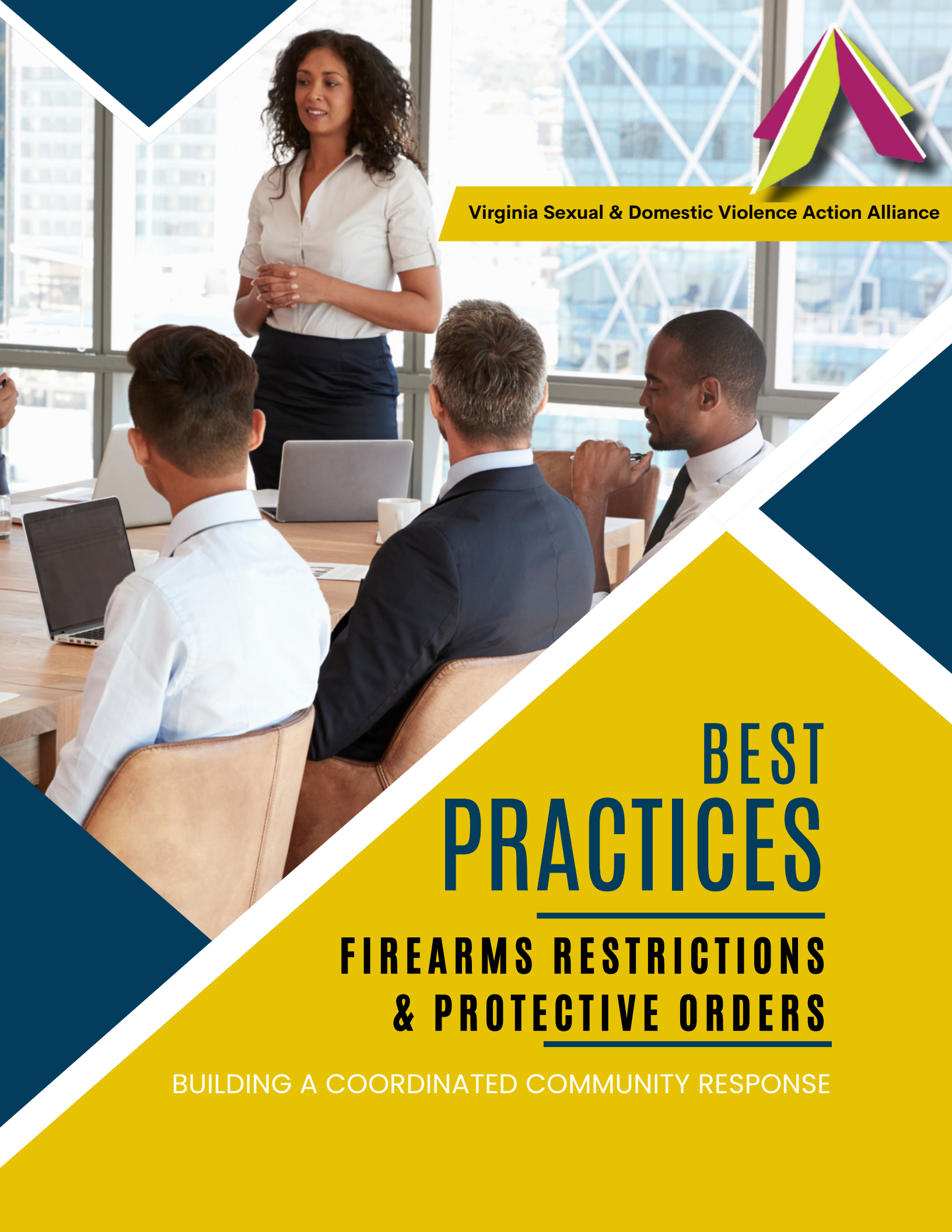




Virginia Sexual & Domestic Violence Action Alliance



# 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.**

