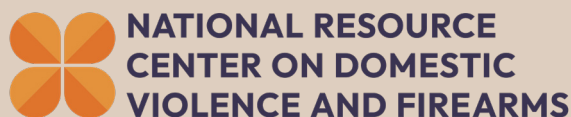


# FIREARMS RELINQUISHMENT IN CASES INVOLVING INTIMATE PARTNER VIOLENCE

## How to Structure Effective Protocols for Your Community

The intersection of intimate partner violence and firearms violence is all too often lethal. Research shows that requiring a person found to have committed violence against an intimate partner to quickly relinquish firearms significantly reduces the number of intimate partner homicides. Effective firearms relinquishment protocols require a multidisciplinary approach. To help state, tribal, and local courts respond effectively to firearms violence in intimate partner violence cases, this document provides guidance for state, tribal and local courts, law enforcement, prosecutors, probation officers, and victim services advocates.



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# OVERVIEW

Domestic violence and firearms are a dangerous combination. The use of a firearm in domestic violence incidents is associated with a dramatically increased risk of lethality.<sup>1</sup> Firearms are used to commit more than half of all intimate partner homicides in the United States.<sup>2</sup> Federal law, as well as many state, tribal, and local laws, provide a legal framework to reduce the risk of domestic violence-related firearm injury and fatality by disarming certain domestic abusers. For these laws to have their intended effect, those subject to these firearm restrictions must dispossess any firearms once their status prohibits them from continuing to possess them. State, tribal, and local jurisdictions should, and in some jurisdictions have a statutory mandate to, develop collaborative protocols to ensure that any persons found by a court to have committed certain domestic violence offenses are required to relinquish their firearms and ammunition. These coordinated responses can be tailored to the specific needs of each jurisdiction, taking into account existing laws and the safety of victims of intimate partner violence and the communities in which they live.

Relinquishment is critical. Research demonstrates that removing firearms from persons who have been found to have committed domestic or dating violence is associated with a reduction in intimate partner homicides.<sup>3</sup> Removal or relinquishment also reduces firearms violence directed at other family members, friends, neighbors, and other members of the community.

Keeping an adjudicated abuser from accessing firearms is also important for ensuring law enforcement officer safety. Domestic disturbances are among the most dangerous calls for officers and firearms are among the leading causes of line-of-duty deaths.<sup>4</sup> As threats to judges and prosecutors increase, this increased need for caution expands to all individuals involved in the justice system.

This document, published by the National Resource Center on Domestic Violence and Firearms (NRCDVF), will help guide courts, prosecutors, law enforcement, public defenders, civil legal attorneys, victim advocates, probation officers, and local organizations to work together to create an effective community-wide firearm surrender protocol in cases involving domestic and dating violence. The most effective protocols are those that reflect the community’s needs and resources. This guide aims to provide a roadmap for every community to develop a protocol that will work effectively for their own unique circumstances.

This project was supported by Grant No. 15JOVW-23-GK-05140-MUMU awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this program are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

BWJP is grateful for the contribution of Colleen Gill, legal intern, to the development of this resource.



# APPLICABLE LAWS

- The Gun Control Act of 1968 established a list of statuses which prohibit a person from purchasing or possessing a firearm or ammunition.
- In 1993 Congress passed the Brady Handgun Violence Prevention Act, which established the National Instant Criminal Background Check System (NICS) and requires federally licensed firearms sellers to request an FBI background check on persons seeking to buy firearms.
- In 1994, Congress added an additional status to those listed in the Gun Control Act which prohibits persons subject to certain domestic violence protection orders (DVPO) from purchasing or possessing firearms or ammunition (18 U.S.C. 922(g)(8)).
- In 1996, Congress added a status to that list which prohibits persons convicted of certain misdemeanor crimes of domestic violence (MCDV) from purchasing or possessing firearms or ammunition (18 U.S.C. 922(g)(9)).
- In 2022, the prohibition for those convicted of misdemeanor crimes of domestic violence was expanded to include convictions for certain misdemeanor crimes that involve a dating relationship (DMCDV) (18 U.S.C. 922(g)(9)).

A person prohibited from possessing or purchasing firearms who continues to do so can face federal crimes charges and penalties. Therefore, when someone who has a firearm becomes prohibited they must dispossess themselves of that firearm or risk federal prosecution. However, federal law does not expressly mandate or explain the process for relinquishment of firearms and ammunition already in the prohibited person's possession. Instead, it leaves this implementation to states. For more detailed information about current federal firearms laws that address intimate partner violence, see the NRCDVF's report, [A Brief History and Framework of Federal Firearms Laws Addressing Intimate Partner Violence](#).

Many states, tribes, and local jurisdictions have enacted legislation mirroring the federal firearm prohibition laws—in some instances expanding upon the federal framework—prohibiting individuals subject to certain domestic violence protection orders and/or convicted of certain domestic violence-related offenses from purchasing or possessing firearms or ammunition in their state, tribe, or local jurisdiction.<sup>5</sup> Regardless of whether a state has express state firearm prohibition laws, states are allowed to order relinquishment when someone becomes prohibited and are implicitly authorized to issue such orders.

This toolkit focuses on state, tribal, and local laws and procedures that require or authorize relinquishment of firearms in qualifying intimate partner violence cases.



# AUTHORITY TO ESTABLISH RELINQUISHMENT PROTOCOLS

In 30 states<sup>6</sup>, as well as some tribes and local jurisdictions, there are laws specifically authorizing or obligating courts to order domestic or dating violence offenders to relinquish firearms or ammunition in certain circumstances. This can occur as a result of a particular judicial finding related to domestic or dating violence—whether by the issuance of a qualifying domestic violence protection order or the entering of a conviction for a qualifying misdemeanor crime of domestic/dating violence.

In other jurisdictions, while there may not be a specific statutory mandate for a court to order the relinquishment of firearms, courts may order relinquishment under other authority, including:

- a provision in a domestic or dating violence protection order under the court’s authority to take any such action as is necessary to ensure the safety of a victim of domestic violence;
- a provision in any family law order addressing domestic violence under a similar catch-all provision;
- a pre-trial order in a criminal proceeding in a case involving intimate partners (for e.g., an order regarding bond conditions); or
- a post-conviction condition of probation or parole in a case involving intimate partners.

# RELINQUISHMENT PRINCIPLES

## Fundamentals of a Firearms Relinquishment Protocol

For these prohibitions to have any practical meaning in the lives of survivors of domestic and dating violence (as well as their family, friends, colleagues, and community members), it is imperative that state, tribal, and local jurisdictions develop a firearms relinquishment process that can be consistently carried out. This can include protocols, checklists, forms and other resources to ensure that the firearms relinquishment process is handled in a timely, effective, and safe way.

The NRCDFV has worked with many state, tribal, and local sites, as well as nationally recognized researchers, to develop the fundamentals each community needs to ensure the safety of all persons in the community. These fundamentals are laid out in four core principles below: **Victim and Community Safety**, **Coordinated Community Response**, **Developing Comprehensive Plans**, and **Institutionalizing the Work**. All four principles are critical to ensuring that firearm relinquishment protocols in domestic violence situations are comprehensive, effective, and – most importantly – as safe as possible.

## First Principle: Victim and Community Safety



Safety—of the intimate partner and others in the community—is the first principle of keeping firearms out of the hands of persons who have been found by a court to use violence against intimate partners. Abuser access to firearms greatly increases the risk of harm to their intimate partner. A woman is five times more likely to be killed when her male domestic abuser has access to a firearm. When a firearm is used in the most severe incident of domestic violence, the odds of the incident ending in homicide is 41 times that of when a firearm was not used.<sup>7</sup> There is a demonstrated association between mandated relinquishment of firearms by prohibited domestic abusers and reductions in intimate partner homicides.<sup>8</sup>

There is also a strong connection between domestic abusers' threatened and actual use of firearms violence against their intimate partners and violence against others and the community. Almost a third of firearm homicides of children under the age of 13 are related to intimate partner violence.<sup>9</sup>

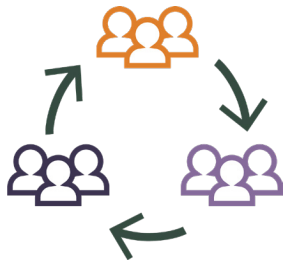
Proper relinquishment of firearms in these situations is also essential to ensure the safety of the greater community. In more than two-thirds of mass shootings the perpetrator had either killed at least one partner or family member or had a history of domestic violence.<sup>10</sup> Additionally, there is the aforementioned risk to law enforcement officers presented in domestic violence calls.

The impacts of firearms violence cases are first felt by the intimate partner. It is important that before, during, and after the legal processes that give rise to a domestic violence firearm prohibitor the survivor has access to advocacy services that include safety planning around the risk presented by firearms.

Relinquishment protocols are most effective when a court orders firearms relinquishment at the time the prohibiting status is activated—at the time of issuance of a DVPO or upon entering of a conviction for a misdemeanor crime of domestic/dating violence—and advises the prohibited person of how to comply. Processes must be in place with law enforcement agencies for immediate compliance and enforcement of these orders to protect the safety of their intimate partners and the community.



## Second Principle: Coordinated Community Response



Many stakeholders, including criminal and civil legal system agencies, survivors' advocates, and community-based organizations, play a vital role in the firearms relinquishment process. The Coordinated Community Response (CCR) model offers the stakeholders in a community who respond to domestic violence a way to work together to create and implement an effective relinquishment process.<sup>11</sup>

In many communities, firearms relinquishment is coordinated by a group of justice system stakeholders: judges, court clerks, prosecutors, civil attorneys, public defenders, law enforcement officers, community supervision officers, and others. While this is a good starting point, the outcome will be much more effective with community-based organizations also at the table: for example, victim services, social services, immigration and language assistance programs, and even faith communities. These community organizations can provide valuable information and resources to victims to ensure that firearms relinquishment protocols will work well—and will increase victim safety.

Each community will have unique needs and different community members and organizations that should be involved. When considering which stakeholders should be at the table, consider the following threshold questions.

Whether an established relinquishment protocol is being evaluated or one is being established for the first time, stakeholders should consider several key questions at the outset.

### Threshold Questions

#### **WHAT ROLE SHOULD VICTIMS PLAY IN DEVELOPING A FIREARMS RELINQUISHMENT PROTOCOL?**

One of the most important voices to consider in developing an effective firearms removal protocol is that of the victims of the conduct giving rise to the prohibition. All too often, communities fail to check in with victims and fail to find out what their expressed needs and concerns are. Because victims have deep knowledge of the dangers posed by abusers' possession of firearms, their voices provide important information that should be incorporated into any protocols.

Forming victim focus groups at the very start of the process will quickly identify gaps in the system that must be addressed. Focus groups should find out:

- If victims know how to alert law enforcement and courts that they fear firearm violence.
- If victims feel comfortable and/or safe sharing these concerns with justice system personnel.
- If victims do not feel comfortable and/or safe sharing their concerns, what would make them feel more comfortable and safer.

- If the system currently makes the best and safest use of the victims’ knowledge. Such knowledge includes but is not limited to:
  - How many firearms the abuser has access to.
  - Where the firearms are kept.
  - If the abuser has previously used firearms in a threatening or violent manner.
  - How the abuser is likely to behave if ordered to relinquish firearms.
  - What safety protocols would help make everyone safer in the relinquishment process.
- What experiences victims/survivors in the community have had with respect to seeking protection from the risk of intimate partner firearm violence through the legal system.

## WHO SHOULD BE INVITED TO PARTICIPATE IN A TASK FORCE OR COMMITTEE THAT DEVELOPS FIREARMS RELINQUISHMENT PROTOCOLS?

Any task force or committee that is convened to develop protocols, rules, checklists, and other resources around firearms relinquishment in intimate partner violence cases should have a **dedicated staffer** responsible for organizing meetings, taking notes, leading coordination between all members of the task force/committee, and developing products. This can be a person already on staff in the jurisdiction: from the courts, prosecutors’ offices, law enforcement agencies or victim advocacy programs. All professional groups in the jurisdiction must commit to collaboratively supporting the position. More information about the role of this staffer is discussed further below.

The unique makeup of the community will inform what additional groups should be included. The task force or committee should always include, among others, the following people/organizations, keeping in mind the varying resources and capacity of each:

- Courts
  - Judges
  - Court clerks
  - Bailiffs
- Prosecutors
- Public defenders
- Civil legal attorneys
- Local law enforcement
  - Police department
  - Sheriff’s department
- Probation/parole officers
- State law enforcement agencies

- ▶ State troopers
- Federal agencies
  - ▶ ATF
  - ▶ U.S. Attorneys
- Victim advocates/victim assistants
- Community hospitals, medical and mental health providers
- Community-based organizations
  - ▶ Immigration clinics
  - ▶ Youth services
  - ▶ Social services
  - ▶ Language access programs
  - ▶ Faith communities



## WHAT TO CONSIDER IN THE FIRST TASK FORCE MEETING

A beginning agenda should include:

### Identifying goals:

- What are the primary desired outcomes of the task force?
- What is the timeline for achieving each goal?

### Identifying players:

- Who is responsible for each different aspect of the protocol?
- Who will be the liaison from each office/agency?
- Who else should be invited?

### Identifying existing information:

- What practices, protocols, forms, checklists, etc. already exist that address firearms relinquishment? (e.g., check boxes on DVPOs, etc.)
- Who can identify all the laws and rules that would apply in firearms cases?

### Developing a plan to hear from those who are engaged with the systems:

- These people can include: victims, offenders, community members who are impacted by firearms violence in intimate partner cases.
- This plan can include: focus groups, surveys, interviews, etc.

### Reviewing the results:

- What is working? What is not?
- Who is responsible for addressing problems or gaps identified

### Developing a timeline with task assignments for addressing these issues.

**All conversations at this meeting should be rooted in the first principle – victim and community safety.**

### Consider safety at all times of the process:

- at time of issuance of order
- at time of relinquishment
- at time of violation of order/enforcement

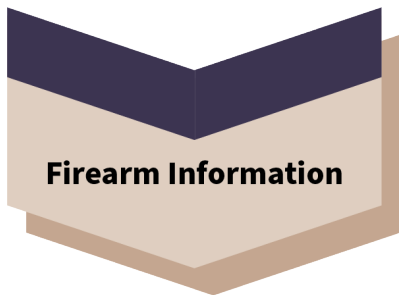
### Decide how to keep victim updated about the progress of their case

### Decide how to incorporate victim safety concerns into case management

## Third Principle: Developing Comprehensive Plans

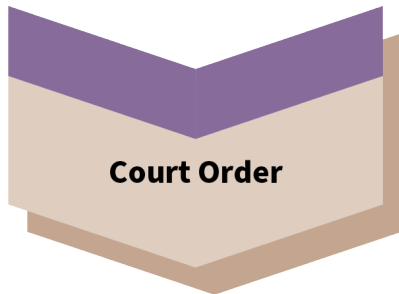


After identifying and engaging with the community stakeholders identified above, their feedback should be used to develop comprehensive plans to ensure a uniform and reliable relinquishment process. The elements of an effective relinquishment policy include:



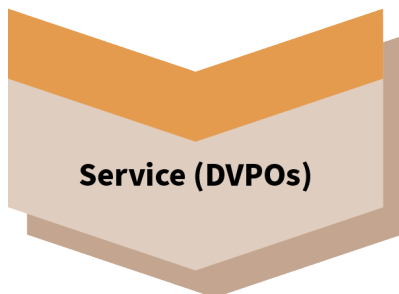
### Firearm Information

- 
- [DVPOs] Information about firearm access within petition and/or during hearing
  - [Criminal Cases] Information in police reports, lethality assessments, testimony



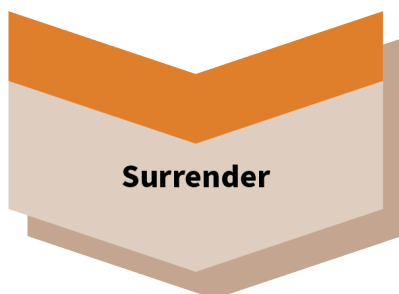
### Court Order

- 
- Clear and enforceable order to relinquish
  - Information to prohibited person (oral and written) re: acceptable manner of relinquishment
  - Instructions to prohibited person (oral and written) re: surrendering, timeframe, and proof required



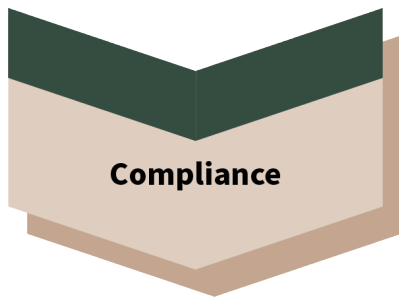
### Service (DVPOs)

- 
- Consistent process for timely service of protection orders with firearms prohibition/relinquishment order
  - Protocol for seizing/taking possession of firearms/ammunition during service
  - Process for victim notification and court notification of executed service

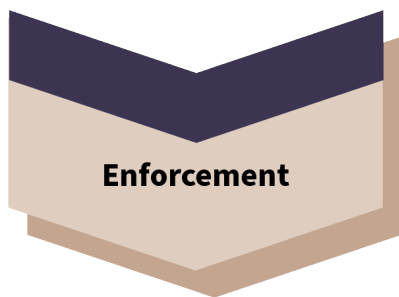


### Surrender

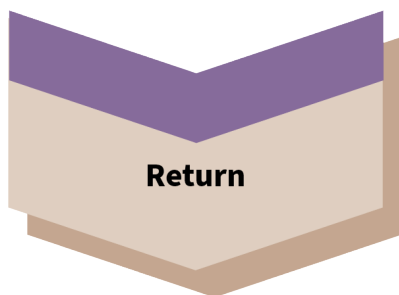
- 
- Relinquishment process as provided to prohibited person is reliably available
  - Prohibited person receives receipt/documentation of relinquishment or sale of firearms with specificity
  - Receiving agency/entity has process for storage of relinquished firearms and protocol for return of firearms upon prohibition termination
-



- 
- Affidavit by prohibited person declaring no possession or custody/control of firearms/ammunition and manner of relinquishment of firearms with corresponding receipts
  - If third party transfer is permitted, process to determine appropriateness of third party receiving relinquished firearms
  - Process to monitor whether order has been complied with in appropriate timeframe (court compliance hearing, probation condition, etc.)
  - Process for victim notification of compliance/non-compliance
- 



- Protocol for entry of DVPOs and convictions reflecting relationship between parties into III, NCIC, NICS Indices
- 



- Protocol for return of relinquished firearms/ammunition upon termination of prohibition (proof needed, NICS background check prior to return)

There is flexibility in how a firearms relinquishment process should be structured to meet the needs and resources of the community. For example, the protocol may be court-centered, law enforcement-centered, or probation-centered. Regardless of which entity may be at the center of the protocol, all stakeholders play a role in carrying out a consistent and effective process.



# Guiding Questions for Protocol Development

The task force/multidisciplinary team must develop a realistic protocol for every component of the relinquishment process above. The following questions should be the starting considerations for each step in the protocol:

**What actions must be carried out at this step in the protocol?**

**Which agency/agencies will lead this step in the protocol?**

- What are the particularized responsibilities of the agency/agencies leading this step in the protocol?

**What resources will this step in the protocol require?**

- Are those resources already available to the agency/agencies tasked with responsibilities?
- What resources are other stakeholders able to contribute to the agency leading this step in the protocol?

**What practices, protocols, forms, checklists, etc. can be developed to aid in consistent implementation of this step in the protocol?**

**Is the proposed protocol informed by the initial stakeholder conversations and needs of survivors and community members?**

**How will implementation of this step in the protocol be evaluated?**

Individual stakeholders can consider some of the following practices when developing their role and responsibilities in the relinquishment protocol.

## COURTS

Develop explicit language regarding relinquishment of firearms and ammunition to be used consistently in court orders and clear language to be used either on the record or in writing to notify prohibited persons of their obligations. Court orders and related procedures should include:

- Recording findings of actual or threatened violence that indicate future danger and the need for relinquishment of firearms.
- Citing relevant statute(s), including the implicated subsection if applicable, authorizing relinquishment of firearms. (Where a specific law does not exist, cite to the court’s catch-all authority (“and any other relief necessary to ensure the safety of the victim and others”).
- If being ordered through a protection order or condition of bond, etc., prohibiting the enjoined person from accessing firearms for the duration of the order (no possession, no purchases, no transfers or “borrowing”, no ammunition).
- If the types of firearms or ammunition in the custody and control of the prohibited person are known to the court, listing them by name in the order, followed by a catch-all phrase such as “and any other firearms or ammunition.”
- Providing a timeframe for relinquishment (ideally within 24 hours), specifying the acceptable places to hand over firearms, and any applicable directives for handing over firearms/ammunition (e.g., firearms should be unloaded and placed in trunk of car, separately from ammunition and driven over to specified law enforcement agency).
- If third party transfer of firearms is a permissible means of relinquishment, providing notice to the prohibited person about who is a permissible third party and requirements of a third party receiving firearms from the prohibited person to appear before the court or submit an affidavit attesting to their suitability to receive the firearm and acknowledgement that they may not transfer the firearm back to the prohibited person with the prohibition in effect.
- Developing written notices and bench cards/scripts for judges to ensure prohibited persons are immediately notified of their obligations and what amounts to compliance.
- Ensuring that the prohibited person is informed of the consequences of failure to relinquish, including collateral consequences under state and federal law.
- If law enforcement will seize the firearms instead of personal relinquishment, including language in the court order authorizing such seizure, covering timeframe, place, and method for removal.
- Ensuring that copies of the court order are immediately sent to the law enforcement agency responsible for receiving relinquished or seized firearms/ammunition.
- Ensuring that copies of court orders prohibiting possession and purchase of firearms are available through state and tribal justice system databases and federal databases such as NCIC and NICS.

- Providing a means by which the prohibited person can deliver notice to the court that they have complied with the relinquishment order (e.g., a form attesting to when and in what manner they turned over specified firearms or attesting that they are not in possession, custody or control of any firearms).
- Developing protocols if the prohibited person fails to relinquish firearms/ammunition or obtains new firearms/ammunition, including who will handle a violation (law enforcement, probation, prosecution).
- Ensuring that the protected party/victim is referred to victim services to conduct safety planning as the relinquishment/seizure process takes place.
- Developing processes for oversight of relinquishment protocol implementation.

Ensure training for all judicial officers, court clerks, and other relevant court staff on the procedures.

## LAW ENFORCEMENT

Develop protocols to (a) receive and store firearms/ammunition relinquished upon court order, and (b) seize and store firearms/ammunition following court order. Protocols should address the following:

In cases of relinquishment:	In cases of seizure:
<ul style="list-style-type: none"> <li>• Identifying who will receive copies of the court order requiring the seizure of firearms and how the court can quickly transmit those orders.</li> <li>• Determining how firearms may be relinquished (by appointment, within a certain timeframe or during certain business hours, to which person in the agency, etc.).</li> <li>• Explaining the method of relinquishment of firearms/ammunition (e.g., firearms should be unloaded and placed in trunk of car, separately from ammunition, and driven over to specified law enforcement agency).</li> <li>• Providing a receipt for relinquished firearms/ammunition.</li> </ul>	<ul style="list-style-type: none"> <li>• Identifying who will receive a copy of the court order requiring the seizure of firearms and how the court can quickly transmit that order.</li> <li>• Detailing how the protected party/victim will be notified of the imminent seizure of the firearms/ammunition.</li> <li>• Ensuring how the protected party/victim will be connected to victim services for safety planning.</li> <li>• Developing a protocol for officer safety when executing the orders.</li> <li>• Taking a copy of the court order to the prohibited person to ensure that proper service is complete before the seizure of firearms/ammunition.</li> <li>• Developing a script for law enforcement officers to deliver upon arrival to let the prohibited person know that firearms/ammunition will be seized per court order.</li> </ul>

### In cases of relinquishment:

- Having the prohibited person sign an affidavit stating that they have relinquished all firearms/ammunition in their possession and will not obtain any others for the duration of the order. The affidavit should describe the state and federal consequences for possessing, purchasing or transferring firearms/ammunition for the duration of the order.
- If third party transfer is a permissible means of relinquishment, a protocol for conducting a background check on the identified third party to ensure they have no prohibiting status.
- Providing the prohibited person with an information sheet describing how the firearms/ammunition will be stored and how they will be returned at the termination of the court order.
- Developing protocols if the prohibited person fails to relinquish firearms/ammunition or obtains new firearms/ammunition (who will handle violation: law enforcement, probation, prosecution, who will notify protected party/victim).
- Providing the protected party/victim with a referral to a local victim services agency to ensure that the protected party/victim can do safety planning for the time of relinquishment.
- Developing protocols for how firearms/ammunition will be stored and returned upon the lifting of the prohibition (e.g., termination of disqualifying protection order), including who in the agency will request a federal background check to ensure the person has no other statuses prohibited them from taking possession of the firearm/ammunition. See below in “Storage and Return.”

### In cases of seizure:

- Letting the prohibited person know if the court has named specific weapons to be seized.
- Developing a script for law enforcement to deliver upon seizure to let prohibited person know that they cannot possess, purchase or transfer any firearms/ammunition for the duration of the order.
- Having the prohibited person sign an affidavit stating that they have relinquished all firearms/ammunition in their possession and will not obtain any others for the duration of the order. The affidavit should describe the state and federal consequences for possessing, purchasing, or transferring firearms/ammunition for the duration of the order.
- Providing the prohibited person with an information sheet describing how the firearms/ammunition will be stored and how they will be returned at the termination of the court order.
- Developing protocols if the prohibited person fails to relinquish firearms/ammunition or obtains new firearms/ammunition (who will handle violation: law enforcement, probation, prosecution, who will notify protected party/victim).
- Developing protocols for how firearms/ammunition will be stored and returned upon the lifting of the prohibition (e.g., termination of disqualifying protection order), including who in the agency will request a federal background check to ensure the person has no other statuses prohibited them from taking possession of the firearm/ammunition. See below in “Storage and Return.”

Ensure training for all law enforcement personnel on the procedures.

## PROSECUTORS

Develop a practice of requesting relinquishment orders with clear expectations for compliance, enforcing the orders in instances of non-compliance, and increasing victim safety by ensuring victims are informed of relinquishment orders and compliance. Protocols should include:

- Developing draft relinquishment orders to be provided to the court with the request that the court issue the order in appropriate cases. These orders should include:
  - Recording findings of actual or threatened violence that indicate future danger and the need for relinquishment of firearms.
  - Citing relevant statute(s), including the implicated subsection if applicable, authorizing relinquishment of firearms (where a specific law does not exist, cite to the court’s catch-all authority (“and any other relief necessary to ensure the safety of the victim and others”).
  - Stating the nature and length of the prohibition (e.g., permanent as a result of conviction, for the duration of the bond order, etc.).
  - If the types of firearms or ammunition in the custody and control of the prohibited person are known to the prosecution, listing them by name in the order, followed by a catch-all phrase such as “and any other firearms or ammunition.”
  - Providing a timeframe for relinquishment (ideally within 24 hours), specifying the acceptable places to hand over firearms, and any applicable directives for handing over firearms/ammunition (e.g., firearms should be unloaded and placed in trunk of car, separately from ammunition and driven over to specified law enforcement agency).
- Developing a protocol for making a record regarding the issuance of the relinquishment order and the timeline for compliance.
- Ensuring the victim has the opportunity to provide the case prosecutor with information about firearms/ammunition in the defendant’s possession, custody or control.
- Developing protocols for notifying the victim of the issuance of a relinquishment order, including the timeframe for compliance by relinquishment or the anticipated seizure.
- Ensuring a practice of connecting victims with advocacy services (both within the prosecutor’s office and community-based) so they have an opportunity to engage in safety planning.
- Developing protocols for notifying the victim of the relinquishment or seizure of firearms from the prohibited person, or the prohibited person’s attestation they do not have custody or control of any firearms/ammunition, or of the prohibited person’s noncompliance with a relinquishment order. Ensure the victim has the opportunity to provide relevant information as to whether the firearms/ammunition relinquished/seized represents compliance with the order.
- Developing policies for what action the office will take if the prohibited person fails to comply with a relinquishment order.
- Developing protocols to ensure all relevant records are entered into state (and federal) databases.

Ensure that all prosecutors are trained as to when relinquishment orders should be sought and when and how to enforce them.

Additionally, prosecutors should consider developing a policy for affording limited immunity to defendants with respect to the relinquishment order to increase retrieval of illegally possessed firearms and to victims for providing information known to them about firearms in the custody and control of defendants.

## **VICTIM ADVOCATES**

Local victim advocates can provide crucial information for the removal/relinquishment process such as:

- When desired by the victim/survivor, and with their consent, helping law enforcement, civil attorneys, and prosecutors establish the nature of the relationship between the victim and the offender as required by the domestic violence-related firearm prohibitors.
- Identifying points along the relinquishment/removal timeline that pose the greatest dangers for victims and the community.
- Developing safety planning protocols for victims and others in the community to be used as the removal/relinquishment process is carried out.
- Developing and carrying out focus groups to assess the needs of victims and the community.
- Helping the justice system develop good case management strategies for keeping the victim and other system professionals informed about the progress of the relinquishment/removal process.

## **PROBATION/PAROLE**

Probation and parole officers are charged with, among other things, ensuring offender compliance with court orders. As such, probation and parole officers can be an important partner in the firearm relinquishment protocol. Community supervision agencies should consider:

- Developing policies for addressing an offender's prohibited status during the pre-sentence investigation. This should include notifying the prohibited person of their status as such and their obligation to relinquish firearms and gathering information about firearms/ammunition in their possession, custody and control.
- Developing policies for all community supervision officers to follow at their first meeting or intake with a supervisee that includes a review of whether the supervisee is a prohibited person, whether they understand the nature and length of that prohibition, and whether the supervisee needs assistance complying with a relinquishment order. This should also include a practice of ensuring that cohabitants of the supervisee do not possess firearms/ammunition in the shared home and are on notice that transferring a firearm to the supervisee could result in criminal penalties.
- Developing clearly stated notices for prohibited supervisees about the firearm surrender process and potential penalties for failure to comply with a relinquishment order.



- Developing forms on which supervisees can attest to compliance with a relinquishment order, either by effectuating relinquishment or attesting no possession of firearms/ammunition.
- If third party transfer is a permissible means of relinquishment, a protocol for identifying the suitability of the third party receiving the prohibited person's firearms and for notifying the third party of potential consequences for returning the firearm to the prohibited person while the prohibition remains in effect.
- Developing protocols for facilitating relinquishment with law enforcement.
- Ensuring all community supervision officers are trained on domestic violence-related firearms prohibitions, the relinquishment protocols in place, and the policies for supervision of prohibited persons.

## STORAGE AND RETURN

To ensure that relinquishments or seizures are effective, explicit protocols should be developed for the storage of firearms/ammunition as well as the return of firearms/ammunition when the prohibition is lifted. Protocols should address the following:

- Where the firearms/ammunition will be stored (with law enforcement agency, with federally licensed firearm dealer, firing range or gun club, etc.).
- What memorandums of understanding or contracts will need to be developed to manage storage and return.
- What court orders are required to affect storage and to allow return.
- For law enforcement: whether relinquished/seized firearms/ammunition should be tagged as evidence for other cases.
- What the conditions are for returning firearms/ammunition to the prohibited person (termination of court order, modification or change of court order, completion of diversion, how the storage facility will know when firearms/ammunition can be returned, etc.).
- If and how the prohibited person be notified that firearms/ammunition may be reclaimed.
- Who will request a federal background check to ensure the prohibited person does not have any other status that would prohibit them from reclaiming the firearm/ammunition.
- How the protected party/victim will be notified of the return of the firearms/ammunition.
- How the protected party/victim will be connected to victim services for safety planning.

## Fourth Principle: Institutionalizing the Work



Institutionalizing the work done to successfully implement firearms relinquishment protocols is as important as developing those protocols in the first place. The new relinquishment system must be completely integrated into the permanent professional work done in the jurisdiction.

### LEADERSHIP

Leadership is key to the success of creating a safe and effective firearms relinquishment protocol in cases of intimate partner violence. What we have learned over many years of providing training and technical assistance to jurisdictions across the country is that there is usually one person who undertakes the development of these protocols as a priority and convenes the other stakeholders. That individual's leadership, vision, and energy is crucial to keeping the momentum going so the jurisdiction can reach the finish line and continue providing safety in intimate partner violence cases. But the successful implementation of these protocols comes from dedicated partnership of all stakeholders. The leaders of every stakeholder group must be committed to developing and implementing an effective and consistent process. These leaders must demonstrate that commitment to their staff. Leaders can help ensure the policies and multidisciplinary efforts are institutionalized by identifying emerging leaders in their agency and involving them in the process. Each stakeholder agency should include consistent involvement from both agency leadership and general staff.

### INVESTING IN THE WORK

Unfortunately, staff turnover and funding for implementation of the final protocols are ever-present obstacles to continuing the work in the future. To ensure the continuity of the project, a permanent staff position should be created. Funding this position can initially be obtained through federal or state grant monies, but ultimately this position should be viewed as a permanent, full-time position. The person in this position can be located in any of the following: the court system, a prosecutors' office, a law enforcement agency, a probation/parole agency, or a victim services program.

This permanent position will be responsible for activities such as:

- Convening regular meetings of the committee or task force addressing firearms in intimate partner cases to develop resources, track activities, and evaluate effectiveness of the relinquishment protocols.
- Providing training on and distributing protocols and resources needed to keep firearms out of the hands of adjudicated offenders for all professionals doing work related to firearms relinquishment.
- Maintaining and updating any protocols, as well as tracking changes in research and in state, tribal, local or federal laws impacting firearms violence in intimate partner cases.

- Identifying obstacles to doing the work as they come up.
- Maintaining continuous communication with all related professionals.
- Writing grants and fundraising to support the work.

## LEVERAGING COURT AUTHORITY

Within these coordinated community responses, courts have unique authority to institutionalize the relinquishment/removal process. Courts should, if not otherwise prescribed by statute, identify laws, court rules, and protocols that can support the successful relinquishment/removal of firearms such as:

- Developing, or amending existing, court rules that address relinquishment orders in appropriate cases and require compliance with relinquishment orders.
- Ensuring that court record information is available through state and tribal justice system databases and federal databases such as NCIC and NICS.
- Developing forms, checklists, and standard court documents to ensure that firearms relinquishment/removal is appropriately addressed in any relevant case. See more in the Form and Checklists section below.
- Developing protocols for oversight and enforcement of relinquishment/removal orders.<sup>12</sup>

## FORMS AND CHECKLISTS

One of the best ways to embed good practices around firearms relinquishment is to ensure that every professional doing this work has access to the forms and checklists. This will provide consistency across the jurisdiction and integrate proven responses into regular practice.

Dependent on the relinquishment protocol model chosen by the community, the following are examples of forms and checklists that should be developed by the applicable stakeholder agency.

### Courts

- A checklist for judges presiding over domestic violence protection orders and/or criminal dockets helping them to identify each case in which they should be considering and/or ordering relinquishment of firearms and the court procedure for doing so.
- Form protection orders, bond orders, etc. with checkboxes and pre-filled language regarding relinquishment prompting judges to insert relevant information (date for compliance, etc.) when entering a relinquishment provision. Form orders such as this could also have a standard notice that the order activates the state and/or federal firearm prohibition.
- A plain language notice to prohibited persons and those ordered to relinquish firearms/ammunition clearly detailing their obligation to relinquish firearms/ammunition, how and to whom they can do so, the time by which they must do so, and how they can establish that they have complied. These forms should be available in multiple languages reflective of the community.

- A form affidavit or sworn statement for those ordered to relinquish firearms/ammunition to provide to the court indicating that either they relinquished their firearms (and have included a list of all firearms relinquished and to whom) or they are not in possession, custody or control of any prohibited firearms/ammunition.
- A notice of non-compliance to be provided to a prohibited person who does not comply with a relinquishment order.

### **Law enforcement**

- An informational resource regarding the relinquishment process for those ordered to relinquish firearms/ammunition, including the logistical details such as where to go, what condition firearms must be in, a designated point person, etc. Information should also be included about how the person may retrieve the relinquished items upon the prohibiting status being terminated. This information should be available in multiple languages reflective of the community.
- A form to document a descriptive list of the firearms/ammunition relinquished, when and how the items were received, and the order under which the person is relinquishing the items. The person relinquishing the items should be provided a copy, which may be in turn be used to establish their compliance with a relinquishment order, and a copy should be retained by the law enforcement agency.

### **Probation/Parole**

- A plain language form advising prohibited supervisees of their prohibited status and obligation to relinquish any firearms/ammunition in their possession, custody or control. This notice should clearly detail the process by which they can do so and any assistance their probation/parole officer may be able to provide to facilitate compliance. These forms should be available in multiple languages reflective of the community.
- Inclusion in written conditions of probation/parole clearly stated obligation to remain dispossessed of and refrain from attempting to obtain any firearm/ammunition.

# CONCLUSION

Each jurisdiction has unique needs and therefore will require unique protocols to ensure proper firearms relinquishment in cases involving intimate partner violence. The above tools lay out a process that every jurisdiction can use to determine the best way to move forward with their community. Centering the four principles of victim and community safety, coordinated community response, the development of comprehensive plans, and the institutionalization of those plans, every community has the opportunity to improve their protocols and increase the safety of survivors and community members.

The National Resource Center on Domestic Violence and Firearms is available to assist individual stakeholders and multidisciplinary teams and task forces in initiating, developing or improving relinquishment protocols that meet the needs of their communities. Visit [nrcdvh.org](https://nrcdvh.org) for more information or to contact us at [info@nrcdvh.org](mailto:info@nrcdvh.org) for training or technical assistance.



## Endnotes

- <sup>1</sup> Linda E. Saltzman, et al. Weapon involvement and injury outcomes in family and intimate assaults. 267 JAMA 3043, 3047 (1992) (finding domestic violence incidents involving firearms are twelve times more likely to result in death than incidents involving other weapons or bodily force); Jacquelyn Campbell et al., Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study, 93 Am. J. Pub. Health 1089, 1092 (2003) (finding that that when a firearm was used in the most severe incident of domestic violence the odds of it ending in homicide were 41 times that of when a firearm was not used).
- <sup>2</sup> Emma E. Fridel and James Alan Fox, Gender Differences in Patterns and Trends in U.S. Homicide, 1976-2017, 6 Violence and Gender 1, 27-36 (2019); Neil Websdale et al., The Domestic Violence Fatality Review Clearinghouse: Introduction To A New National Data System With a Focus On Firearms, 25 INJ EPIDEMIOL. 6 (2019).
- <sup>3</sup> See April M. Zeoli, et al., Analysis of the strength of legal firearms restrictions for perpetrators of domestic violence and their association with intimate partner homicide, 187 Amer. J. Epidemiology 11, 2365-2371 (2018) (An analysis of data for 45 U.S. states between 1980-2013 demonstrated that domestic violence protection orders that require relinquishment of firearms is associated with a 12% reduction in intimate partner homicides and a prohibition on firearm access when subject to a domestic violence protection order that includes dating partners is associated with a 13% reduction in intimate partner homicides.)
- <sup>4</sup> <https://nleomf.org/wp-content/uploads/2024/01/2023-EOY-Fatality-Report-FINAL.pdf>
- <sup>5</sup> For more information on the various state laws prohibiting domestic violence offenders from purchasing or possessing firearms or ammunition, see Giffords Law Center’s [State Gun Law database](#).
- <sup>6</sup> See appendix “State Statutes on Firearm Relinquishment in Cases Involving Intimate Partner Violence” for a list of state laws and their requirements.
- <sup>7</sup> Jacquelyn Campbell et al., Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study, 93 Am. J. Pub. Health 1089, 1092 (2003); Linda E. Saltzman, et al. Weapon involvement and injury outcomes in family and intimate assaults. 267 JAMA 3043, 3047 (1992); Jacquelyn Campbell et al., Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study, 93 Am. J. Pub. Health 1089, 1092 (2003).
- <sup>8</sup> See footnote 3.
- <sup>9</sup> Katherine A. Fowler et al., Childhood Firearm Injuries in the United States, 140 PEDIATRICS, 1, 7 (2017).
- <sup>10</sup> Lisa Geller, et al., The role of domestic violence in fatal mass shootings in the United States, 2014-2019. 8 Inj. Epidemiol. 1, 38 (2021).



<sup>11</sup> To learn more about the CCR model, BWJP’s National Center on Reimagining Coordinated Community Response offers many educational and practical tools and to support your local work. See <https://bwjp.org/our-work/reimagining-coordinated-community-response/>.

<sup>12</sup> See National Council of Juvenile and Family Court Judges, Family Violence Department, A Passport to Safety: Full Faith and Credit, A Judge’s Bench Card—Firearms Card (Updated 2023).[https://www.ncjfcj.org/wp-content/uploads/2012/02/FFC\\_Passport\\_VAWA-2013-Amendments-Insert-FINAL.pdf](https://www.ncjfcj.org/wp-content/uploads/2012/02/FFC_Passport_VAWA-2013-Amendments-Insert-FINAL.pdf)