Action Alliance.



INTRODUCTION

Virginia State Law prohibits people who are subject to final Family Abuse and Act of Violence Protective Orders (Va. Code Ann. § 16.1-279.1 and 19.2-152.10) and Substantial Risk Orders (Va. Code Ann. § 19.2-152.14.) from knowingly purchasing, possessing, transporting, and/or receiving firearms, including concealed handgun permits and ammunition while the order is in effect. Violation of these firearm restrictions for final Family Abuse and Act of Violence Protective Orders is a Class 6 felony. Violation of these firearm restrictions for a Substantial Risk Order is a Class 1 misdemeanor.

Va. Code Ann. § 18.2-308.1:8 also outlines that any person who knowingly and intentionally purchases, possesses, or transports any firearm following a misdemeanor conviction for assault and battery of a family or household member is guilty of a Class 1 misdemeanor. These firearm restrictions are effective for three years following the date of conviction.

These recent changes to Virginia law also require courts and law enforcement agencies to adopt uniform practices for notifying respondents of the firearm restrictions that they are subject to as well as certifying and enforcing these restrictions in the courtroom and in the community. This includes:

- **Notifying respondents** of the firearm restrictions that they are subject to and for how long;
- **Advising respondents** on ways to safely surrender their firearms, including information on locations for surrender and the time limit in which they are required to do so;
- **Communicating the consequences** of failure to comply with this law and the firearms certification process set forth by the court;
- **Use of a certification form** (DC-649 provided by the Office of the Executive Secretary) for respondents to file with the clerk of the court certifying that they have surrendered access to firearms for the duration of the order; and
- **Application of a penalty** (contempt of court) for any respondent's willful failure to comply with the certification requirements set forth by the court.



EDUCATION AND ENFORCEMENT

IN THE COURTROOM

The courtroom can be a critical place to facilitate education and understanding – for both petitioners and respondents – on what the law is and ensuring that it is effectively and easily followed. Making some small changes to courtroom practices can support this process and can have lasting impacts on individual and community safety after an order has been issued by the court. Here's what we recommend:

- 1 During the final hearing, specify firearm prohibitions included in the protective order, i.e., directives against the purchase, sale, transportation, or possession or control of firearms, ammunition, and concealed handgun permits as required by Va. Code Ann. §§ 18.2-308.1:4 and 18.2-308.2:1.**

You can ensure that the respondent understands (by eliciting verbal confirmation, during the hearing, if able) the firearm prohibitions outlined by state and federal law and included in the final order.

- 2 Provide the respondent with specific information on local options for surrendering firearms, including:**

- How to safely surrender firearms to the designated local law enforcement agency;
- How to sell or transfer firearms to a dealer as defined in Va. Code Ann. § 18.2-308.2:2,
- How to sell or transfer firearms to any person who is not otherwise prohibited by law from possessing a firearm.

You can ensure that the respondent understands (by eliciting verbal confirmation, during the hearing, if able) the options available for safely surrendering their firearms.



EDUCATION AND ENFORCEMENT

IN THE COURTROOM

3 Provide respondent with specific information on the timeframe to surrender firearms and the timeframe and process for filing certification with the clerk of the court:

- Within 24 hours after being served with a protective order in accordance with subsection C of Va. Code Ann. § 16.1-279.1 or subsection C of Va. Code Ann. § 19.2-152.10 shall surrender, sell, or transfer any firearms possessed in accordance with the options for surrendering above.
- Within 48 hours after being served with a protective order in accordance with subsection C of § Va. Code Ann. 16.1-279.1 or subsection C of Va. Code Ann. § 19.2-152.10, the respondent shall certify in writing, on a form provided by the Office of the Executive Secretary of the Supreme Court, that they do not possess any firearms or that all firearms possessed by such person have been surrendered, sold, or transferred and file such certification with the clerk of the court that entered the protective order.

You can ensure that the respondent understands (by eliciting verbal confirmation, during the hearing, if able) the timeframe within which to surrender any firearms and the timeframe and process for filing this certification with the clerk of the court.



EDUCATION AND ENFORCEMENT

IN THE COURTROOM

4 Provide the respondent with information on penalties for noncompliance with the law.

- Willful failure of any person to certify in writing in accordance with this section that all firearms possessed by such person have been surrendered, sold, or transferred or that such person does not possess any firearms shall constitute contempt of court."

You can ensure that the respondent has an opportunity to ask any clarifying questions and/or seek information from the court on how to best comply with the law.



SUPPORTING PETITIONER SAFETY

It is important to understand the substantial and often elevated risk of lethality that survivors of family and intimate partner violence face during this time. The court can do several things to support accountability for respondents, survivor safety, and public safety.

Make sure that petitioners know about the firearm prohibitions required of respondents when petitioning for an order and/or when final protective orders are issued.

- Magistrates, Clerk Services Staff, and other Judicial officers can practice sharing this information with anyone who presents wishing to petition for a protective order. Survivors of violence often know best how their abusers will respond to particular interventions (legal or otherwise) and the likelihood of escalating and sometimes even lethal violence.

Consider the use of a respondent info-sheet or educational resource that can be provided during the protective order process and prior to firearms surrender. This is a low-cost, easy practice to implement that can result in a smoother and safer firearms surrender process for everyone. For examples of these, see our Supporting Respondent Education tool here.

Facilitate connections between the petitioner and your local sexual and domestic violence program or victim-witness advocate. Studies consistently show that when victims of family and intimate partner violence are connected to an advocate, they have far more successful outcomes in seeking safety, justice, and healing.



SUPPORTING PETITIONER SAFETY

Support the establishment, and routine assessment, of a process by which a respondent in the case of a protective order, may safely and promptly surrender their firearms to the designated law enforcement agency.

Advocate that the court and/or law enforcement establish petitioner notification procedures that provide petitioners with notice and/or the opportunity to be heard prior to the return of firearms to the respondent.

Inform the petitioner and respondent that, upon expiration of a protection order, the firearm prohibition will terminate unless state or federal law otherwise prohibit possession or ownership. Remind the petitioner that the protection order must be current to enforce any firearm prohibition in the order or pursuant to 18 U.S.C. §922(g)(8).

This resource was developed in partnership with the Virginia Domestic Violence & Firearms Workgroup, a project of the Virginia Sexual & Domestic Violence Action Alliance, and is based on the work of the National Center on Protection Orders and Full Faith & Credit.





Virginia Sexual & Domestic Violence Action Alliance

BEST PRACTICES

FIREARMS RESTRICTIONS & PROTECTIVE ORDERS

THE ROLE OF LAW ENFORCEMENT
IN ACHIEVING VICTIM SAFETY

INTRODUCTION

Recent changes in Virginia code pertaining to firearms, firearm restrictions, surrender of firearms, and new Substantial Risk Orders can substantially impact the lives and safety of survivors of family and intimate partner violence. It is essential that courts, advocates, local law enforcement agencies, and systems partners are knowledgeable about both the legal remedies as they pertain to firearms and the processes and procedures in their communities for implementation of these new remedies.

Virginia State Law prohibits people who are subject to final Family Abuse and Act of Violence Protective Orders (Va. Code Ann. § 16.1-279.1 and 19.2-152.10) and Substantial Risk Orders (Va. Code Ann. § 19.2-152.14.) from knowingly purchasing, possessing, transporting, and/or receiving firearms, including concealed handgun permits and ammunition while the order is in effect. Violation of these firearm restrictions for final Family Abuse and Act of Violence Protective Orders is a Class 6 felony. Violation of these firearm restrictions for a Substantial Risk Order is a Class 1 misdemeanor.

Va. Code Ann. § 18.2-308.1:8 also outlines that any person who knowingly and intentionally purchases, possesses, or transports any firearm following a misdemeanor conviction for assault and battery of a family or household member is guilty of a Class 1 misdemeanor. These firearm restrictions are effective for three years following the date of conviction.

These recent changes to Virginia law also require courts and law enforcement agencies to adopt uniform practices for notifying respondents of the firearm restrictions that they are subject to as well as certifying and enforcing these restrictions in the courtroom and in the community.



INTRODUCTION

The uniform practices for notifying respondents of the firearm restrictions that they are subject to and enforcing such restrictions in the courtroom and in the community include:

- **Notifying respondents** of the firearm restrictions that they are subject to and for how long;
- **Advising respondents** on ways to safely surrender their firearms, including information on locations for surrender and the time limit in which they are required to do so;
- **Communicating the consequences** of failure to comply with this law and the firearms certification process set forth by the court;
- **Service of Protective Orders** to Respondents;
- **Use of a certification form** (DC-649 provided by the Office of the Executive Secretary) for respondents to file with the clerk of the court certifying that they have surrendered access to firearms for the duration of the order;
- **Application of a penalty** (contempt of court) for any respondent's willful failure to comply with the certification requirements set forth by the court;
- **Consistent and effective enforcement** of the provisions of a Protective Order.

Law Enforcement can play an important role in supporting safety and accountability in the community. Understanding state and federal firearm restrictions as well as best practices in service of orders and community implementation of the law can be crucial to preventing gun violence and intimate partner homicide. This tool is intended to serve as a resource to maximize public safety and to ensure compliance with Virginia law. For more information on how to best use this tool and/or for technical assistance and training to support implementation in your locality or courtroom, please contact the Virginia Department of Criminal Justice Services or the Virginia Sexual & Domestic Violence Action Alliance.



STRATEGIES TO ENHANCE VICTIM SAFETY AND ENSURE RESPONDENT COMPLIANCE

Service of protective orders, at both the temporary/ex parte stage and upon issuance of the final order after a hearing, presents an important opportunity for officers to learn about respondent access to firearms, notify respondents about any prohibitions on possession and/or orders to surrender, and to obtain surrender of firearms from respondents.

At the same time, the service stage may present significant danger to victims and others, including officers. Local Law Enforcement Agencies should consider the following strategies to protect victims and the broader community from lethal backlash and to enhance the systems response to domestic violence:

Work with local Domestic Violence Advocacy Programs to:

- Support safety planning with the victim prior to service of the order
- Notify the victim (and the court) promptly after an order has been served
- Obtain information that can facilitate safe service and recovery of firearms (where authorized)
- Join or establish a Coordinated Community Response (CCR) for your locality
- Receive training regarding the lethal intersection of domestic violence and firearms access for officers tasked with serving protective orders

Work with local Courts & Judges to:

- Adopt a formal policy or protocol governing law enforcement's responsibilities during service of a protective order and with respect to firearms surrender and seizure
- Adopt use of a respondent education sheet that can be provided to the respondent upon service of the order as well as in court for the final hearing and compliance monitoring.
- Notify victims about the result of the service process, including whether firearms have been surrendered
- Ensure robust communication with respondents on their options for complying with the firearm restrictions set forth in state and federal law.



STRATEGIES TO ENHANCE VICTIM SAFETY AND ENSURE RESPONDENT COMPLIANCE

Work with Respondents in Protective Order cases to:

- Ensure a clear understanding of the provisions of a protective order, including firearms restrictions and when, where, and how to safely surrender firearms and comply with the law.
- Ensure a clear understanding of the local practices regarding storage of firearms and restoration of rights after dissolution or expiration of an order or a prohibition.

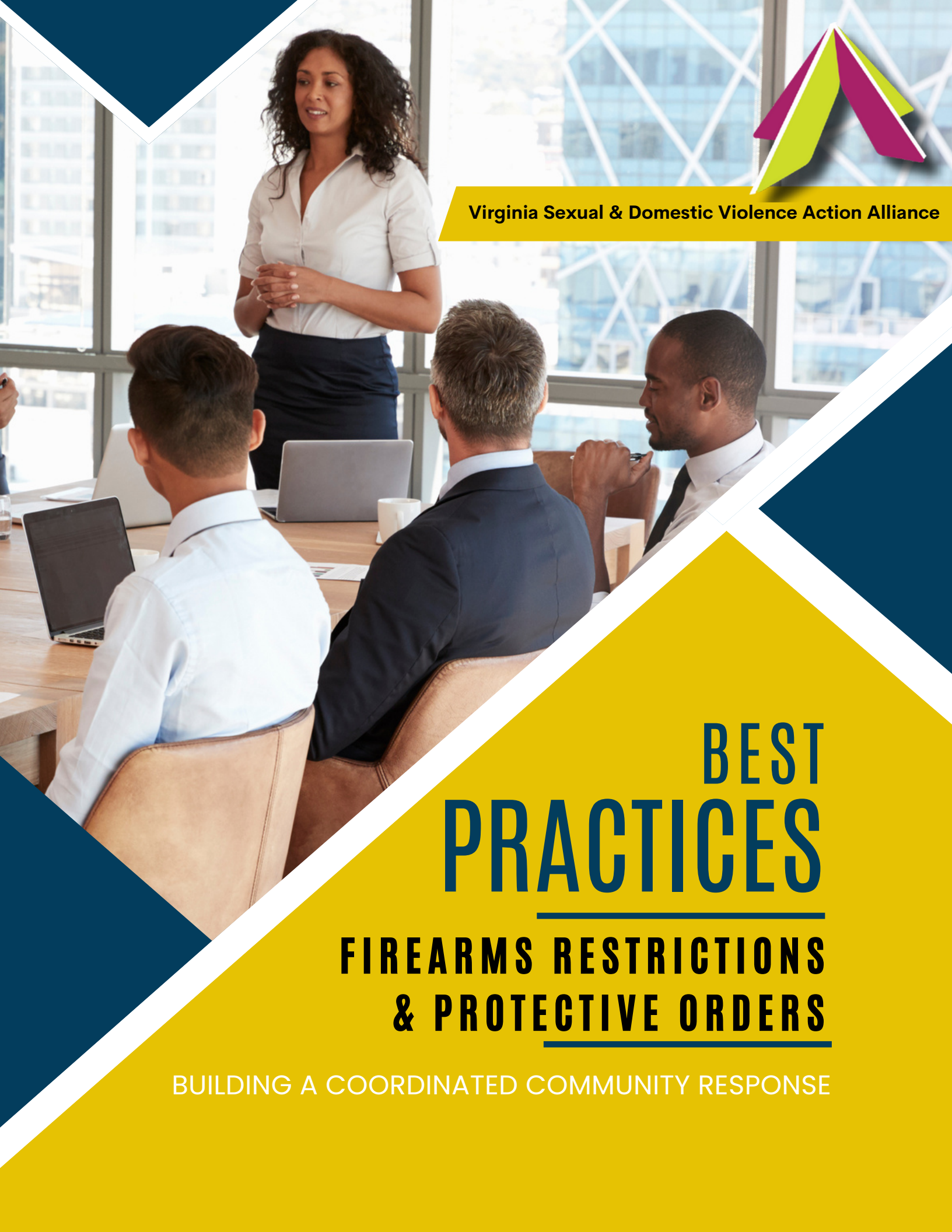
Work within your local Law Enforcement Agency to:

- Establish protocol requiring a criminal background check on respondents to determine whether there have any outstanding warrants, other protective orders, or pending charges or past convictions, and whether respondents are on probation or parole.
- Ensure that serving officers inquire about firearms access/possession and, consistent with Virginia law and local practices, seize or seek voluntary surrender of firearms, including taking firearms for safekeeping purposes, where appropriate.
- Ensure that serving officers explain any firearm restrictions to the respondent and relay the local process for surrendering firearms to comply with such restrictions; in addition, officers can provide written information regarding federal and state law to which a respondent may be subject.
- Consider an agency policy or an internal practice that prioritizes service of protective orders to armed respondents and/or to those respondents who have been found to exhibit high risk/lethal behaviors. For more information on what these behaviors are, see Lethality Assessment Program (LAP) from the Virginia Office of the Attorney General: <https://www.oag.state.va.us/programs-initiatives/lethality-assessment-program>.
- Ensure the adoption of policies that require the immediate entry of protection orders and relevant service information into VCIN.





Virginia Sexual & Domestic Violence Action Alliance



BEST PRACTICES

FIREARMS RESTRICTIONS & PROTECTIVE ORDERS

BUILDING A COORDINATED COMMUNITY RESPONSE

INTRODUCTION

The effective implementation of Virginia's firearm laws related to Family and intimate partner violence is best achieved through a Coordinated Community Response (CCR) that includes systems partners and community leaders in understanding and enforcing these laws. It is recommended that local communities utilize a CCR or multi-disciplinary group to create a seamless and transparent approach to issuance and enforcement of protective orders, including Substantial Risk Orders, and other firearm restrictions.

Since the beginning of Virginia's Family and Intimate Partner Violence Homicide Surveillance project in 1999, what have we learned?

- Almost 35% of homicides occurring in Virginia are related to domestic violence.
- While both men and women are victims of domestic violence, women are far more likely to be killed at the hands of an intimate partner, while men are more likely to be killed as a bystander or in an altercation over an intimate partner.
- Over half, or 56%, of family and intimate partner (FIP) homicides involve a firearm, and just over 80% of homicides occurred within a residence.
- Approximately 40% of all family and intimate partner homicides occur while or after a relationship is ending.
- Of all family and intimate partner related homicide events, over 20% or one-fifth are homicide-suicide events.

What we know is that communities can significantly reduce the risk of family and intimate partner-related homicide events from ever occurring by establishing consistent, coordinated, community responses.

This document is intended to serve as a resource for sexual and domestic violence advocates and systems partners to maximize safety and to ensure compliance with Virginia law. For more information on how to best use this tool and/or for technical assistance and training to support implementation in your community, please contact the Virginia Sexual & Domestic Violence Action Alliance.



WHO CAN'T HAVE A GUN?

Firearm purchase, possession, and transport restrictions apply to:

- People subject to final Family Abuse Protective Orders.
- People subject to final Acts of Violence Protective Orders.
- People subject to Emergency Substantial Risk Orders.
- People subject to Substantial Risk Orders.
- People who have been convicted of assault and battery against a family or household member (spouse, former spouse, or those with a child in common).

Firearm purchase and transport restrictions apply to:

- People subject to Emergency Family Abuse Protective Orders.
- People subject to Preliminary Family Abuse Protective Orders.
- People subject to Emergency Acts of Violence Protective Orders.
- People subject to Preliminary Acts of Violence Protective Orders.

Family Abuse Protective Orders and Acts of Violence Protective Orders

Va. Code Ann. [§18.2-308.1:4](#) outlines the firearm restrictions for both final Family Abuse Protective Orders and Acts of Violence Protective Orders. It is unlawful for any person subject to a protective order entered pursuant to [§16.1-279.1](#) or [§19.2-152.10](#) to purchase, transport, or knowingly possess any firearm while the order is in effect (with the exception of a 24-hour period from the time the order was issued to surrender or sell any such firearm). A violation of this section is a Class 6 Felony.

It is unlawful for anyone subject to an Emergency or Preliminary Family Abuse or Acts of Violence Protective Order to purchase or transport a firearm.



WHO CAN'T HAVE A GUN?

Substantial Risk Orders

Va. Code Ann. §19.2-152.13 outlines firearms restrictions for those subject to Emergency Substantial Risk Orders. A person subject to this order is advised to, upon service, relinquish any firearms in their possession to law enforcement. The order also prohibits purchasing, transporting, and possessing a firearm for the duration of the order (up to 14 days).

Va. Code Ann. §19.2-152.14 outlines firearms restrictions for those subject to Substantial Risk Protective Orders. A person subject to this order may not purchase, transport, or possess a firearm for the duration of the order (up to 180 days). A violation of this section is a Class 1 Misdemeanor.

Any person subject to either order, Emergency Substantial Risk or Substantial Risk, is prohibited from carrying a concealed weapon and must surrender their permit to the court while the order is in effect.

Criminal Assault and Battery of a Family or Household Member

Va. Code Ann. § 18.2-308.1:8 outlines that any person who knowingly and intentionally purchases, possesses, or transports any firearm following a misdemeanor conviction for assault and battery of a family or household member is guilty of a Class 1 misdemeanor. These firearm restrictions are effective for three years following the date of conviction.

For the purposes of this code section, "family or household member" means (i) the person's spouse, whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or not he resides in the same home with the person; or (iii) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time.



WHO ARE THE SYSTEMS PLAYERS?

AND WHAT ARE THEIR ROLES?

It is important that each system actor (i.e., victim/survivor advocate, judge, law enforcement officer, etc.) clearly understand their role and the role of their partners in the effective issuance and enforcement of all protective orders. Ensuring that firearms restrictions are properly applied requires strong coordination and collaboration within each jurisdiction and across partners. Judicial and advocacy-based leadership can be very helpful in moving a CCR forward to meet these goals and in ensuring survivor safety in the community.

The Coordinated Community Response (CCR) model works in communities with the players on the next page to develop more effective and consistent responses to family and intimate partner violence, sexual assault, and stalking. It brings community-based sexual and domestic violence advocacy programs, law enforcement, criminal justice, human services, and systems partners together to coordinate trauma-informed responses, integrating best practices so that victims and the community as a whole are safer, systems of accountability are in place for those who commit abuse, and the burden of preventing violence is shifted from the victim to the community.



WHO ARE THE SYSTEMS PLAYERS?

AND WHAT ARE THEIR ROLES?

Juvenile and Domestic Relations Court Services (Intake)

- Accept and process petitions for Family Abuse Protective Orders.
- Accept and process petitions for Acts of Violence Protective Orders if either the petitioner or the respondent is a juvenile.
- Inform petitioners of their right to request firearms relief.
- Inform petitioners with a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders.

The primary role of Juvenile and Domestic Relations Court Services staff is to accept petitions for Family Abuse Protective Orders and to provide petitioners with information on their rights and the process of obtaining a protective order.

Trained Victim/Survivor Advocates (Community and Systems Based)

- Explain the protective order process and engage in safety planning with the survivor (see [S.A.F.E. tool Strategic Assessment of Firearm Enforcement](#)).
- Helps determine whether firearms are owned by the respondent, how many, and which firearms the respondent has access to.
- Helps determine whether the respondent has a concealed weapons permit and if they carry a concealed weapon.
- Listen to the survivor's thoughts and fears around a respondent's access to firearms and help them determine appropriate safety measures and next steps.
- Help to provide specific information, such as the make and model of each firearm that the respondent has access to, to the courts.
- Helps determine the specific location of firearms and how to access them for the purposes of surrender and seizure.

The primary role of the advocate is to help a survivor understand their options and, if appropriate, aid them in obtaining a protective order.

Advocates can explain the process, help to complete the petition, and support survivors throughout proceedings.



WHO ARE THE SYSTEMS PLAYERS?

AND WHAT ARE THEIR ROLES?

Courts (Judges, Clerks, Bailiffs)

- Accept and process petitions for Act of Violence Protective Orders (General District Clerks).
- Provide notice of hearings.
- Enter ruling(s) and/or protective order issuance into the Court's database.
- Issue protective orders.
- Provide notice of firearms restrictions to Respondent.
- Provide notice of Law Enforcement Agency that is designated to store firearms.
- Provide certification form and accept certification of firearms relinquishment/sale or transfer by Respondent.
- Approve the transfer of firearms.
- Follow up and conduct compliance monitoring/hearings.

The primary role of courts is the issuance of protective orders and compliance with the provisions of those orders.

Law Enforcement

- Investigate and petition for Emergency Protective Orders and Emergency Substantial Risk Orders.
- Provide service of orders.
- Enter orders into the Virginia Criminal Information Network (VCIN).
- Accept, store, and return firearms that are surrendered.
- Search for and seize firearms.
- Return and delivery of firearms.
- Enforce Protective Orders and ensure compliance with firearms restrictions.
- Follow up and conduct compliance monitoring/hearings.

The primary role of law enforcement is service and enforcement of protective orders as well as working with community partners to establish local firearm surrender, seizure, storage, and return procedures.



WHO ARE THE SYSTEMS PLAYERS?

AND WHAT ARE THEIR ROLES?

Commonwealth's Attorney/Prosecutors

- Enforce and prosecute violations of orders.
- Request/petition for Substantial Risk Orders and for extensions of these orders.
- Prove material facts of the need for a Substantial Risk Order.

The primary role of prosecutors, or Commonwealth's Attorneys, is to file petitions (for Substantial Risk Orders only), compile and present evidence to the court, and bring forward charges for violations of protective orders.

Civil Attorneys

- Inform the court of issues related to weapons/firearms.
- Object to conflicting provisions in any existing orders.
- Seek enforcement of orders through civil contempt or criminal charges for violations.

The primary role of civil attorneys is to support survivors in filing petitions for protective orders, compiling and presenting evidence to the court on a survivor's behalf, and ensuring access to protection and justice for survivors in the courts.

Magistrates

- Make determinations regarding the issuance of Emergency Orders.
- Issue Emergency Orders and warrants for violations of firearm restrictions.
- Provide information to the public on how to petition for and access Family Abuse and Acts of Violence Protective Orders.

The primary role of magistrates is to issue Emergency Protective Orders, Emergency Substantial Risk Orders, and warrants for violations of these orders. Magistrates review complaints of criminal conduct brought by Law Enforcement or the public.



WHO ARE THE SYSTEMS PLAYERS?

AND WHAT ARE THEIR ROLES?

Community-Based Probation

- Deliver pretrial risk assessments.
- Ensure compliance with firearms restrictions related to misdemeanor convictions of assault and battery against a family or household member or other similar offenses.
- Supervise those convicted of assault and battery against a family or household member or other similar offenses.

The primary role of community-based probation is to assess for risk of future violence, supervise those who have been convicted of criminal offenses, and provide community referrals for rehabilitation and treatment.

Local Media/News

- Provide accurate and consistent information to the public about the health and safety risks of family and intimate partner violence and firearms access.
- Create survivor-centered narratives that inform public opinion and support equal access to safety and justice.

The primary role of the Media or News is to inform the public and help shape community norms regarding firearms and family and intimate partner violence.



SUPPLEMENTAL RESOURCES

On the following pages are helpful resources from other state and national organizations as a supplementation to this toolkit.

Virginia-based Resources

- Virginia Action Alliance 2021 Protective Order Brochure
- Virginia Supreme Court Resources:
 - Hope Card Program
 - Gun Owner's Rights and Responsibilities
 - Respondent Certification Form DC649
 - Recognizing Dangerousness in Potentially Lethal Cases Bench Guide
- Virginia Pulaski Co. Resources:
 - Surrendering Firearms
 - Respondent Certification
 - Bench card for Judges
 - Addendum to affidavit
- Virginia Fairfax Co. Firearms Surrender infographic
- Virginia Arlington Co. Firearm Protocol
- Virginia Charlottesville City Firearm Notice for those convicted of Assault and Battery

National Resources

- Implementing an Effective Firearm Relinquishment Protocol, Battered Women's Justice Project.
- Gifford's Law Center Gun Safety Law Implementation Guide and Checklist
- More than Just a Piece of Paper, A Toolkit for Advocates on Firearms and Domestic Violence During COVID-19



PROTECTIVE ORDERS IN VIRGINIA

If you are experiencing threatening or violent behaviors, a Protective Order is one tool that may be available to help you.



If you are experiencing acts and/or threats of violence, there are legal options to help you and/or your family.

These options help protect you from violence, force or threat that results in injury or places you in fear of death, sexual assault, or injury. This includes stalking.

WHAT IS A PROTECTIVE ORDER?

A protective order is a document issued by a court to help you protect yourself, your children and other family or household members from someone who is hurting you or causing you fear. A protective order can help to set clear limits with the person causing you harm and can also send a strong message that his/her behavior is wrong.

A protective order is a civil legal remedy for individuals experiencing acts and/or threats of violence. Protective orders are designed to prevent future violence or threats and can also provide a wide range of options to help protect you and/or your family. You can request one even if criminal charges haven't been filed.

WHO IS ELIGIBLE FOR A PROTECTIVE ORDER?

In order to be eligible for a protective order, you must have been subjected to an act or threat of violence that results in bodily injury or places you in reasonable fear of death, sexual assault or bodily injury.

This means that if you have been hit, kicked, punched, pushed, shoved, bitten, burned, sexually assaulted, held against your will, forcefully restrained, cut with an object, stalked, threatened with a gun, or other weapon and any of these things caused an injury to your body; or someone threatened to do any of these things and you are in fear of them, you may be eligible for a protective order.

Where you go to request a protective order depends on the kind of relationship you have (or have had) with the person who is harming or threatening you.

WHERE TO REQUEST A PROTECTIVE ORDER

In Virginia, where you request a protective order depends on the type of relationship you have (or have had) with the person who is threatening or harming you. If your relationship with this person meets Virginia's legal definition of a family or household member (see below), you may be eligible for a **Family Abuse Protective Order** and your request should be made with the **Juvenile and Domestic Relations Court**.

All other requests for protective orders start with the **General District Court**. If either the petitioner (the person asking for the protective order) or the respondent (the person who is committing acts of violence or threatening behavior) is under the age of 18, the request should begin with the **Juvenile and Domestic Relations Court**.

Additionally, the location of the court where you request the protective order can be:

- where you live;
- where the respondent lives,
- where the act of violence, force or threat happened;
- or where a previous protective order has already been issued.

WHO IS CONSIDERED A "FAMILY OR HOUSEHOLD MEMBER"?

To be eligible for a **Family Abuse Protective Order**, the person who is abusing you must be:

- your spouse (husband or wife),
- your former spouse,
- someone that you have a child in common with, or
- someone you live with or used to live with as a boyfriend or girlfriend, in the past year.
- It could also be another family member such as your parents, grandparents, children, brother or sister whether or not you live together. In some cases it could be your in-laws whom you live with. (VA Code §16.1-228, Family or Household Member)

You do not have to have an Emergency Protective Order to apply for a Preliminary or Final Protective Order.

THE THREE TYPES OF PROTECTIVE ORDERS

EMERGENCY PROTECTIVE ORDERS

This order is usually requested by a law enforcement officer (the police) if an arrest has been made, or if the officer believes there is a probability of further abuse. This order can only be issued by a Magistrate or a Judge and lasts only a short time (up to 72 hours or, if that 72 hour period ends when the court is not in session, until 5pm on the next day during which the court is in session). A victim of abuse can also make an emergency request for this order at the magistrate's office even if an arrest hasn't happened. These orders can also be issued without the abuser or respondent being there.

PRELIMINARY PROTECTIVE ORDERS

This order is issued only by a Judge when danger for further abuse exists but there isn't enough time for a full hearing with both parties. This type of order, like an Emergency Protective Order, can be issued without the abuser or respondent being there. A Preliminary Protective Order generally only lasts 15 days but can be extended if the abuser or respondent can't be served.

FINAL PROTECTIVE ORDERS

An order that can be issued for up to two years. These orders are issued if there is enough evidence of an act or threat of violence and both parties are present at court. Then a judge decides whether or not to issue an order. If the abuser or respondent has been convicted for an act of violence that leads to a protective order and the victim requests it, a judge can issue a protective order that lasts as long as is necessary to protect the victim, meaning longer than 2 years. Final protective orders can also be extended for an additional two years if the petitioner requests such an extension before the expiration of the order and a judge finds there is a need for extended protection. There is no limit on the number of extensions that can be granted.

WHAT CAN A PROTECTIVE ORDER DO TO PREVENT FURTHER VIOLENCE?

All orders can require:

- No contact from the abuser or respondent;
- No further acts of violence, force or threat;
- Ownership of a pet, if you are the owner; and
- Other conditions the court deems necessary to protect you and/or your family members.

Family Abuse Protective Orders can offer additional protection:

A Family Abuse Protective Order is a document issued by a court to help protect yourself, your children, your pets, and other family and household members from another family or household member who is hurting you or causing you fear.

Preliminary Family Abuse Protective Orders can state the above and:

- Require the abuser to maintain utility service, including cell phone service, for the household;
- Grant temporary possession to a jointly owned car;
- Grant temporary possession of the shared home;
- Grant temporary possession of a shared telephone;
- Require the abuser or respondent to provide suitable alternative housing; and
- Any other relief necessary to protect the victim and other family or household members.

“Final” Family Abuse Protective Orders can state all the above and:

- It can require the abuser or respondent to participate in treatment or counseling;
- It can grant temporary custody and visitation for the children; and
- It can grant temporary child support.

Think ahead about what you need to keep yourself and your family safe. You can ask to have those ideas included in the Protective Order.

To find a domestic and sexual violence advocate and get connected to resources in your area, call the Statewide Hotline. Free. Confidential. 24 hours a day. 7 days a week. 365 days a year.



MAKING DECISIONS ABOUT PROTECTIVE ORDERS

First you need to figure out if a protective order is the right option for you. You may want to get more information from a domestic and sexual violence advocate – (to find one in your area call 1-800-838-8238) or an attorney.

Find out:

- what a protective order can and can't do for you;
- what procedure to follow for getting an order in your area,
- where you will have to go to file the forms,
- what you might expect in court; and
- how you can develop a plan for your safety.

You will be asked to describe the recent acts of violence and/or threats, why you need the order, and to think about what you need for your protection and the protection of your children and/or other family and household members.

I NEED PROTECTION RIGHT AWAY... HOW DO I GET AN EMERGENCY PROTECTIVE ORDER?

If you feel you are in immediate danger, call 911. You can also go to a magistrate's office and request an Emergency Protective Order. **Remember, this order is only good for a short period of time.**

If the magistrate or law enforcement officer does not give you an emergency order, you can go to court to file a petition for a Preliminary Protective Order.

An Emergency Protective Order can order the abuser or respondent to stay away until you can get a preliminary or "Final" Protective Order but if you are in danger, make a plan for how to stay safe. **Do not rely on the order to protect you.** Get to a safe place where the abuser or respondent cannot find you. Remember, a protective order can send a strong message to the abuser or respondent that their behavior is wrong, but it does not take the place of you acting to protect yourself from danger.

You can contact a domestic and sexual violence advocate to assist you with figuring out a way for you to be safe. Each situation is different, and it is important to ask for help and to make a plan.

Call the Virginia Statewide Hotline at 1.800.838.8238 to make a safety plan and to get connected to a Domestic and Sexual Violence Program in your area.

For more information on how to ask for a Protective Order in your area, call the Virginia Statewide Hotline at 1.800.838.8238, text at 804.793.9999, or chat at www.vadata.org/chat

Where do I go to apply for a Family Abuse Protective Order?

To apply (petition) for a Family Abuse Protective Order (Juvenile and Domestic Relations Court) you must go to the intake office of the Juvenile and Domestic Relations Court either where you live or where the abuse/violence took place. There is no fee to petition for a protective order.

Where do I go to apply for a (Non-Family Abuse) Protective Order?

To apply (petition) for a Protective Order (General District Court), go to the Clerk's Office of the General District Court either where you live or where the violence took place.

The I-CAN! website can help you fill out the forms needed to request a protective order.

First, go to www.courts.state.va.us. On the left, click "Programs". Then, click "Domestic Violence Programs and Services". Then, click "Assistance with Protective Orders". Then, click "I-CAN! Virginia's Online Forms Completion System for Protective Orders".

I-CAN! will ask you questions about your situation, and it will add your answers to the correct court forms. You can then print those forms and take them to either the Juvenile and Domestic Relations Court or the General District Court to file them and request the protective order. It will take you around 30 minutes to fill out and print the forms. Filling out the forms online does not mean you have asked for a protective order. You must print and bring the forms to the correct court to file them. The online forms are not automatically sent to the court.

After you print out your completed form, look at the top of it and it will either say Juvenile and Domestic Relations District Court or General District Court. If it says Juvenile and Domestic Relations District Court, you should take the forms to the Court Services Unit of the specific court named on the forms. If the form says General District Court, you should take the forms to the Clerk's Office of the General District Court.

If you do not have access to a computer or would prefer talking to someone, call the Virginia Statewide Hotline at 1.800.838.8238 and you can find the closest Sexual and Domestic Violence Agency for help or you can ask for help from the Hotline Advocate. A trained advocate can talk you through the process and provide immediate help.

NOW THAT I HAVE A PROTECTIVE ORDER, WHAT DO I NEED TO KNOW?

All Protective Orders require enforcement.

Protective orders can only be enforced if the order has been served to the abuser or respondent. (This means that the abuser or respondent has received a copy of the order and knows that there is an order issued against them).

Once a protective order has been issued and served, it is entered into a law enforcement data base called VCIN (Virginia Criminal Information Network). Information about the order is available to law enforcement. Entry into the VCIN also prohibits the respondent from legally purchasing a firearm where a background check is required. Once the order is no longer in effect, it will be removed from VCIN.

It is the abuser or respondent's responsibility not to violate the terms of the protective order. A violation of certain terms in the order is a criminal offense. Any act of violence is a criminal violation. If the protective order states that the respondent may not contact you, then that violation is also a criminal offense. Call the police immediately to report a criminal violation of a protective order. Violations of other terms of the order are not criminal and must be enforced through a 'show cause' motion (going back to the court).

A criminal violation of a protective order may also be reported to the local magistrate, who may issue a criminal misdemeanor charge of a violation of the protective order.

If the police do not arrest the abuser or respondent for a criminal violation, you may go to the Magistrate's office to request a warrant because the Protective Order was violated. Take a copy of your order to the Magistrate's office with you.

MAKE SURE THE ORDER WORKS FOR YOU.

While you are not responsible for enforcing it, there are things you can do to help make it work better for you and to help the police enforce your Protective Order.

- **Keep a copy of the order with you** if at all possible; it helps if you can get several copies of it from the courts. Many Virginia courts also participate in a program called the **Hope Card Program**. Hope Cards are laminated cards, similar in size and shape to a credit card, that contain all the essential information about your protective order in a durable, easy-to-read format. The card is a convenient way to carry around the important information found on a protective order. It does NOT replace the existing protective order. Law enforcement still must verify the order in their system when presented with a Hope Card.
- **Let your friends and family, your employer, campus and school staff and anyone you feel like you can tell, know that you have a protective order.** Tell them to call 911 if they are aware that the abuser or respondent is near you.
- **If the abuser or respondent contacts you or assaults you, call 911 as soon as possible.** Let them know that you have a protective order. Police in Virginia are required to make an arrest if the respondent assaults you or contacts you (if there is a no-contact requirement in the protective order). Contact may include communication in person, by phone, (calls or texts), by mail or by e-mail. This includes messages sent through other people (such as mutual friends).

If the contact is in person, try to give a description of what the respondent was wearing, the type of car, license plate and the direction he/she left the scene.

If the contact is by phone, give the time of the call, where the call was made from if you know (number from caller ID), tell them what was said, and if possible, record the call. If the contact is in the form of a text message, do not respond but save the message and provide it to the police and courts.

If the contact is by mail or e-mail, save the mail or e-mail, do not respond but provide the content of the mail or e-mail to police and courts.

Remember: no one has the right to threaten or harm you. You deserve a life free from violence. There are many people who care about you and will try to help you.

Call, text, or chat the Virginia Statewide Hotline to speak with an advocate or visit www.vsdvalliance.org for more information on how to stay safe.

If getting a Protective Order seems overwhelming, break it down in steps, or talk to a domestic and sexual violence advocate or a trusted friend or family member to help sort things out.

The more information you can provide, the better.

If the order is a no contact order, it is best for you to not contact the abuser or respondent for any reason. If you feel that you need to contact the abuser or respondent while the order is in effect, it's best that you inform the court that you need to make contact with them and the reason for the contact.

If you decide you no longer need a protective order, or you want to change something about your order, you must go back to court. Only a Judge can change the protective order. Contact the Clerk of the Court that issued the order and ask for a "modification to the order". Sometimes it helps to talk things over with a domestic and sexual violence advocate before making your final decision. However, the decision is yours to make and you are the one who knows best how to protect yourself.

A "Final" Protective Order is subject to something called Full Faith and Credit. This means that your order is to be enforced everywhere in the U.S.A. This means that if you live in one county or city and work in another one, the order is good even if you are in another state. If you move, it helps if you register your order with the courts in your new location. It's not required by law but it may help with enforcement in your new location. If your order is violated and law enforcement tells you that they cannot enforce it because it's from another state, contact the Commonwealths Attorney's Office and ask for assistance.

In Virginia, if an Emergency or Preliminary Protective Order is issued, the abuser or respondent may not purchase or transport firearms, but they may keep the firearms they already own. **If a "final" protective order is issued, the abuser or respondent will be required to give their firearms up within 24 hours of being given the order.** The respondent must also give up any concealed weapons permits to the court who issued the protective order for however long the order lasts.

Before seeking a protective order, think about how the abuser or respondent will react to having to give up their firearms. Will it upset them even more? Will it put your safety at risk? Consider talking this over with a domestic and sexual violence advocate and creating a safety plan before getting a protective order. The decision, however, is yours to make, and you know best how to protect yourself.

Protective orders and guns are a dangerous combination. If you are aware of an abuser or respondent violating the law by keeping their firearms, contact law-enforcement immediately. Go to a safe place such as a domestic violence shelter. Take the threat seriously and seek help!

PROTECTIVE ORDERS FOR TEEN DATING VIOLENCE

If you are under the age of 18 and experiencing acts of violence, force or threat from a dating partner or someone else you know, you and your parents/guardian may request a protective order to help keep you safe. In Virginia, there are limits to what you can do without involving your parents or guardian unless you are an 'emancipated minor' (see below).

You may request an Emergency Protective Order without a parent or legal guardian. A law enforcement officer may also request an emergency protective order on your behalf without a parent or legal guardian. These requests are made through the local magistrate's office. However, an emergency protective order only lasts for 72 hours and it is important to have a safety plan in place before you request a protective order.

You may only seek a Preliminary or "Final" Protective Order if you meet the legal definition of an 'emancipated minor' (see below) or if a 'next friend' (most likely a parent or guardian) petitions on your behalf. If you or the respondent are under the age of 18, your request should start with the Juvenile and Domestic Relations Court.

Since a protective order is just one tool to help you stay safe, it is important that you have caring adults in your life who know about the protective order and can help you develop a safety plan.

If you need guidance or help creating a safety plan or telling an adult, please call, text, or chat the Virginia Statewide Hotline. Free. Confidential. 24 hours a day. 7 days a week. 365 days a year. Call us at 1.800.838.8238; Text us at 804.793.9999; or chat us at www.vadata.org/chat

WHAT IS AN "EMANCIPATED MINOR"?

Under Virginia law, an 'emancipated minor' is an individual under the age of 18 who a court has determined:

- is or has been a party to a valid marriage;
- is on active duty with any of the armed forces of the United States of America; or
- is willingly living separate and apart from his/her parents or guardian, with the consent of the parents or guardian, and is capable of supporting himself/herself and managing his own financial affairs.

SUPPORT FOR LGBTQ+ VIRGINIANS

Under Virginia law, you are eligible to seek a Family Abuse Protective Order through the Juvenile and Domestic Relations (J&DR) Court if the person who is harming or threatening you is a family or household member. **This definition includes LGBTQ+ individuals who are living with a partner or who have lived with a partner in the last 12 months.**

In order to meet the legal definition of 'family or household member', you may be asked to prove that you are cohabiting with your partner which may require disclosure of intimate and private information in court.

If you experience difficulty obtaining a protective order through the Juvenile and Domestic Relations Court or if you are in a relationship that does not meet the definition of 'family or household member', you may seek a Protective Order through the General District Court. Protective Orders may be issued in response to any act of violence or threat when there is continued concern for the safety of the victim by a known perpetrator—including acts of sexual or physical violence or threats that might be considered hate crimes. Obtaining this protection does not require proof of a relationship—only proof that an act of violence or a threat has occurred and is likely to occur again.

Despite the inclusiveness of Virginia's law and the options available to LGBTQ+ individuals, you may have valid safety concerns about sharing private information and details about your relationship in order to access protection and services. **Everyone has the right to a safe, respectful, and healthy relationship.**



L G B T Q
partner abuse
& sexual assault
HELPLINE
1.866.356.6998
Monday-Friday 8am-8pm

If you are unsure of where to go for help, call, text, or chat the LGBTQ+ Partner Abuse and Sexual Assault Helpline. This is a space for survivors and people impacted by violence, like friends, family, professionals, and the general public, to connect with trained advocates about safety for LGBTQ+ Virginians experiencing violence.

Free. Confidential. 24 hours a day.
7 days a week. 365 days a year.
Chat: www.vadata.org/chat
Text: 804.793.9999
LGBTQ Helpline: 1.866.356.6998

LEGAL WORDS YOU MIGHT NEED TO KNOW

(Civil) Protective Order

Legal document to protect against an abuser. It can require the abuser to stay away from the person being abused.

Cohabitation

Living together as spouses but not married.

Contempt of Court

Failure to obey a judge's order.

Defendant

The person against whom a charge is brought. The abuser is the defendant in a protective order hearing. A defendant is the same as the respondent.

Evidence

Anything shown in court to support a case. It can include testimony by you or a witness, documents, photographs, items of clothing, weapons, and police or medical records.

Ex Parte

Latin word that means "from one side". A preliminary protective order issued by a judge who hears only from the victim is an ex parte order.

Full Faith and Credit

The responsibility of the court of one state to enforce the valid order of another state. In order to be enforced the order must have been issued by a court, after the respondent was notified of a hearing and was given the opportunity to be present and be heard.

LEGAL WORDS YOU MIGHT NEED TO KNOW

General District Court

A court where all misdemeanor cases not involving juveniles and family members are tried, including traffic cases. This court also conducts preliminary hearings in felony cases.

Hearing

A meeting held at the courthouse where the judge listens to evidence from both sides and makes a legally binding decision.

Juvenile & Domestic Relations Court

A court where all cases (including preliminary hearings) involving minors and family and household members are tried.

Petitioner

The person who begins the case or asks for a case to be heard in the court by filing a petition. Same as applicant, plaintiff or complainant.

Pro se

Acting as one's own lawyer. In Latin it means "for oneself".

Respondent

Same as defendant. The person who must respond to the charges by the petitioner or complainant.

Service

Delivering court documents to one of the parties. The abuser must be "served" with the document telling him/ her why he/she must come to court and when he/she must appear.

RESOURCES IN YOUR COMMUNITY:

County/city name:

Domestic and Sexual Violence Agency:

Location:

Phone or 24 hour hotline:

Juvenile & Domestic Relations Court Services

Location:

Phone:

General District Court

Location:

Phone:

Legal Aid

Location:

Phone:

Magistrate's Office

Location:

Phone:

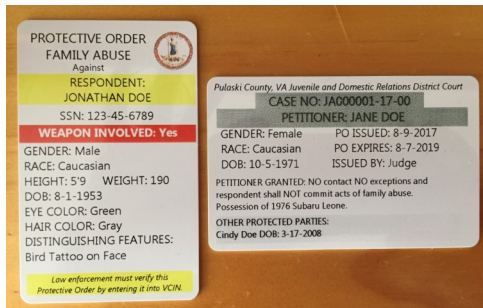
To order more copies of this
booklet, contact:

Virginia Sexual & Domestic
Violence Action Alliance
phone: 804.377.0335
e-mail: info@vsdvalliance.org
web: www.vsdvalliance.org



Hope Cards for Final Protective Orders

Frequently Asked Questions



Individuals can keep all the important information from a final protective order on a plastic, wallet-sized card, issued through the Hope Card Program, at no charge to localities or individuals.

What is a Hope Card?

It is a laminated card, similar in size and shape to a credit card, that contains all the essential information about a civil protective order in a durable, easy-to-read format. The card is a convenient way to carry around the important information found on a protective order. It does NOT replace the existing protective order. Law enforcement still must verify the order in the Virginia Criminal Information Network (VCIN) when presented with a **Hope Card**. The **Hope Card** contains information such as:

- Identifying characteristics of the person being ordered to "stay away"
- Issue/expiration date of the order
- Terms of the order, including possession of residence, etc.
- Other protected parties

Who is eligible to apply for a Hope Card?

Hope Cards are available to those with a final civil protective order issued at any level of a Virginia court for a duration of 12 months or longer. **Hope Cards** are not issued for emergency protective orders, preliminary protective orders, or "no contact" orders in a criminal case.

How does someone apply?

To apply for a **Hope Card**, download the application at <https://hopecard.vacourts.gov>, get an application from a court Clerk, or from a local victim advocate. Once the application has been completed it must be turned into the court Clerk where the final protective order was issued and processed by the Clerk. A **Hope Card** will be sent directly to the applicant. For cases in which victim safety is a concern, the card may be sent elsewhere. This should be indicated on the application.

When will the Hope Card arrive?

Most **Hope Cards** are processed and mailed to the applicant within 14 business days of the Clerk entering the request into the system.

If you have further questions about the Hope Card Program, please contact:
Jaime Clemmer, Hope Card Program Coordinator, jclemmer@vacourts.gov
Department of Judicial Planning, Office of the Executive Secretary, Supreme Court of Virginia

PROTECTIVE ORDERS IN VIRGINIA

Gun Owner's Rights and Responsibilities (Va. Code § 18.2-308.1:4)

If you have been served with a **PRELIMINARY PROTECTIVE ORDER**:

1. You **CANNOT** transport or purchase a FIREARM.
2. You **CANNOT** carry a concealed weapon even if you have a concealed weapons permit.
3. If you have a concealed weapons permit **YOU MUST SURRENDER** it to the court that issued the preliminary protective order.

If you have been served with a **FINAL PROTECTIVE ORDER**:

1. You **CANNOT** possess, transport or purchase a FIREARM.
2. You **MAY** possess a FIREARM in the first 24 hours after you received the protective order in order to:
 - a) **SELL or TRANSFER** it to a person who is allowed to possess firearms.
 - b) **SELL or TRANSFER** it to a dealer who is allowed to possess firearms.
 - c) **SURRENDER** your firearm to THIS law enforcement Agency:
3. Within 48 hours of service of the protective order, you must **COMPLETE the FIREARM CERTIFICATION form** indicating that you either do not possess weapons or that you have transferred or surrendered them as described above.
 - You must **FILE this certification with the CLERK of COURT** of the court that issued the protective order.
4. If you have a concealed weapons permit, you must **SURRENDER** it to the court that issued the protective order.

The Pulaski Domestic Violence Committee created this document with the assistance of Madelynn Herman and Jaime Clemmer, Department of Judicial Planning, Office of the Executive Secretary of the Supreme Court of Virginia. This project was supported in part by V-STOP grant # 20-R5161VA19 awarded to the Office of the Executive Secretary from funds authorized by the Violence Against Women Act awarded to Virginia by the U.S. Department of Justice.

This document was approved for distribution as an informational resource by the Advisory Committee on Domestic Violence Issues in Virginia's Courts of the Supreme Court of Virginia on 10/27/21.

**PROTECTIVE ORDER
FIREARM CERTIFICATION**

Commonwealth of Virginia Va. Code § 18.2-308.1:4

Case No.

..... ☐ General District Court ☐ Circuit Court
☐ Juvenile and Domestic Relations District Court

.....
ADDRESS OF COURT

..... V.
PETITIONER RESPONDENT

I, the named Respondent, certify pursuant to Virginia Code § 18.2-308.1:4 that

☐ I do not possess any firearms.

OR

☐ I have surrendered, sold or transferred all firearms that were possessed by me, as required by the issued Protective Order.

I understand that I am required to file this completed certification form with the clerk of the court that entered the Protective Order within 48 hours after being served with the Protective Order.

I further understand that I am required to surrender my concealed firearm permit, if any, to the court named above that entered the Protective Order.

.....
DATE SIGNATURE OF RESPONDENT

.....
PRINTED NAME OF RESPONDENT

VIRGINIA FIREARMS PROHIBITION:

Pursuant to Virginia Code § 18.2-308.1:4, Respondent shall not purchase, transport or possess any firearm while the Protective Order is in effect.

(FOR COURT USE ONLY)

☐ As the Respondent failed to file the required certification form with the clerk of the court, a show cause summons for contempt of court shall be issued and served on the Respondent.

.....
DATE JUDGE

Virginia Bench Guide for Recognizing Dangerousness in Potentially Lethal Cases

Research has proven that there are several factors associated with an increased risk of homicides in intimate partner domestic violence relationships. This bench guide is not intended to predict what will happen in any given case; it is an informational tool for your consideration as you review a case and become aware of the extent to which the evidence reveals how many lethality factors (danger of homicide) are present.¹ **Please refer to the back of this sheet for information on how to use this bench guide.**

LETHALITY FACTORS:

PERPETRATOR-RELATED:
Alleged perpetrator ever used or threatened the alleged victim with a lethal weapon
Alleged perpetrator has attempted to strangle or choke the alleged victim
Alleged perpetrator is violently and constantly jealous of the alleged victim (“If I can’t have you, no one can.”)
Alleged perpetrator has forced the alleged victim to have sex when the victim did not want to
Alleged perpetrator owns or has access to firearm(s)
There has been an increase in severity or frequency of physical violence over the last year
Alleged perpetrator tries to control most or all of alleged victim’s daily activities
Alleged perpetrator uses illegal drugs such as “uppers,” “meth,” speed, angel dust, cocaine, “crack,” etc.
Alleged perpetrator is an alcoholic or a problem drinker
Alleged perpetrator ever threatened or tried to commit suicide
Alleged perpetrator ever threatened or tried to kill the alleged victim
Alleged perpetrator follows or spies on the alleged victim
Alleged perpetrator has threatened to harm the alleged victim’s children
Alleged perpetrator is unemployed
Alleged perpetrator avoided being arrested for domestic violence
There are pending or prior protective orders , criminal/civil cases involving this alleged perpetrator
VICTIM-RELATED:
Alleged victim believes that the alleged perpetrator will re-assault or is capable of killing her/him
Alleged victim was assaulted and/or battered by the alleged perpetrator while pregnant
Alleged victim has a child that is not the alleged perpetrator’s child
Alleged victim left the alleged perpetrator after living together in the past year
Alleged victim has threatened or tried to commit suicide

¹ **Please note:** This list of lethality factors is not exhaustive. The presence of these factors can indicate **elevated risk** of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality or evidence that any particular judicial action (i.e. granting a Protective Order) should not be taken. This bench guide was primarily based on the lethality factors identified in the validated risk assessment tool developed by Dr. Jacqueline C. Campbell, PhD, and modeled after similar bench guides developed by the Massachusetts, Minnesota, and California courts.

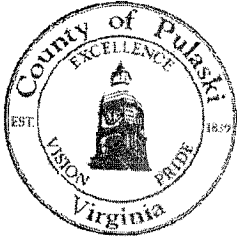
How to Use the “Recognizing Dangerousness in Potentially Lethal Cases” Bench Guide

This bench guide can be used by Virginia judges at all stages of judicial proceedings involving allegations of domestic/dating violence and protective orders in civil and criminal domestic violence cases. **It can be used at bond hearings, protective order hearings, or anytime the judge feels it is appropriate.** Suggested tips include:

- **Try to obtain information regarding these factors through all appropriate and available sources**
 - Potential sources include police, victim witness staff, prosecutors, defense attorneys, bail evaluators, pre-sentence investigators, probation, custody evaluators, parties, and attorneys
- **Be cautious about eliciting safety or risk information from victims in open court**
 - Safety concerns can affect the victim’s ability to provide accurate information in open court
 - Soliciting information from victims in a private setting (by someone other than the judge) improves the accuracy of information and also serves as an opportunity to provide information/resources to the victim
- **Note that this list of risk factors is not exclusive**
 - The lethality factors are the ones most commonly present when the risk of serious harm or death exists
 - Additional factors exist which assist in prediction of re-assault
 - Victims may face and fear other risks such as homelessness, poverty, criminal charges, loss of children or family supports
- **Remember that the level and type of risk can change over time**
 - The most dangerous time is the days to months after the alleged perpetrator discovers that the victim:
 - might attempt to separate from the alleged perpetrator or to terminate the relationship
 - has disclosed or is attempting to disclose the abuse to others, especially the legal system

Domestic Violence Programs and Services
Department of Judicial Planning
Office of the Executive Secretary
Supreme Court of Virginia
100 N. Ninth Street
Richmond, VA 23219

Web: <http://oesinet/courtadmin/judpln/programs/dvps/home.html>



Pulaski County Sheriff's Office

Michael W. Worrell – Sheriff

802 East Main Street

Pulaski, VA 24301

Phone: 540-980-7800 Fax: 540-980-7834

<http://www.sheriffsoffice.org>



Surrendering Firearms

If you are a subject of Permanent Protective Order firearms can be surrendered to the Pulaski County Sheriff's Office located at 802 E. Main St. Pulaski, VA. This can be done 7 days a week 24hrs. a day.

If firearms have been surrendered to Pulaski County Sheriff's Office due to being a subject of a Permanent Protective Order and the Permanent Protective Order has expired, you must request in writing to retrieve the firearms.

This can be done by the person who surrendered the firearms by mailing or delivering the request to:

Pulaski County Sheriff's Office
802 E. Main St.
Pulaski, VA 24301
Attention Investigator Phillips

**VIRGINIA: IN THE JUVENILE & DOMESTIC RELATIONS DISTRICT COURT OF
PULASKI COUNTY**

Petitioner

v.

Respondent

**RESPONDENT'S STATEMENT IN REGARD TO POSSESSION OF FIREARMS
AND CONCEALED WEAPONS PERMIT**

I declare that the facts below are true:

1. I am the Respondent in a final Family Abuse Protective Order issued by this Court.
2. I understand that under Section 18.2-308.1:4 of the Code of Virginia that I cannot purchase, transport, or possess any firearms while this order is in effect.
3. I further understand that for a period of 24 hours after being served with this order, I may continue to possess and transport firearms for purposes of selling or transferring them to any person who is not by law prohibited from possessing firearms.
4. I understand that if I have a concealed handgun permit, I must surrender the permit to the Pulaski County Juvenile and Domestic Relations District Court.
5. Initial the correct statement:

_____ NO, I do not have a concealed weapon permit.

_____ YES, I have a concealed weapon permit and have surrendered it to the court or will do so immediately.

6. I further understand that federal law provides for penalties for possessing, transporting, shipping, receiving or purchasing any firearm or ammunition while subject to a qualifying protective order and under circumstances specified in 18 U.S.C. Section 922(g)(8).

Respondents Signature: _____ **Date:** _____

Witnessed by: _____ **Date:** _____
Serving Officer

**PULASKI COUNTY JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT
BENCH CARD #3**

Protective Order Checklist

Preliminary Protective Order (to petitioner):

1. Was there a gun involved in the incident?
2. Does the respondent have concealed handgun permit?
3. (If Respondent incarcerated) Are you familiar with Vinelink/how it works?
4. Do you have pending custody/visitation/support petitions or motions? (Court should try to combine hearings)
5. Does the Respondent have a pending criminal charge as a result of this incident? (Court should recog victim for criminal hearing.)

Full Protective Order – Warnings to Respondent:

1. No contact means no contact at all: No face to face, no phone calls, no text messages, no electronic contact, no gifts, cards, letters, flowers, 3rd party messages, no social media messages. **All** contact is prohibited. (Even **friendly** contact violates the order.) **Do you understand? Repeat back to me in your own words what is prohibited.**
2. If violate, Class 1 misdemeanor:
 - 12 months jail, \$2,500 fine.
 - Mandatory jail sentence.
 - Statute requires new P.O. which may last an additional 2 years.
 - You may be required to give a DNA sample.
3. Under Virginia Law, you cannot transport, purchase, or **possess** a firearm. **But**, for the first 24 hours after service of the PO, you may possess and transport the firearm in order to sell or transfer it to a person who can lawfully possess a firearm. Violation of this provision is a class six felony. Do you possess any firearms?
4. Do you have concealed weapon permit? If so, you must surrender.

5. You have the right to appeal. You must appeal within 10 days. If you do appeal, the PO stays in place until the Circuit court changes it.

TO BOTH: YOU cannot change this order by agreement; only the Court can change this order. It will be in VCIN.

This bench card is a product of the Pulaski County Domestic Violence Committee and was created by Judge Lee Chitwood with the assistance of Jaime Clemmer, Domestic Violence Coordinator of the Pulaski County Juvenile and Domestic Relations District Court, and Madelyn Herman, Senior Domestic Violence Program Analyst, Department of Judicial Planning, Supreme Court of Virginia.

STATE OF VIRGINIA:

, TO WIT:

The undersigned, after having been first duly sworn, deposes and says as follows, to wit:

[illegible]

Please complete the reverse side, if applicable.

AFFIANT

Sworn to and subscribed before me on this _____ day of _____, 2017

INTAKE OFFICER

Addendum to Protective Order Affidavit

Revised 04/2017

CONCEALED WEAPONS PERMIT:

- The Respondent has a Concealed Weapons Permit: Yes_____ No_____ I Don't Know_____

FIREARMS / WEAPONS:

- The Respondent used a firearm/weapon during the incident described above:

Yes_____ No_____ Type of Firearm/Weapon_____

- The respondent has used a firearm/weapon in other incidents:

Yes_____ No_____ Type of Firearm/Weapon_____

- The Respondent owns, possesses, or has access to the following firearm(s)/weapon(s):

(Please indicate where they are kept)

- The Respondent usually carries a firearm/weapon on his person:

Yes_____ No_____ Type of Firearm/Weapon_____

INJURIES

- I was injured in the current incident Yes_____ No_____
- I have pictures of current injuries: Yes_____ No_____
- Pictures attached: Yes_____ No_____

PREVIOUS PROTECTIVE ORDER(S):

- Have any Protective Orders been issued against this respondent previously(for you or anyone else):

Self: Yes_____ Others: Yes_____ Name of other person(s):_____
No_____ No_____ Relationship to respondent:_____
Unknown_____

- Issued in the State of Virginia: Yes_____ No_____ If no, list State:_____

- History of violence in the relationship: Yes_____ No_____

RESPONDENT'S PENDING CRIMINAL CHARGE(S):

RESPONDENT'S PRIOR CRIMINAL CONVICTION(S):

RESPONDENT'S PHYSICAL DESCRIPTION:

Height: _____ Weight: _____ Eye Color: _____ Hair Color: _____

Tattoos: _____ Piercings: _____

Physical Description Comments: _____

FIREARMS SURRENDER



I've been served with a final protective order in Virginia, and I own a gun. What next/what do I do?

If you have been served with a final protective order:
You CANNOT have, carry, or buy a gun(s).

**You have
24 HOURS
to do the
following:**

- ▶ Take your gun(s) to the Sheriff's Office;
- ▶ Sell or give your gun(s) to a dealer; or
- ▶ Sell or give your gun(s) to anybody legally allowed to have a gun.

If you have a concealed carry permit, you must give the permit to the court that issued the final protective order.

Protective Order Firearm Certification

- ▶ You must **COMPLETE** the **FIREARM CERTIFICATION** in 48 hours.
- ▶ Hand over your gun(s) and confirm that on the certification form.
- ▶ FILE this form with the CLERK of the COURT that issued the protective order.

How Do I Turn Over My Gun(s)?

- ▶ Make an appointment with the **Sheriff's Office** by calling **703-246-4405**.
- ▶ The Sheriff's Office can store your gun(s) safely.
- ▶ Bring unloaded gun(s), copy of final protective order and government-issued ID.
- ▶ You and your gun(s) will be checked for outstanding warrants.
- ▶ Your gun(s) will be inventoried, and you will get a receipt, called a Weapon Forfeiture form.
- ▶ Your gun(s) will be stored until the final protective order expires or is dismissed.



DO:

- ▶ Call ahead
- ▶ Unload gun(s)
- ▶ Separate gun(s), magazine, and ammunition
- ▶ Place in trunk



DON'T

- ▶ Bring loaded gun(s) into Sheriff's Office
- ▶ Bring ammunition with you
- ▶ Bring gun(s) to court

How Do I Get My Gun(s) Back?

After Final Protective Order Has Expired or Been Dismissed:

- ▶ Make an appointment with the Sheriff's Office by calling **703-246-4405**.
- ▶ Bring government-issued ID, copy of protective order dismissal, final protective order and Weapon Forfeiture form.
- ▶ After all checks come back negative, you will get your gun(s) back.



Arlington's Project PEACE Domestic Violence Response Protocol: FAMILY ABUSE PERMANENT PROTECTIVE ORDER FIREARM PROHIBITION

On July 1, 2016, a new provision of the law prohibited a person who is subject to a permanent protective order (respondent) entered pursuant to Va. Code § [16.1-253.1](#), [16.1-253.4](#), [16.1-278.2](#), [16.1-279.1](#), [19.2-152.8](#), [19.2-152.9](#), or [19.2-152.10](#), or a substantially similar statute in another jurisdiction, from possessing a firearm while the protective order is in effect. Pursuant to Va. Code § [18.2-308.1:4](#), it is a crime for persons subject to a protective order to knowingly possess any firearm.

On July 1, 2020, Va. Code § [18.2-308.1:4](#) was amended and reenacted to include accountability for the relinquishing of firearms and concealed handgun permits by requiring a person who is subject to a permanent protective order (respondent) entered pursuant to Va. Code § [16.1-279.1](#) or [19.2-152.10](#), **to certify in writing to the clerk of the court via a signed form** that they have complied with the law within 48 hours of issuance of the order.

The law provides respondents with a 24-hour period after being served with a permanent protective order to surrender any firearms to a designated local law enforcement agency, sell or transfer any firearms to a dealer, or sell or transfer any firearms to another person who may lawfully possess firearms. Violation of this provision is a Class 6 Felony, punishable by imprisonment of no less than one (1) year nor more than five (5) years and other possible penalties.

Within 48 hours the respondent must also certify in writing to the clerk of the court that they do not possess any firearms, or that all firearms possessed have been surrendered, sold, or transferred. Violation of this provision is punishable as contempt of court.

The presence of a firearm makes it five times more likely domestic violence will turn into murder.¹ Removing firearms from dangerous domestic violence situations can help keep our community safe. Arlington's Project PEACE has developed this protocol to support implementation and enforcement of this law. This updated protocol and its predecessor are the product of collaboration between Arlington County Juvenile and Domestic Relations District Court (JDR), Arlington County Sheriff's Office (ACSO), Arlington County Police Department (ACPD), Arlington County Commonwealth's Attorney's Office (CAO) and Victim Witness Program (VWP), Department of Human Services (DHS), Region 5 Office of the Magistrate, Doorways for Women and Families (Doorways), Legal Services of Northern Virginia (LSNV) and the Leadership Roundtable of Project PEACE.

This document is intended to assist law enforcement, magistrates, prosecutors, victim advocates and community agencies in their coordinated efforts toward the safe removal, storage, return or disposal of firearms owned by persons subject to family abuse permanent protective orders. This protocol does not

¹ J.C. Campbell, D; Webster, J; Kozio-Mclain, C.R; et al. 2003. Risk Factors for Femicide in Abusive Relationships: Results from A Multi-Site Case Control Study. American Journal of Public Health. 93(7). Accessed from: http://www.futureswithoutviolence.org/userfiles/children_and_families/guns.pdf

supersede the policies and/or procedures of the individual agencies or departments represented.

The aforementioned agencies and departments will take the following actions regarding the firearm prohibition:

Arlington County Juvenile and Domestic Relations District Court (JDR): Notice to Respondents and Compliance Certification

- When a Permanent Protective Order is issued, Judges will read aloud the conditions of the final protective order, including the "Notice & Acknowledgement of Firearms and Concealed Weapons Permit Prohibitions," in open court, for all permanent protective orders issued utilizing an interpreter as necessary.
- Judges **will ask respondents to sign the** "Notice & Acknowledgement of Firearms and Concealed Weapons Permit Prohibitions" at the hearing. (See exhibit A)
- Judges **will ask the respondent** if they own, possess or have access to a firearm **and/or** do they have a Concealed Handgun Permit, utilizing an interpreter as necessary.
 - If respondent replies "No," the Judge **will ask the respondent to certify, in writing**, on the "Firearm Prohibition Compliance Certification" form provided by the Office of the Executive Secretary of the Supreme Court, that they either do not have or have surrendered a Concealed Handgun Permit, do not/will not possess nor will they purchase or transport any firearms for the duration of the permanent protective order.²
 - If respondent replies "Yes," the judge will give the respondent the "Firearm Prohibition Compliance Certification" form provided by the Office of the Executive Secretary of the Supreme Court **and** will notify them of requirements and consequences for not certifying compliance within 48 hours of the issuance of the permanent protective order.³

Instructions will include where and how to turn in the form.

- Judges will utilize the affidavit to verify whether or not a firearm was used in the incident when questioning respondents. Court staff are encouraged to **highlight those affidavits which verify use of, or access to, firearms in advance** of hearings.
- The "Firearm Prohibition Compliance Certification" must be filed with the clerk of the court that entered the protective order within 48-hours of issuance of the Permanent Protective Order.⁴

² Pursuant to § 18.2-308.1:4 and § 18.2-308.2:1 of the Code of Virginia. Amended in HB 1004 2020. Viewable [here](#).

³ Pursuant to § 18.2-308.1:4 and § 18.2-308.2:1 of the Code of Virginia. Amended in HB 1004 2020. Viewable [here](#).

⁴ Pursuant to § 18.2-308.1:4 and § 18.2-308.2:1 of the Code of Virginia. Amended in HB 1004 2020. Viewable [here](#).

- The "Notice & Acknowledgement of Firearms and Concealed Weapons Permit Prohibitions" can be made available in the following languages: English, Spanish, Urdu, Arabic, Mongolian, and Amharic.⁵
- Judges will enter into the record the "Notice & Acknowledgement of Firearms and Concealed Weapon Permit Prohibitions" signed by the respondent.
- Judges will enter into the record the status of the "Firearm Prohibition Compliance Certification" form.
- For respondents who have not signed the "Firearm Prohibition Compliance Certification" in court, their case will be placed on the docket 48 hours out. If respondent has turned in the compliance form to the Clerk, the case will be dismissed. If the respondent has not complied by returning the "Firearm Prohibition Compliance Certification" form, the Judge will issue a rule to show cause.
 - For respondent who are served out of the court by the ACSO, they will have 48 hours from the time of being served to return the form to the Clerk's Office. Instructions including all of the forms needed will be provided to respondent at time of service.
 - The court will coordinate with ACPD for the removal of firearms as necessary.
- Judges will collaborate with Arlington Circuit Court to ensure surrender of any Concealed Handgun Permits.
- Judges will ensure all victims are provided the Firearm Prohibition Fact Sheet and the Firearm Prohibition Victim Safety Tip Sheet. The tip sheet includes safety planning guidance for the 48-hour period following service of the permanent protective order. (See Exhibit B and C)

Arlington County Sheriff's Office (ACSO): Serving Protective Orders and Notice to Respondents

- When reviewing permanent protective orders with respondents served in court, ACSO will re-review the "Notice & Acknowledgement of Firearms and Concealed Weapons Permit Prohibitions," confirm respondent received the certification form and notify respondents of their options for firearm surrender.
 - Respondents will be advised that DCJS has determined that living in a home where firearms are present may constitute a violation of this prohibition.
 - Respondents will be encouraged to fill out and return the certification form that day if they are able to do so.
- When serving permanent protective orders on respondents who did not appear in court, ACSO will

⁵ Diversity in Arlington County. Viewable [here](#).

read and ask respondents to sign the "Notice & Acknowledgement of Firearms and Concealed Weapons Permit Prohibitions" and they will provide the respondent with the "Firearm Prohibition Compliance Certification" form.

- Respondents will be advised that DCJS has determined that living in a home where firearms are present may constitute a violation of this prohibition.
- ACSO will explain the certification process.
- ACSO will advise respondent on how to safely transfer firearms.
- ACSO will offer a phone interpreter when reading the notices as needed to ensure language access for respondent.
 - When available, ACSO will utilize language cards to determine respondents spoken language for interpretation.
- Once served, ACSO will record that the permanent protective order and certification form were issued document in LERMS whether the respondent has voluntary or plans to turn over a weapon(s). ACSO should also run a wanted check to document whether VCIN shows a concealed weapons permit.
- ACSO will document family abuse Permanent Protective Orders served by their office in the Virginia Crime Information Network (VCIN) and National Crime Information Center (NCIC) databases.

Arlington County Police Department (ACPD): Surrender/Retrieval of Weapons

- ACPD may accept firearms voluntarily surrendered by respondents seeking compliance with this statute on a case by case basis.
- Surrendered firearms accepted by ACPD will be stored until a respondent can:
 - Demonstrate legal eligibility to possess a firearm, **and**
 - Produce a completed proof of eligibility (Verification Forms) to possess a firearm from Juvenile and Domestic Relations Court.
- ACPD will check VCIN and NCIC to ensure there are no outstanding firearm prohibitions from other jurisdictions prior to returning a surrendered firearm.
- Surrendered firearms will be held, at a minimum, for the duration of the permanent protective order and only returned when a respondent can demonstrate they are legally eligible to possess a firearm. If not otherwise contacted by the respondent:
 - after a minimum of two (2) years, respondents will be notified by ACPD to retrieve firearms if they are legally eligible to possess and transport firearm(s).

- ACPD may thereafter dispose of firearms in accordance with County ordinances and departmental policies. Firearms may also be disposed of if a respondent refuses or fails to claim the surrendered property and was so notified.
- ACPD will enforce violations of the firearm prohibition statute including arrests, search, and seizure, upon a determination of probable cause.

Arlington County Commonwealth's Attorney's Office: Firearm Prohibition Compliance

- The CAOs office will support the JDR Clerk's offices as needed when a respondent has not complied with the "Firearm Prohibition Compliance Certification."
- When notified of non-compliance, the CAO will work with JDR judges to hold those respondents who do not turn their notification forms in within 48 hours accountable by participating in contempt of court proceedings if requested by the judges.

Arlington County Court Services-Safe Havens Program (SHP) and Probation: Notice to Respondents

- SHP and Probation staff will provide all SHP and Probation clients who have a permanent protective order issued against them the "Firearm Prohibition Fact Sheet" at intake. (Exhibit B)
- Clients subject to permanent protective orders will be advised to transfer or surrender all firearms and concealed handgun permits in their possession within 24 hours of being served with a permanent protective order and to certify their compliance in writing with the clerk of the court within 48 hours.
- Clients will be advised that DCJS has determined that living in a home where firearms are present may constitute a violation of this prohibition.

Arlington County Department of Human Services-Abuser Intervention Program (AIP): Notice to Respondents

- AIP staff will provide all clients the "Firearm Prohibition Fact Sheet" at intake. (Exhibit B)
- Clients subject to permanent protective orders will be advised to transfer or surrender all firearms and concealed handgun permits in their possession within 24 hours of being served with a permanent protective order and to certify their compliance in writing with the Clerk of the court within 48 hours.
- Clients will be advised that DCJS has determined that living in a home where firearms are present may constitute a violation of this prohibition.

Victim-Witness Program and Doorways for Women and Families: Notice to Victims and Victim Safety

- Where feasible, Victim-Witness Program and Doorways for Women and Families will provide notice of the firearm prohibition to petitioners holding an active permanent protective order issued in Virginia.
- Where feasible, Victim-Witness Program and Doorways for Women and Families will provide identified victims of family abuse the Firearm Prohibition Fact Sheet and the Firearm Prohibition Victim Safety Tip Sheet. The tip sheet includes safety planning guidance for the period following service of the permanent protective order. (Exhibits B and C)
- Victim-Witness Program and Doorways for Women and Families may provide additional safety planning assistance, as necessary.
- Clients will be advised that DCJS has determined that the Respondent living in a home where firearms are present may constitute a violation of this prohibition.

IN THE ARLINGTON JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT
FOR THE SEVENTEENTH JUDICIAL DISTRICT

Petitioner,

v.

CASE NUMBER: JA

Respondent

**NOTICE & ACKNOWLEDGEMENT OF FIREARMS & CONCEALED WEAPON PERMIT
PROHIBITION**

1. A Permanent Protective Order has been issued by this Court. *
 2. The above-named Respondent **cannot purchase, transport or possess any firearms** nor can they have a **concealed handgun** permit while this order is in effect. *
 3. For a period of 24-hours after being served with this Permanent Protective Order, the above-named Respondent may continue to possess and transport any firearm in their possession **for the sole purpose of** selling or transferring such firearm to any person who is not prohibited by law from possessing such firearm.
 4. **Within 48 hours after being served** with this Permanent Protective Order, the above-named Respondent **must certify, in writing**, to the Clerk of the Court on the "Firearm Prohibition Compliance Certification" form provided by the Office of the Executive Secretary of the Supreme Court, that they:
 - a. do not have, or have surrendered to the courts, a Concealed Handgun Permit; and
 - b. do not/will not possess *nor will they* purchase or transport any firearms for the duration of the permanent protective order. *
- See backside for instructions on where and how to turn in certification form and/or where to turn in firearms for safe keeping.*
5. **Failure to certify compliance in writing within 48 hours via the "Firearm Prohibition Compliance Certification" form is contempt of court. ***
 6. **Possessing a firearm, while being the subject of a Protective Order, is a Class 6 felony. ***
 7. If the above-named Respondent has a concealed weapon permit, they are prohibited from carrying any concealed firearms and **must surrender the permit to the Circuit Court**. **Failing to surrender a concealed handgun permit is a Class 1 misdemeanor. ***
 8. Federal law provides for penalties for possessing, transporting, shipping, receiving or purchasing any firearm or ammunition while subject to a qualifying protective order and under circumstances specified in 18 U.S.C. Section 922(g)(8).
 9. The above-named Respondent has been advised of the above-listed statements and a copy has been served along with the Protective Order.

March 25, 2021

DATE

RESPONDENT SIGNATURE

EXHIBIT A BACKSIDE- CONTINUED

INSTRUCTIONS FOR FIREARM PROHIBITION COMPLIANCE

TO TURN IN FIREARMS FOR SAFE KEEPING

All firearms must be turned over to someone who is legally able to possess them within 24-hours. If the above-named Respondent does not have a safe place to store the firearms for the duration of the protective order, the Arlington County Police Department can store the firearm for the Respondent.

Please call 703-558-2222 to discuss transfer. Do not bring the firearm to the police department. If you live outside of Arlington County, call your local police department for guidance.

DO NOT carry the firearm on yourself, in your clothing, or hold the firearm in your hands while surrendering your weapon.

If you are able, safely unload the firearm prior to meeting with the Arlington County Sheriff's Office or Police Department.

Place the firearm in a gun box, container, or bag and await the arrival of the Sheriff's Office or Police Department.

TO TURN IN CONCEALED HANDGUN PERMIT

Concealed handgun permits must be surrendered within 24-hours to the Arlington Circuit Court. Permits can be returned to the office at 1425 North Courthouse Road Arlington, VA 22201. Please call for specific hours: 703-228-7010.

TO TURN IN CERTIFICATION FORMS

Forms must be returned to the Clerk of the Court within 48 hours of receiving the permanent protective order.

For Juvenile and Domestic Relations Court, forms can be turned into the Clerk's Office or via email.

- Clerk's Office: 1425 North Courthouse Rd, Ste 4100, Arlington, VA 22201
- Email: jdr.4@arlingtonva.us

EXHIBIT B

Arlington's Domestic Violence Fact Sheet: PERMANENT PROTECTIVE ORDER FIREARM PROHIBITION

The law prohibits a person who is subject to a final protective order (respondent) from possessing firearms and a concealed handgun permit. (Pursuant to § 18.2-308.1:4 and § 18.2-308.2:1 of the Code of Virginia. Amended in HB 1004 2020. Viewable [here](#).)

The law provides that after being served with a permanent protective order, the respondent has a **24-hour period to transfer or sell** all firearms they own or possess to any other person who is legally allowed to possess them. A **violation of this law is a Class 6 Felony**, punishable by up to five years in prison, as well as the loss of certain civil rights, including the right to possess a firearm. Additionally, the law requires that the respondent **certify in writing within 48 hours** that they no longer possess a firearm and/or a concealed handgun permit. A violation of this requirement is contempt of court.

This law does not apply to *Emergency* or *Preliminary* Family Abuse Protective Orders or *Emergency* or *Preliminary* Acts of Violence Protective Orders issued by the General District Court.

ROLE AND RESPONSIBILITIES OF VICTIMS

If the court has issued you a family abuse permanent protective order, the respondent is prohibited from possessing a firearm or a concealed handgun permit. The respondent is required to sell, transfer, or surrender the firearm(s) to anyone legally able to own a firearm. They may be charged with a felony if they fail to comply. The police are not required to come and take the firearm(s), but they can store the firearms if the respondent needs someone to keep them for the duration of the permanent protective order.

- If you feel you are in danger at any time **call 911**.
- Inform the courts if you know the respondent has a firearm(s).
- If you have a protective order and believe the respondent still has a firearm(s), you can notify the Arlington County Police Department at 9-1-1 or their non-emergency number 703-558-2222.
- Contact Doorways, available 24/7, to discuss options to stay safe, or for more information about protective orders and your rights as a victim. **Call 703-237-0881, available 24/7.**

ROLE AND RESPONSIBILITIES OF RESPONDENTS

Do not possess firearms 24 hours after receiving a family abuse permanent protective order.

Arlington County Police Department will accept firearms surrendered under this statute on a case by case basis. To surrender a firearm or for more information contact: **Non-Emergency ACPD at 703-558-2222.**

If you transfer possession of a firearm(s) to another individual, ensure that person is legally permitted to possess firearms.

Living in a household where firearms are present could constitute possession and result in a violation of this law.



EXHIBIT C

If you have been granted a Permanent Protective Order, the respondent is prohibited from possessing a firearm and is required to sell or give the firearm(s) to someone else who can legally possess them within 24 hours after being served with the 2-year protective order. They must also certify in writing that they have removed all firearms from their possession within 48 hours of receiving the protective order.


What is the new law? The law prohibits a person who is subject to a final protective order (respondent) from possessing a firearm (Va. Code § 16.1-279.1 and Va. Code § 18.2-308.1.4.) The law provides that after being served with a final protective order, the respondent has a **24-hour period to lawfully possess the firearm solely for purpose of transferring or selling the firearm** to another person who is legally allowed to possess it. A violation of this law is a Class 6 Felony, punishable by up to five years in prison, as well as the loss of certain civil rights, including the right to possess a firearm.

What can you do to protect yourself?


- If you feel you are in danger, at any time, call 9-1-1.
- Always keep a copy of the Permanent Protective Order with you in case you need to report violations of the firearm prohibition or any other conditions of the order.
- Take active steps to promote your own safety. Although there is not an exact way to predict your abuser's use of violence, practice safety planning even if a protective order has been issued.
- Inform the court if you know the respondent has firearms. It's helpful to know how many, and what type of firearms the respondent owns, as well as the location(s) of the firearms.
- After the issuance of a Permanent Protective Order, the respondent has 24 hours to possess the firearm(s) for the purpose of transferring or selling it. These questions will help you minimize risk during that timeframe:
 - What's your safety plan for those 24 hours or until the respondent surrenders the firearm(s)? *If you need assistance developing a safety plan, call the 24/7 hotline 703-237-0881 and ask for support reviewing your plan.*
 - Do you have a safe place to stay? Identify several locations to which you would feel safe going for a few days and nights. These may include the homes of family members or friends, local shelters, hotels, or other accommodations. Think creatively, and keep in mind that the safest location may involve traveling outside the immediate area.
- Change your daily route to work/school and other routine behavior (such as which grocery store you frequent) of which the respondent may be aware.
- If the respondent does not own firearm(s) but has access to them from friends/family members, even if the court ordered or law enforcement seized personal firearms, request the court to advise the respondent that possession is broader than "ownership" and that he may not borrow, rent or have ready access to other firearms.
- If you believe the respondent still has the firearm(s) or if the respondent violates the firearm prohibition, **contact the Arlington County Police Department** (emergency 9-1-1 or non-emergency 703-558-2222) and provide all the information you have. If you are working with a court advocate or a victim witness staff, they can support you in reaching out and advocating for yourself and your family.
- Upon expiration of the protective order, the firearm prohibition will terminate unless state or federal law otherwise prohibits possession or ownership.
- Review your safety plan often, as needs and risks can change over time.

Firearm Protocol Parties


We the undersigned certify that we have read and understand the provisions herein and acknowledge our authority to enter into this agreement.

DocuSigned by:

754D400FB07D45A...
Beth Arthur, Sheriff
Arlington County Sherriff's Office

3/25/2021
Date

DocuSigned by:

264FD0ADE09C47B...
Earl Conklin, Court Services Director
Arlington County Juvenile and Domestic Relations Court

3/30/2021
Date


DocuSigned by:

6F81ABED7EB2476...
Parisa Deghani-Tafti, Commonwealth's Attorney
Arlington-Falls Church City Office of the Commonwealth's Attorney

3/30/2021
Date


DocuSigned by:

14C59EA935904F8...
Anita Friedman, Director
Arlington County Department of Human Services


3/25/2021
Date

DocuSigned by:

29A3AA27321847E...
Diana Ortiz, President and CEO
Doorways for Women and Families

3/25/2021
Date

DocuSigned by:

D75074B91952498...
Charles Penn, Acting Chief of Police
Arlington County Police Department

4/2/2021
Date

DocuSigned by:

1D6A227337D0412...
Judge Robin Robb, Chief Judge
Arlington County Juvenile and Domestic Relations Court

3/26/2021
Date

VIRGINIA:

**IN THE JUVENILE & DOMESTIC RELATIONS DISTRICT COURT FOR THE CITY
OF CHARLOTTESVILLE**

COMMONWEALTH OF VIRGINIA

v.

(Defendant)

NOTICE

Pursuant to Virginia Code § 18.2-308.1:8 you may not purchase, possess or transport any firearm and a violation is punishable as a Class 1 misdemeanor.

You have been convicted of the offense of assault and battery of a family or household member in violation of Va. Code § 18.2-57.2. For the purposes of Va. Code § 18.2-308.1:8, a “family or household member” means (i) the person’s spouse, whether or not he resides in the same home with the person; (ii) the person’s former spouse, whether or not he resides in the same home with the person; or (iii) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time. Va. Code § 18.2-308.1:8(B).

The victim in this case was a spouse, former spouse, or person with whom the above-named person has a child in common.

Your right to purchase, possess or transport a firearm will be restored after three (3) years from today’s date, unless you receive another disqualifying conviction, you are subject to a protective order that would restrict your right to carry a firearm, or you are otherwise prohibited by federal, state or local law from purchasing, possessing or transporting a firearm.

Judge

Date



IMPLEMENTING AN EFFECTIVE FIREARM RELINQUISHMENT PROTOCOL

NATIONAL RESOURCE CENTER ON
DOMESTIC VIOLENCE AND FIREARMS | BWJP

ABOUT US

The National Resource Center on Domestic Violence and Firearms (NRCDVF) is a project of BWJP. NRCDVF aims to (1) prevent domestic violence-related firearm homicides; (2) provide quality practice and policy expertise; and (3) to build the capacity of individuals, organizations, and coalitions of jurisdictions to proactively address domestic violence and firearms. Expert consultation and resources provide the road map for communities to improve implementation of firearm prohibitions at preventdvgunviolence.org.

David W. Keck, Director, National Resource Center on Domestic Violence and Firearms

Alicia B. Nichols, Deputy Director, National Resource Center on Domestic Violence and Firearms

Amy J. Sánchez, Chief Executive Officer, BWJP

Kristine Lizdas, Director of Policy and Practice, BWJP

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Recommendations and concept by David W. Keck on behalf of BWJP.

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ABSTRACT

Approximately two out of three women murdered each year in this country are killed by a male intimate partner using a firearm.

Previous acts of domestic violence have been identified as a predictive indicator for future violence. Relinquishment of firearms by domestic abusers has been shown to reduce the number of intimate partner homicides. Federal law prohibits possession and acquisition of firearms and ammunition for certain individuals found to have committed domestic violence. Some states have taken the further step of requiring that domestic abusers relinquish their firearms. These relinquishment mandates are largely ignored, very few states actually enforce them.

The recommendations proposed in this document are intended to provide guidance for effective implementation of existing laws.

OVERVIEW

Once a person is found by a court to have committed certain domestic violence related offenses, they are prohibited by federal law from purchasing or possessing firearms. Unfortunately, firearm dispossession is not mandated by federal law. Some state laws mandate removal of firearms possessed by prohibited persons. Unfortunately, most states with these laws find them too difficult to implement. We provide this guidance because we have seen offenders commit abuse against their intimate partners with firearms even after the court orders the offenders to give them up.

This document will address the legal impediments along with other considerations that jurisdictions face when implementing firearm relinquishment orders.

As the National Resource on Domestic Violence and Firearms, BWJP has developed a series of questions that judges and/or other stakeholders can utilize to determine if they have entered an effective firearm surrender order.

1. Does the court decision definitively render the defendant ineligible to possess guns?

2. Does the defendant possess guns?

3. Has the court specifically ordered surrender of those guns?

4. Is there a means of ensuring compliance?

This model protocol contemplates a firearm relinquishment process which emphasizes public safety through separation of domestic abusers from their firearms. We do not need new laws to achieve uniform relinquishment.

The focus of this discussion is on the most effective means of legally removing firearms from individuals determined by the legal system to be ineligible to possess or acquire them. This method relies on evidence-based practices which at times may elevate the compelling interest of keeping firearms out of the hands of certain individuals over a more traditional approach of pursuing criminal convictions.

¹ This model contemplates prohibitions which are imposed by courts, not those arising from dishonorable discharges from the military or because of illegal immigrant status.

² This document uses the term defendant which is commonly used in criminal court. The term respondent is used in most civil protective order hearings. For the purposes of clarity in this document, we only use the term defendant.

I. CURRENT LAW

Federal law prohibits possession and acquisition of firearms and ammunition by nine categories of individuals. The model protocol proposed in this document is focused on the two categories which apply specifically to domestic abusers: those subject to a domestic violence protection order (18 U.S.C. Sec. 922(g)(8)); those convicted of a misdemeanor crime of domestic violence (18 U.S.C. Sec. 922 (g)(9)). Firearm relinquishment, where it is systematically practiced, mostly centers around domestic violence prohibitors. Domestic violence has been identified as a predictive indicator for future violence. This may be one reason why relinquishment of firearms by domestic abusers results in reduction of intimate partner homicide.

Federal law does not require relinquishment of firearms for prohibited individuals. Explicitly federal law does not authorize relinquishment orders, nor does it prevent their implementation at the state level. Relinquishment orders are implicitly authorized in the sense that the law provides penalties for those individuals who do not voluntarily dispossess themselves of their guns. Violators are prosecuted for possessing or acquiring guns while under a prohibition, but there is no explicit obligation to relinquish.

Sixteen states expressly require all individuals convicted of domestic violence crimes to relinquish their firearms after conviction. Seventeen states explicitly require all people subject to domestic violence restraining orders to relinquish their firearms for the duration of the court order. State law is not uniform. Practices vary greatly from state to state and unfortunately even for the states which have relinquishment laws many remain unenforced. This model protocol does not create new law for states. It creates a framework for states to follow which allows for the effective enforcement of current federal law.

II. ANALYSIS OF THE PROTOCOL

The Model Protocol for Effective Firearms Relinquishment by BWJP's National Resource Center on Domestic Violence and Firearms utilizes evidence-based practices. The protocol prioritizes the safety-first principle of keeping firearms out of the hands of certain individuals over the traditional approach of focusing on criminal convictions. Evidence shows that relinquishment of firearms by domestic abusers results in the reduction of intimate partner homicide.

Effectiveness is further enhanced by addressing the prohibition as it comes to the court's attention to address prohibited status and the relinquishment order contemporaneously. Each of the four questions are deliberately drafted and should be asked in this specific order. They are discussed in detail below.

1. Does the court decision definitively render the defendant ineligible to possess guns?

The determination that the defendant is ineligible under either federal or state law or both should be made in open court with the parties present. Ideally the court has already advised the parties of this consequence before the parties have committed to a decision that determines the outcome of the court proceeding. This is a matter of fairness to the parties. The purposes of the relinquishment protocol, that is, removal of guns from a prohibited person, are not advanced if

³ Information about U.S.C. 922 (g) (8) and g (9) is available at <https://www.preventdvgunviolence.org/>

someone is caught by surprise after the fact. In order to be effective, relinquishment orders must be enforceable. If a defendant is later found to be in possession of a gun in violation of the law, he should not have the opportunity to claim he was unaware of that consequence.

It should also be noted, however, that many individuals may already be prohibited from possessing guns due to other circumstances. For reasons already set forth in this discussion, the defendant may have failed to relinquish firearms on previous occasions.

The proceedings contemplated here put an end to the defendant's ability to avoid the consequence of relinquishing firearms.

Having been advised that the current proceeding will result in loss of the privilege to possess firearms, the defendant then has actual notice that further possession is illegal. If the court then outlines the process by which the defendant is to be dispossessed of firearms, there is no room for ambiguity.

2. Does the defendant possess guns?

The court next determines if the now prohibited defendant currently possesses, or has access to, firearms. With the exception of California, there is no other electronic database documenting this information at either the state or federal level. The court must therefore rely on information gathered at or prior to the hearing.

In general, the second-most reliable source of this information is frequently the victim of the abuse. Presumably, this individual has an intimate relationship with the defendant, although this is not always true. The victim may have detailed and reliable information with respect to location and number of guns that defendant can access. While some victims may choose to provide this information, for many it may place them in danger of retribution from the defendant. It is therefore not recommended that victims be placed in a position where they feel compelled to come forward with this information. If a victim chooses to volunteer this information it should be allowed, but for example, victims should not be questioned in open court, in the presence of the defendant, if they know of guns defendant possesses.

The defendant is presumably the most accurate source of information about guns possessed. This protocol places the burden on the defendant. The defendant is ultimately the person who faces criminal prosecution if firearms are not relinquished. The problem is that the defendant may implicate himself in an ongoing offense by cooperating with the inquiry. Defendant is placed in a position where either course of action may subject him to criminal prosecution.

One solution to this dilemma is to compel the defendant to disclose information about all guns openly and completely. Because the response is compelled, it is an involuntary statement and cannot be used against the defendant. In some jurisdictions "use immunity" is incorporated into the relinquishment protocol. Whether formally tendered or not, immunity should be understood to be a component of the process. In other words, because the court compels the response, it is not a voluntary statement. However, judges are not a part of the prosecution team. The court would only compel such a statement with the understanding that by doing so, the statement is rendered

⁴ In fact, under 34 U.S.C. 10449(e), as a condition for certain grant funds, every state and territory must certify that their judicial administrative policies and practices include notification to domestic violence offenders of the requirements of 18 U.S.C. 922(g)(8) and (9) and any applicable related federal, state, or local laws. The DOJ recommends the court make these warnings to anyone who might be impacted by the firearms prohibitors.

inadmissible for prosecution purposes. Provided the defendant answers truthfully and completely, there is no risk of exposure to criminal prosecution.

The defendant who is in possession of firearms at the time he becomes ineligible to possess them is thus released from the bind of not knowing how to proceed. This is one legal course which avoids this quandary. It is understood that this process may allow those defendants who on previous occasions ignored the obligation to relinquish firearms when ordered to do so may escape criminal prosecution for past lapses in judgment. The broader objective of removing guns at this point is served, however. This process also places the burden of complying with the order squarely on the defendant, where it most properly rests.

3. Has the court specifically ordered surrender of those guns?

The next step in the protocol follows naturally from the first two steps. Having determined that the defendant is ineligible to possess firearms and having obtained information about which guns defendant has access to, the court is in a position to enter an order to relinquish those guns. The order should specifically order the defendant to relinquish those specific guns at a specific time and place and in a manner that has been predetermined as a part of the relinquishment protocol.

The specifics as to this part of the order will vary from jurisdiction to jurisdiction. It is vital however that these details be spelled out as specifically as possible, in order to leave no ambiguity as to the defendant's obligation under the order. A warning about the consequences for failure to comply (i.e., sanctions, contempt action, criminal prosecution) should also be included in this order.

4. Is there a means of ensuring compliance?

The court should then schedule a compliance review hearing before concluding this hearing. Defendant is ordered to appear at the compliance hearing and show cause why the relinquishment order has not been followed. It is advisable to provide a mechanism whereby the defendant can establish proof of relinquishment prior to the hearing, in which case the hearing may be cancelled.

This procedure results in an optimal method of ensuring that the defendant has complied and relinquished those firearms as ordered without the necessity of investigation to establish compliance. The burden of proof as to compliance is placed on the defendant. The defendant is, after all, the individual who faces criminal consequences for failure to follow through. Neither the court nor law enforcement is burdened with monitoring the defendant's compliance. When the time and date for the compliance hearing comes, the defendant may appear and establish cause for failure to comply. Absent this, the defendant is in non-compliance and sanctions (i.e., contempt action, criminal prosecution, etc.) may follow.

By following the protocol set forth above, the court can be satisfied that the four questions are answered. This may be summarized in one sentence:

"The defendant has provided proof to the court's satisfaction that he/she has dispossessed himself/herself of all firearms previously identified, having been determined to be ineligible to possess them."

III. THE DEMONSTRATED EFFECTIVENESS OF RELINQUISHMENT

Compared to states without a state-level domestic violence restraining order firearm restriction law, states with such a law and a relinquishment provision experienced an associated 12% decrease in intimate partner homicide and a 16% decrease in firearm intimate partner homicide. States with such a law but without a relinquishment provision did not experience a statistically significant difference between their intimate partner homicide rates and the rates of states without the restraining order firearm restriction.

To be effective, firearm relinquishment must be sustainable. Routine assessment for both internal and external safeguards must be built in. Once a policy or practice is newly established, it runs the risk of becoming ineffective through inattention over time. A means of ensuring that the Model Protocol is followed as intended must be included in the planning stage of implementation.

INTERNAL

Recordkeeping is an integral component of the Model Protocol. To function well, orders to relinquish and findings of compliance with these orders must be documented. Over time, trends in compliance should describe a recognizable pattern. This is important as an objective means of determining that the system is functioning properly and whether changes to the process should be made.

EXTERNAL

There are few communities which have implemented a systematic protocol for firearms relinquishment. As more communities implement the Model Protocol it is anticipated that statistical analyses could follow. We recommend external assessments be included as a component of the Model Protocol. Assessments may or may not be tied to funding for these projects. It is worth repeating that firearm relinquishment is still a new field. A lot will be learned from the gathering of national data.

IV. ADDRESSING CHALLENGES TO IMPLEMENTATION

Many jurisdictions have attempted to implement firearm relinquishment protocols only to find challenge that seem insurmountable. Some of these are common to almost every jurisdiction. All can be addressed within the parameters of local and state law. The most common examples are discussed below:

SECOND AMENDMENT

Often presumed as an impediment to firearm surrender, in *District of Columbia v. Heller*, the Supreme Court cited longstanding prohibitions on firearms possession by specific individuals as “presumptively reasonable.” Federal courts have consistently upheld firearm relinquishment protocols following

⁵ Zeoli et al., *American Journal of Epidemiology*, Volume 187, Issue 7, July 2018,

⁶ Id.

⁷ Like most rights, the right secured by the Second Amendment is not unlimited...nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms. *District of Columbia v. Heller*, 554 U.S. 570 (2008). See also 18 U.S.C. § 922.

Heller. The perception that Heller somehow prohibits relinquishment persists and manifests through passive resistance. Many jurisdictions profess an interest in removing guns from violent individuals but hesitate to do so out of concerns over the legality of such action.

FIFTH AMENDMENT

Disclosing that a person already prohibited from possessing firearms actually does so may expose that person to criminal liability. The 5th Amendment states that people cannot be compelled to be witnesses against themselves. Someone who possesses guns in violation of a prohibition faces a difficult choice: continue to possess and risk exposure, or attempt to relinquish in an effort to avoid additional punishment?

Acknowledging that this could involve discovering illegal activity prevents this process from moving forward. By shifting the focus away from prosecuting past offenses to emphasizing the social utility of taking guns out of the hands of dangerous people, we reach a compromise. We advance the aim of reducing firearm violence if a statement about gun possession by a defendant and the act of relinquishment are both immune from criminal prosecution.

STORAGE

The safe storage of relinquished firearms is frequently mentioned as an impediment. This is the most-cited reason why firearm relinquishment cannot be effectively implemented. The objections take two forms: either that there is insufficient space to store so many guns, or the liability for damage that may occur to firearms in storage. These do not present insurmountable obstacles to implementation. Most jurisdictions approach storage of firearms relinquished as a separate basis from those seized as evidence of a crime. The latter may have evidentiary value in many forms. These should not be cleaned, touched, or otherwise handled. The former is merely stored as a means of ensuring that the defendant does not take possession of them until it is legally permissible to do so. There is no reason why law enforcement should not regularly maintain these firearms to ensure that no harm comes to them.

With respect to the space required to store firearms, this should not present a significant problem. We know of no jurisdiction that has encountered this problem to date. If the resources necessary are unavailable, then resources must be reallocated.

V. REMAINING CONSIDERATIONS

THIRD-PARTY TRANSFER

Many states authorize a third party designated by the defendant to hold relinquished firearms until the defendant regains the right to possess. Some defendants distrust law enforcement to hold their firearms safely and return them when the disqualification terminates. Relinquishment through third parties also relieves some of the burden of storing firearms with law enforcement.

But this method is problematic. Most states provide that an affidavit signed by the third-party, the defendant, or both as the most common form of proof required. Most jurisdictions do not require review to ensure that this has taken place. Most troubling though is that most jurisdictions do not provide a method for determining if the proposed third party is in fact an appropriate person to fulfill this obligation.

A Supreme Court case seems to suggest that this procedure violates federal law. The court held that transfer of a firearm to a third party designated by the defendant is not permitted, unless a court determines that the third party is an appropriate person. Specifically, the court must determine that the proposed third party will take the obligation to keep guns away from the defendant seriously.

RETURNING FIREARMS

Returning firearms to the defendant is a relatively straightforward process. Once the disqualifying event has terminated, for example, the domestic violence protection order expires, the defendant petitions the court for return of the guns. Provided the court is satisfied that the protection order has expired, the court orders local law enforcement to conduct a new background check to determine if other prohibitions on the defendant's ability to possess guns legally exist. Provided there are none, the court orders the guns returned.

Some disqualifications, such as the conviction for a misdemeanor crime of domestic violence, carry a lifetime ban on possession of firearms and ammunition. It should be noted that this does not impact the defendant's ownership rights. What is prohibited is the possession or acquisition of guns. Defendants are free to sell their guns at any time during the relinquishment process.

XI. CONCLUSION

Effective firearm relinquishment protocols can save many lives. To be effective, protocols must minimize opportunities that defendants have to avoid the obligation to surrender firearms.

This requires careful planning, cooperation, and communication between key players within the legal system. This in turn requires a commitment to plan, implement, assess, and prioritize removing guns from individuals prohibited from having them.

It should be acknowledged that many prohibited individuals may be motivated to avoid the obligation to voluntarily relinquish. While there may be other reasons behind someone's reluctance to surrender guns, the risk that people lose their lives due to careless implementation or no follow-through is too high to gamble on.

Communities implementing relinquishment protocols should keep survivor safety as the paramount concern. Of course, keeping survivors safe costs money and time. We believe that implementation of this Model Protocol for Effective Firearms Relinquishment minimizes these costs while maximizing the effectiveness of relinquishment and likelihood of safety for survivors.



NATIONAL RESOURCE CENTER ON
DOMESTIC VIOLENCE AND FIREARMS | BWJP

GUN SAFETY LAW IMPLEMENTATION GUIDE AND CHECKLIST

State and local jurisdictions seeking to implement gun safety laws will likely encounter a wide range of challenges and opportunities. Jurisdictions should seek to identify potential obstacles before proceeding. This document provides some guidance designed to assist in that process. Given that communities differ in terms of needs and resources, and various stakeholders within particular communities may have differing views on these issues, it may be helpful to have a variety of people involved with this process complete this document.

1. What problem is this law designed to address?

2. Briefly describe and/or sketch out how the law will be used.

3. Think about and jot down the various steps that are necessitated by this policy.

For example, a person concerned about someone with access to firearms might want to request an ERPO. Where do they get info? Are there necessary forms? How will they serve the order? What will the court need to be prepared to handle? What will the respondent need to know? How will the firearms be turned over, stored, and returned?

4. Mark the key players and stakeholders who will be involved with or impacted by implementation of the new law.

Who will be directly impacted (protected, restricted, expected to implement, responsible for leading the way, etc.) by the law being enacted?	Involved in development of the law	Need to be included in the implementation process
Judges		
State judicial policy-making body (Judicial Council, Office of State Court Administrator, Supreme Court)		
Court clerks		
Entity responsible for key database(s) for entry of orders		
Psychiatric facilities		
State Dept. of Justice		
Technology professionals in impacted agencies and organizations		
Continuing education providers for key professionals		
Court administrators		
Court-based investigators, mediators, counselors		
Public defenders		
Private defense attorneys		
Civil attorneys		
City attorneys or county counsel		
Legal aid attorneys		
Self-help or legal information services		
Victims/survivors of domestic violence		
Victims/survivors of community violence		
Victims/survivors of other forms of firearm violence		
People who have caused harm/violence		
Healthcare providers		
Evaluators and researchers		

Who will be directly impacted (protected, restricted, expected to implement, responsible for leading the way, etc.) by the law being enacted?	Involved in development of the law	Need to be included in the implementation process
Community-based community violence prevention agencies		
Gun owners and purchasers		
Social service providers		
Child welfare workers		
Gun dealers		
Probation		
Law enforcement <ul style="list-style-type: none"> • Statewide • Specific jurisdictions • Municipal agencies • Sheriff's departments • Prosecutors • Chiefs • Trainees/new officers • Long-time officers 		
Hotlines		
Violence prevention advocates		
Elder abuse and vulnerable adults workers		
Educators		
Statewide domestic violence coalition(s)		
Faith communities		
Violence interrupters		
Community-based organizations		
Public health workers		
Family justice centers		
Family violence councils		
Local/state grant-making agency		

Others

5. Will any additional regulations or clarifying guidelines be necessary for effective implementation? If so, who will be responsible for drafting and approving these guidelines?

6. Identify key resources necessary for implementation and which stakeholders will be responsible.

What	Who
Court forms	
Informational materials (brochures, PSAs, social media, etc.)	
Development of website(s)	
Training for law enforcement	
Information and training for advocates	
Training for community-based service providers	
Physical locations available for storage	
Computer/IT resources (specify)	
Legal information for petitioners or respondents/defendants/probationers	
Community-based services (specify)	
Distribution of funds	
Tools such as checklists, templates, and benchcards	
Additional resources necessary for implementation (specify)	
Participation in steering/oversight committees	
Evaluation and research	

7. Outline the various methods and timeframe that will be used to implement the new law.

What	When
In-person convening of key players (regular coalition or new taskforce/ working group meetings)	
Online meetings	
Training events	
Production of specific materials <ul style="list-style-type: none"> • Pocket-sized brochure • Intake forms/sample questions • How-to-relinquish info sheets • Resources available to assist 	
Input into regulations, forms, and other needed tools and elements of the law	
One-on-one conversations with key stakeholders	
Connecting key stakeholders with peers in other jurisdictions	
Sharing promising practices	
Attending existing coalition meetings	
Developing strategic plans for implementation	
Incorporating this policy into existing strategic and operations plans	
Incorporating this policy into existing trainings	
Networking nationally with similarly situated jurisdictions	
Budget advocacy	
Local/state grant-making agency	
Educating newly appointed/elected stakeholders about the law/policy	

Things to Avoid

- **Using polarizing terminology.** There is a lot of support across the political spectrum for gun *safety* policies. Consider taking concrete steps to avoid using language that criticizes gun owners, veterans, or others for whom firearms may be important, as well as language that suggests all those who own guns are inherently dangerous. Also, avoid using language that demonizes or marginalizes certain groups of stakeholders (“dangerous hands,” “the mentally ill,” “criminals”). Language matters and can make the implementation process more or less inclusive.
- **Measuring success by the number of orders issued or arrests made.** Discretion plays an important role in handling complex and potentially dangerous situations. Sometime criminal proceedings are necessary; in other situations, a civil restraining order will be the best approach; and in still other situations, individual family or community-based solutions without law enforcement or court involvement will offer safe and appropriate responses.

- **Disseminating misinformation that confuses key stakeholders.** Legal policy is often nuanced and changes over time with court decisions, statutory amendments, and interpretations through rules and regulations. Trainings should be conducted by people who understand the complexity of the jurisdiction's legal framework and should not focus solely on the new laws, but instead should place new provisions in the context of existing or changed law. Any public-facing materials should similarly avoid advocating for a single legal remedy and should instead provide referrals to safety planning and legal services. Jurisdictions might also consider developing standardized materials and a “train the trainers” program to help keep information consistent and accurate.

Possible Challenges and Recommendations

- 1. Lack of clarity in the statute:** People disagree over what is intended by the law and who should guide implementation.

Recommendation: Consider creating a multidisciplinary stakeholder working group to discuss what success looks like. Make sure participants bring diverse perspectives to the discussion and that membership itself is diverse around race, culture, LGBTQ+ identity, involvement in mental health service delivery, tribal affiliation, and other characteristics that reflect communities impacted by the law.

- 2. Limited or lack of resources:** If no funding is allocated in the original bill, stakeholders may struggle to effectively implement the law.

Recommendation: Identify funding needs and opportunities to advocate for appropriate resources. Explore whether any currently funded approaches could be reworked to include this new policy area. Build coalitions and partnerships with others who may be able to leverage funds or resources not otherwise available.

- 3. Law not widely known or well-understood:** Some new legal remedies may be unfamiliar to key stakeholders who may not have the training or context to successfully implement the law.

Recommendation: Partner with others in the relevant professional area to develop responsive training opportunities. Connect local stakeholders with peers in jurisdictions that are similar and have implemented related approaches. Identify key ways the public might end up needing the particular remedy and who they might interact with to determine who needs what type of training. Produce materials for stakeholders and those who need to know about the law.

- 4. Safe policies for removal and storage of firearms are not in place or are inconsistent statewide:** This can cause confusion across jurisdictions and create unnecessary duplication of limited resources.

Recommendation: Create clear policies and procedures, and help disseminate policies from other jurisdictions. Coordination and learning promising practices from each other through well-documented policies and procedures can make an enormous difference.

5. Limited data and ability to measure success: Many communities have limited information about how policies are being applied. Data collection should be built into policies and procedures so that budget requests and areas for improvement can be identified, as can any unintended negative or disproportionate impact.

Recommendation: Identify key indicators of success, discuss with working group and partners, and find ways to collect information early and throughout the implementation process. Consider whether a local college or university or organization may be able to assist with the research effort.

Completed By

Date

For more information, please contact Giffords Law Center Implementation Director Julia Weber at jweber@giffords.org

MORE THAN JUST A PIECE OF PAPER:

A TOOLKIT FOR ADVOCATES

ON FIREARMS AND DOMESTIC VIOLENCE DURING COVID-19

January 2021



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National Resource Center on Domestic Violence and Firearms

About Us

The National Resource Center on Domestic Violence and Firearms (NRCDVF), a project of BWJP, aims to prevent domestic violence-related firearm homicides. Expert consultation and resources provide the road map for communities to improve implementation of firearm prohibitions at preventdvgunviolence.org

For more information about NRCDVF or this document, please contact:

National Resource Center on Domestic Violence and Firearms
1801 Nicollet Avenue South, Suite 102
Minneapolis, Minnesota 55403
info@preventdvgunviolence.org
preventdvgunviolence.org

Acknowledgments

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King County Prosecuting Attorney's Office
The Honorable Jeffrey A. Kremers, (Ret)
Lafourche Parish Sheriff's Office
Metro Nashville-Davidson County Office of Family Safety
Michigan State University
National Coalition Against Domestic Violence
National Council of Juvenile and Family Court Judges
National Domestic Violence Hotline
National Network to End Domestic Violence
National Organization of Black Law Enforcement Executives
Office of Violence Prevention, City of Minneapolis
Ortner Center on Violence and Abuse, University of Pennsylvania
The Honorable Victor Reyes, (Ret)
St. Anthony Police Department, St. Anthony Village, Minnesota
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INTRODUCTION

In context

The spike in gun sales during the COVID-19 pandemic has greatly concerned us at the National Resource Center on Domestic Violence and Firearms (NRCDVF). Social isolation, stress and anxiety has surged during the pandemic. Many families are experiencing underemployment or unemployment, worries about homelessness and other environmental stressors. Add to this the alarming spike in gun sales—including among first-time gun buyers—and the risk of intimate partner homicide increases significantly.

The NRCDVF spent the better part of 2020 conducting interviews, holding focus groups, and working with communications professionals to develop new strategies for engaging people on intimate partner violence and firearms. The results show: 1) there are solutions; and 2) we must believe we can solve this problem.

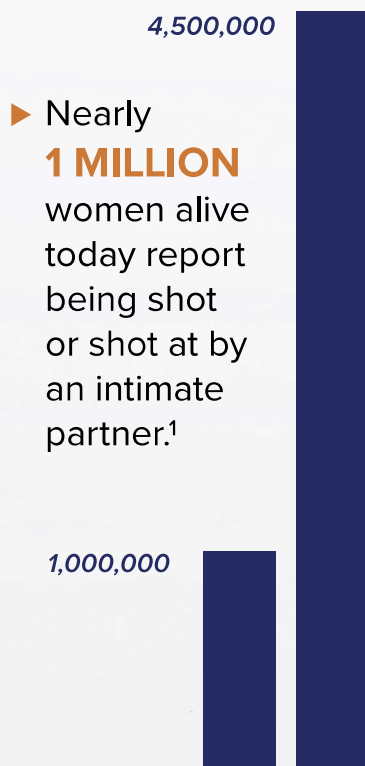
The first step is to challenge the cynicism that the protections that do exist for survivors of intimate partner violence (legal and otherwise) are not real protections. ***A domestic violence protection order is not just a piece of paper.*** It is a legal order which represents a network dedicated to protecting that survivor from further acts of violence. As advocates and practitioners, we must understand how to give life and power to these protections, that protections are easy to implement, and that they actually save lives.

We developed this toolkit for you because advocates have always been a bridge between victims/survivors and the criminal and civil justice systems. Advocates have worked for decades to inform and institute changes in system responses to improve outcomes and foster safety for victims/survivors. There is still much to do. Our hope is that this toolkit gives you the information and resources needed so that the sentence: ***“It is just a piece of paper”*** is never spoken out loud again.

FACTSHEET

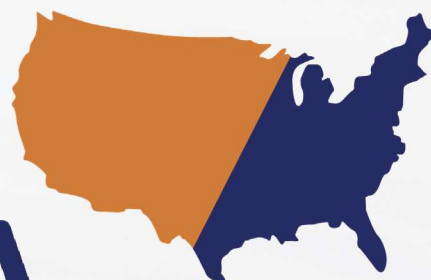
Domestic Violence-related and Firearms Prohibitions

It is against the law for domestic abusers to have firearms if they have a domestic violence protection order against them or have been convicted of domestic violence.



► About **4.5 MILLION** women alive today report that an intimate partner threatened them with a gun.²

► Firearms are used to commit **MORE THAN HALF** of all intimate partner homicides in the United States.⁴



► In the United States, an estimated **1.92 million guns** were purchased in **October 2020** alone.

67% INCREASE IN GUN SALES
COMPARED TO OCTOBER 2019



► Every year, more than **600** American women are shot to death by intimate partners—roughly **one every 14 hours**.³

¹Susan B. Sorenson and Rebecca A. Schut, "Nonfatal Gun Use in Intimate Partner Violence: A Systematic Review of the Literature," *Trauma, Violence, & Abuse* 19, no. 4 (2018): 431–442.

²Susan B. Sorenson and Rebecca A. Schut, "Nonfatal Gun Use in Intimate Partner Violence: A Systematic Review of the Literature," *Trauma, Violence, & Abuse* 19, no. 4 (2018): 431–442.

³Federal Bureau of Investigation, Uniform Crime Reporting Program: Supplementary Homicide Reports (SHR), 2014–2018.

⁴James Alan Fox and Emma E. Fridel, "Gender Differences in Patterns and Trends in US Homicide, 1976–2015," *Violence and Gender* 4, no. 2 (2017): 37–43.

FOUR STEPS TO EFFECTIVE GUN SURRENDER

Domestic violence advocates often play a leadership role in the development of procedures for enforcing domestic violence-related firearm prohibitions in their local communities. In doing so, advocates face all manner of resistance from courts, law enforcement and other legal system practitioners who claim that there are too many hurdles to disarming domestic abusers. For this reason, it is important that advocates be able to clearly communicate the four basic steps involved in removing firearms from abusers. The information below can assist advocates in having these conversations with local decisionmakers and legal system practitioners.

STEP 1: IDENTIFY



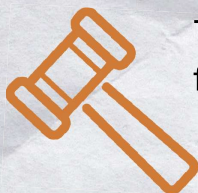
Prior to entering final order or judgment the court should identify if the person is ineligible to possess firearms.

STEP 2: ACCESS



The court then determines whether or not this ineligible person actually had firearms or has access to them.

STEP 3: ORDER SURRENDER



The court orders that the firearms be surrendered.

STEP 4: COMPLIANCE



Compliance through the court is essential. The court can facilitate the entire process by scheduling a compliance hearing requiring the respondent or defendant to appear or otherwise establish that they are in compliance with the court order to surrender firearms.

Each step in the process involves more detail but help is available!

The National Resource Center on Domestic Violence and Firearms offers expert consultation and resources that provide a road map for communities to improve implementation of firearm prohibitions. Visit us online at preventdvgunviolence.org.

WORKING WITH THE MEDIA

There are a number of ways to communicate an effective message to the media. In social justice, we often have compelling stories, visuals, commentary, and facts that could resonate with various audiences. There is much to be said about media coverage of gender-based violence, especially at the intersection with gun violence. If a situation results in death, coverage usually begins (and ends with) “murder/ suicide” or “homicide,” without exploring either gender-based violence or gun violence. An opportunity to reframe the coverage and to accurately describe the violence begins with your relationship with the media.

When talking about “media”, we mean many things. Media outlets can be “traditional” such as your local newspaper or radio station. It can also mean online platforms such as blogs and vlogs; and social media: Facebook, Instagram or Twitter, to name a few.

Opportunities for sharing your message with a broad audience exist. Much of your success depends on your ability to accomplish a couple of steps in timely and intentional ways.

- 1. PLAN** What are your key messages? Who should be the spokesperson? What type of media do you want to engage and are you ready to do so?
- 2. DEVELOP** a compelling message and communicate it effectively. Is the message easily understood by constituents outside of your organization or your sphere of influence? One easy way to examine this is to think of people you know who don’t understand your issue. Does your message resonate with them? Simple and concise language is critical to a compelling message and should not include acronyms or professional jargon.
- 3. FOLLOW-UP** and develop an ongoing relationship. Once you make a connection with a reporter, make sure to maintain it. Offer yourself as a resource. Call them back. Be honest—it is OK not to know everything and have all the answers. Make the relationship easy by being professional, accessible, informed and thoughtful.

There are essential tools to receive media attention for your efforts. Some of these tools include:

1. PRESS KIT. This can be very simple or comprehensive depending on your funding and timelessness of the news that you are influencing. You can have a press kit for your organization that is always ready to go when you are called for those timeless, common questions such as, “What causes domestic violence?” You can also have specific kits developed that are written based on your key communication messages (programs, issues, etc.) for the organization. At a minimum, the kit should contain:

- a. An organizational description—who you are, what you do, why it matters
- b. Brochures, fact sheets, Frequently Asked Questions
- c. Varied quotes from organizational leadership, participants, community leaders, and other critical constituency groups.

The kit should be simple, accurate and compelling and, again: avoid jargon and acronyms from your field.

The following pages give examples of a letter to the editor. Remember to follow the format and be concise. With the media, less is better.

Letter to the Editor: Sample Template

Editor Name

Address

Date

Dear Editor:

Paragraph 1: Summarize your issue. If relevant, recall a timely event or issue.

Paragraph 2: Why are you speaking up about this topic? Use data and explain why it is important to the readership/listenership of the media outlet.

Paragraph 3: Simple call to action.

Paragraph 4: Recap critical information

Sincerely,

Your Name, Title

Organization (if applicable)

Email

Cell Phone

Notes: Please see the next page for a sample letter to the editor. The scenario here is that there has been a recent domestic violence homicide in your small town and people want to do something about it. You have the school superintendent on your board of directors, and she wants to write a letter to the editor.

Sample Letter to the Editor

Editor Daryl Jenkins
1234 Willow Drive, Suite 102
Happytown, MD

December 5, 2020

Dear Editor:

This week, I was reminded—yet again—of the devastation domestic violence brings to our families and community. Something has to change! Next Tuesday at 7 pm, our community is going to meet at the park for a march and vigil for the victims of the recent shooting.

As a superintendent, I have seen how gun violence influences our daily operations. We plan and prepare, inform students and their families, and hope that our community is not the next one to face tragedy. Until I joined the board of directors of TurningPoint Shelter however, I had no idea that gun violence is intimately tied to domestic violence. In fact, the presence of a firearm makes a domestic violence situation 5 times more likely to be lethal.¹ There are federal and state laws that take firearms out of the hands of people who are convicted of domestic violence or have a protection order against them. Unfortunately, these laws are often not enforced. Last weekend, our community experienced this with one of our families. Monica, and her daughter Maya and son Daniel were killed as they were fleeing to a hotel after yet another incident of domestic violence in their home. Maya and Daniel were in 6th and 4th grade here and Monica was a teacher in our district. I have asked myself every day since this happened, “Why didn’t you know?” and “Were you just not looking hard enough?” I will never have an answer to these questions, but today, I know something must change.

Please join me and TurningPoint Shelter next Tuesday evening to mourn the deaths in this family and to join together to say NO MORE to domestic violence.

It is unacceptable to have guns in the hands of people who abuse their family. Monica, Maya and Daniel had their lives taken too soon. Let us show up now so there are no more victims of such senseless violence.

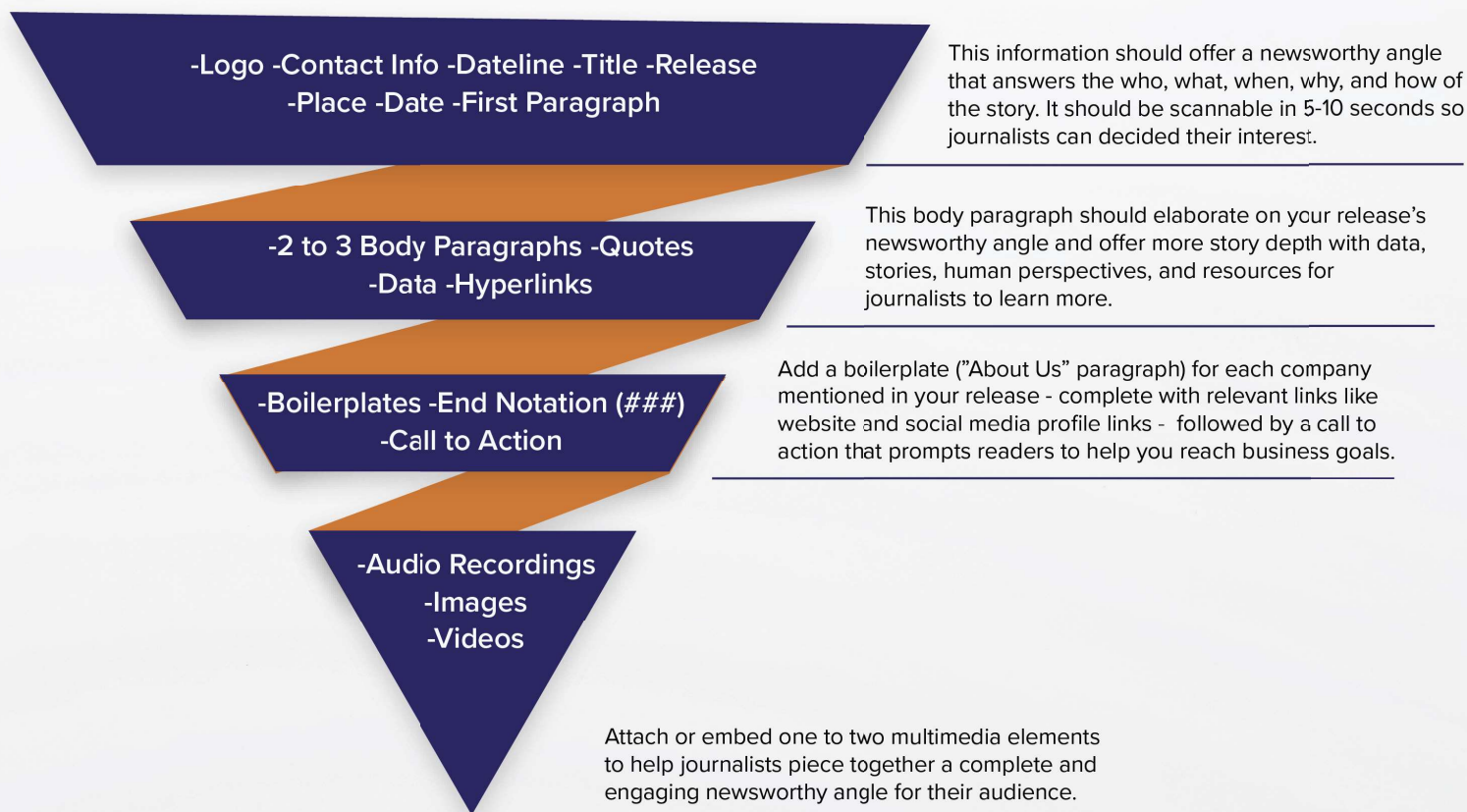
Sincerely,

Alesha Williams, Superintendent
Happytown Schools
awilliams@happytown.md.edu
515.555.5555

¹ Campbell, et. al., *Risk Factors for Femicide in Abusive Relationships*.

Press Release

The format of a press release is tied directly to its publication. In other words, to have the best chance for success of a published release, you must follow the format described in the following paragraphs. Many journalists do not have the time to research and write unique articles each time. Newsworthy, relevant, well-written press releases are often a big help to them, especially at a small-town newspaper.



*adapted from Fit Small Business

1. Format is important! Releases should be approximately 500 words and fit on to one page. Use Times New Roman or Arial Font. The Headline should be 14 type font, the Subheading 13 type font and italicized, and the body of the release 12 point font. You should have two different dates on the release. The first at the top states when you want the press released published. Most often,

you will say “For Immediate Release”, but not always. If this is the case, add the date that you want it released. The second date begins the press release opening with the date accompanied by the city and the state.

2. If possible, think of the goal(s) that you have for the release before you send it out to the press. Do you want to increase traffic to your website, increase donations, publicize an event? Once you think of your goal(s), figure out a way to measure it. Do you ask attendees at an event how they heard about it? Do you use Google Analytics to track traffic to a campaign landing page? By setting a goal and evaluating it, you will quickly see if the effort was successful and build upon, or learn from, the process.
3. Try to use data, quotes from leaders, no jargon, and make it as “newsworthy” as possible. These will all dramatically improve your chances of getting the release published.

YOUR LOGO HERE

FOR IMMEDIATE RELEASE

Contact: Your Name & Organization

Phone: Contact Phone Number

Email: Contact Email Address

MAIN PRESS RELEASE HEADLINE (ALL CAPS)

Italicized Sub-header

[CITY, STATE, Month Date—] Answer who, what, why, where and how. Lead with the most important information.

Paragraph 2: Background information, Add quote here from a leader, constituent. Add data, stats, etc.

Paragraph 3: Add additional quote if needed. Continue to fill in details, stats, etc as needed.

[Your Organizational Name] is a [Boilerplate description...]

###

Organization logo here

The following is a sample press release based on the same scenario as the Letter to the Editor.

FOR IMMEDIATE RELEASE

Contact: Mary Simms, Executive Director

Phone: 555-123-3456

Email: MSimms@turningpoint.org

JOIN MARCH AND VIGIL TO MOURN A TRAGIC LOSS IN OUR COMMUNITY

HAPPYTOWN, MN, February 9, 2021---TurningPoint Shelter hosted a march and vigil today at Sunnydale Park to mark the tragic loss of Monica, Maya and Daniel at the hands of their father and husband. Our community stood together—with over 2,000 people in attendance to say NO MORE to domestic violence and to demand that people who use violence should not have access to firearms.

“Domestic violence and firearms are intrinsically tied together. In fact, the presence of a firearm makes a domestic violence situation 5 times more lethal”, stated Alesha Williams, Happytown School Superintendent and Board Member of TurningPoint Shelter.

Ms. Williams was a featured speaker at the rally where she shared statistics and information about this terrible tragedy. She finished her speech with the inspiring homage to the victims, “Happytown must take domestic violence seriously. No one deserves to be hurt, hit, or verbally abused. No one, not one person should ever die at the hands of someone who is supposed to care for them. We must do more. We have to commit to following the law and removing guns from domestic abusers.”

TurningPoint Shelter is an advocacy organization and safe place for victims of domestic violence. We believe that everyone deserves a life free from violence. We work with nearly 3,000 survivors each year. Our work is performed at our shelter, in our community education series, and on our 24-hour crisis line.




###

Social Media



Social media is a powerful tool to help you reach new audiences who are empathetic towards victim-survivors of domestic violence. It can help educate friends and family, inform allies, build networks, and empower victim-survivors to seek help they might not have known about. Using social media to help make our communities safer will depend on your specific goals.

Before engaging in a social media campaign, there are a couple of things you can do to make it more effective:

1. **Know where your target community “lives” online.** If you are targeting community leaders over the age of 45 or millennial local politicians, your choice of social media channel is critical to your success.
 - a. Some generalizations for target audiences: Facebook, Twitter and Instagram
 -  **Facebook:** from early thirties to seniors. Life and family and community updates, quizzes, organizational updates/ fundraisers
 -  **Twitter:** from Tweens to working professionals. News, current events, pop culture
 -  **Instagram:** from Tweens to fortysomethings. Pictures, Videos, Live Streaming, Stories
 - b. Make sure to explore your local communities’ online preferences before implementing the generalities above.
2. **Be Ready.** If you decide to engage with an online audience, please make sure that a staff member or trained volunteer is checking the social media channel regularly. When you ask a question in a post, people will answer. You also may get “trolls” who try to derail your message. This job of the staff or trained volunteer is to answer questions with accurate information, share local resources, be ready with a local crisis number, or be prepared to delete a post if it is providing inaccurate or victim-blaming information.
3. **Track your success.** We have included #morethanpaper #saferfamilies #safercommunities in all of the sample posts below. Of course, we would appreciate that you include them in your posts so that BWJP can measure the distribution of the toolkit. Also feel free to add your own # as well. It allows for easier evaluation of the campaign as well as can also build the followers on your social media.

Content Warnings

Explicit descriptions or images of violence can be triggering for people who might have experienced or witnessed violence. Add a content warning to posts that might bring up painful memories and think deeply about what you share, with whom, and why.

Example One:



Content Warning: This article contains information about violence which may be triggering for survivors of abuse.

Example Two:



Content Warning: This article will discuss a specific person's experience with PTSD as a result of domestic violence. This article may be difficult for readers with similar experiences.

Example Three:



Content Warning: The following video contains material that may be difficult for some viewers.

Considerations for Drafting Posts

Messaging concepts that have been shown to resonate among gun owners, engaged citizens, domestic violence advocates, gun violence advocates, members of the criminal justice system, and survivors include:

- People who commit domestic violence should not own firearms.
- Domestic violence affects everyone in a community, not just those experiencing it.
- Laws that already exist should be enforced to make sure dangerous people don't have weapons.

Using concepts like this to draft social media posts can help start productive conversations across political boundaries (real or perceived); and framing these conversations in the context of safety and connection can help bring your community together around this issue.

Sample Social Media Posts

Message Concept: Threat to community

- ▶ We all know that keeping guns out of the hands of violent people helps keep us all safe. Domestic abusers with guns pose a threat to their families. #morethanpaper #saferfamilies #safercommunities
- ▶ Domestic violence is tied to the majority of mass shootings. Of the 749 mass shootings over the past six years, 60% were either domestic violence attacks or committed by men with histories of abusing their families. #morethanpaper#saferfamilies #safercommunities
- ▶ Domestic violence is dangerous for first responders: 14% of of on duty police deaths between 1996 and 2009 came in response to a domestic violence call—and 97% of those officers were killed by firearms.

Message Concept: Guns are for protection

- ▶ Guns are for protecting families, not threatening them. People with convictions for perpetrating violence against their families should not have guns. #morethanpaper #saferfamilies #safercommunities

Message Concept: Comparison to other issue

- ▶ If you drive drunk, you lose your license. If you threaten your family with violence, you should lose your gun. It's common sense. #morethanpaper #saferfamilies #safercommunities

Message Concept: Americans are united

- ▶ Americans may not agree on everything, but we ARE united in the belief that domestic abusers should not have guns. #morethanpaper #saferfamilies #safercommunities

Message Concept: Laws not enforced

- ▶ Did you know that many states have laws that prohibit people with convictions of domestic violence from owning guns? But sometimes they fall through the cracks because the laws are not enforced. [Share content specific to your community and/or make your call to action]. #morethanpaper #saferfamilies #safercommunities

Message Concept: Communities are taking action

- ▶ Did you know that the vast majority of gun owners support enforcement of laws to keep domestic abusers from having guns? What do you think? #morethanpaper #saferfamilies #safercommunities
- ▶ Better practices to enforce laws help to keep domestic abusers from owning guns. [Share content about your community and feature other communities who are working on enforcement]. #morethanpaper #saferfamilies #safercommunities
- ▶ Responsible gun owners speak out about the enforcement of gun laws. If you're a gun owner, you have a powerful voice. What do you want to say? #morethanpaper #saferfamilies #safercommunities
- ▶ Use your voice to influence policymakers to do the right thing. #morethanpaper #saferfamilies #safercommunities
- ▶ What can you do to keep our community safe? Support gun removal laws for convicted abusers. #morethanpaper #saferfamilies #safercommunities

Other actionable ideas for your social media posts:

- Encourage your audience to call their local or state representatives to tell them they care about keeping guns out of the hands of people convicted of domestic abuse.
- Share information about firearm surrender laws with friends, family, and community so they can help too.
- Sign a petition to show support for better enforcement and policies in their community.
- Make a contribution to [insert org name], who are working to keep guns out of the hands of violent abusers.

Images and Graphics

Download all images from PreventDVGunViolence.org, in the “*More Than Paper*” section linked at the top right of each page.

RESOURCES

Training, Technical Assistance, and Promising Practices

The National Resource Center on Domestic Violence and Firearms ([NRCDVF](#)) supports comprehensive implementation of domestic violence firearm prohibitions at all levels of government, as well as community-based interventions, to prevent domestic violence-related homicide in our families and communities. Launched in 2016, the [Safer Families, Safer Communities website](#) is the first wholly dedicated to addressing the intersection of domestic violence and firearms. To learn more about the intersection of domestic violence and firearms, please [browse our resources](#).

For information on legal system strategies in implementing and enforcing domestic violence firearm prohibitions, [visit us here](#).

Legal Resources for Advocates and Survivors

[WomensLaw.org](#)

[National Coalition Against Domestic Violence](#)

Protection Orders

[National Center on Protection Orders and Full Faith and Credit \(NCPOFFC\)](#)

NCPOFFC, a program of BWJP, provides technical assistance and training on protection orders, the Full Faith and Credit provision of the Violence Against Women Act (VAWA) and inter-jurisdictional enforcement of protection orders. Phone: 1-800-903-0111, prompt 2;

Email: ncffc@bwjp.org

NCPOFFC's [Firearm Checklist for Advocates](#). This checklist provides information for advocates facilitating discussions with survivors about firearms.

NCPOFFC's S.A.F.E. Tool. The S.A.F.E. Tool is an inventory of questions designed to facilitate a discussion with a survivor on safety strategies around firearms. For the S.A.F.E. Tool, call NCPOFFC at (800) 903-0111, prompt 2.

Safety Planning

The National Domestic Violence Hotline: [Safety Planning Tipsheet](#) or Call (800) 799-SAFE

Model Communities

Across the country communities are effectively disarming domestic violence offenders by implementing firearm prohibitions in domestic violence cases. Leaders and innovators in these communities have developed pragmatic and responsible policies, protocols and practices directed at all aspects of firearm surrender and seizure.

To learn more about these communities, please visit the [Safer Families, Safer Communities website](#).

Research

- ▶ Multiple Victim Homicides, Mass Murders, and Homicide-Suicides and Domestic Violence Events, <https://www.preventdvgunviolence.org/multiple-killings-zeoli-updated-112918.pdf>
- ▶ Sorenson SB. Guns in intimate partner violence: Comparing incidents that involve a gun, other weapon, or no weapon. *Journal of Women's Health*, 2017; 26(3):249-258.
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- ▶ Violence Policy Center, When Men Murder Women: An Analysis of 2018 Homicide Data, <https://vpc.org>.
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BEST PRACTICES

FIREARMS RESTRICTIONS & PROTECTIVE ORDERS

A GUIDE FOR VICTIM ADVOCATES,
COURTS, LAW ENFORCEMENT,
AND COMMUNITY PARTNERS

VIRGINIA SEXUAL & DOMESTIC VIOLENCE ACTION ALLIANCE

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JANUARY 2023

