



STORAGE OPTIONS AND CONSIDERATIONS FOR RELINQUISHED FIREARMS

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The Importance of Firearms Relinquishment

The deadly role of firearms in domestic violence cannot be understated. Access to a firearm makes it five times more likely a woman will be killed by her abusive partner.¹ Every month in the United States an average of 70 women are killed by a firearm at the hands of an intimate partner.² Law enforcement and the general public are also at risk when abusers have access to firearms, making firearm-involved domestic violence a concern for the entire community.

In the 1990's, Congress acknowledged this reality by prohibiting individuals who are subject to qualifying protective orders or who have been convicted of a domestic violence misdemeanor from purchasing or possessing firearms or ammunition. (See the NRCDFV resource [A Brief History and Framework of Federal Firearms Laws Addressing Intimate Partner Violence](#) for more details). These laws, however, are not self-executing, and communities must develop and implement a process by which the firearms are relinquished and securely stored. Determining who is responsible for keeping the firearms and where they will be stored can be challenging; this resource outlines safety considerations as well as some lower cost options that can work in a variety of communities.

Balancing Safety: Storage vs. Transfer

Some jurisdictions allow firearms to be transferred to a third party (often an individual the respondent/defendant knows or is related to), rather than stored by law enforcement or another secure entity. While this may be easier for courts to arrange, there are also dangers to consider. The chart below outlines some of the potential advantages of safe storage rather than third party transfer. (Note that even in jurisdictions where third party transfer is allowed, there must also be a process to surrender firearms to law enforcement, the court, or another public safety entity to account for respondents/defendants who do not have an appropriate third party to store their firearms.)

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Storage	Transfer
<p>Storage guarantees that the offender cannot access firearms without court approval or law enforcement assistance.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Court orders where firearms are to be stored <ul style="list-style-type: none"> ◦ Law enforcement storage (stored as evidence, as contraband, or pending court order termination; receipt given to court or law enforcement) ◦ Secure third-party storage (FFLs, shooting range, pawn shops) (receipt surrendered to court or law enforcement) 	<p>Transferee may give offender firearms access intentionally or unintentionally. Some common discussions/situations include:</p> <ul style="list-style-type: none"> <input type="checkbox"/> “Just this one time to go hunting” <input type="checkbox"/> “They are his guns, after all” <input type="checkbox"/> “Nothing’s happened in months” <input type="checkbox"/> Failing to lock up firearms or securing in a place the offender can’t access

If jurisdictions opt to allow third party transfer, there are protocols that they should adopt to increase safety. First, the court should require that the potential third party recipient pass a background check to ensure they are not prohibited from possessing firearms. Second, the court should ensure that the potential third party is informed of their responsibilities and of the consequences they could face under federal or state law if they return the firearms to the prohibited person while they are still prohibited. As a best practice, the court should also require the potential third party to appear in court and affirm their acknowledgment of their responsibilities under oath. For more detailed information about what should be included in relinquishment forms, particularly when transferring to a third party, see our resource entitled *Firearms Relinquishment Forms: Court Practice in Protection Order Cases (forthcoming)*.

Note: Reporting procedures and accountability for third parties who provide access to firearms for prohibited people vary greatly from jurisdiction to jurisdiction. It is important to understand what procedures exist in your jurisdiction so that you can explain to survivors how they can report illegal transfers and what actions may be taken.

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Options and Minimum Requirements for Law Enforcement Management of Relinquished Firearms

The four basic options for managing relinquished firearms are:

1. On-site storage at a law-enforcement facility
2. On-site storage as evidence at a law enforcement facility
3. Off-site storage at a municipal, Tribal, county, or state facility
4. Off-site storage at a rental facility with law enforcement control

If law enforcement elects to store the weapons at an off-site facility, there are some minimum requirements they should consider.

- The facility must be able to establish a Memorandum of Understanding (MOU) or contract with law enforcement or the court to formalize the roles and responsibilities of each party involved.
 - Later in this document, we outline what this document should cover.
- The facility must be able to safely and securely store the firearm(s) for an indefinite period of time.
 - Even though a protective order may be valid for 6 months or a year initially, the order could be extended and/or the respondent could become prohibited through further orders or convictions in the meantime.
- The facility must be able to consistently provide timely receipts to the court and/or law enforcement to reflect what firearms were relinquished.
- The facility must have the ability to store firearms in a manner that minimizes the possibility of damage to the firearms and must have insurance coverage for any possible claims of damage.
- The facility must be a Federal Firearms License (FFL) holder.
 - Various types of facilities (listed below) may be secure options, but all of them should be FFLs if they store relinquished firearms.

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Alternative Storage Options

These types of facilities may be viable options for relinquished firearm storage, provided that they are FFLs and are willing to meet the other minimum criteria discussed above. They often have the necessary physical facilities and are already storing firearms and providing documentation. Note the minor distinctions between each option:

- Firearms dealers/gun shops
 - Firearms dealers, by their nature, are well-positioned to store offenders' firearms (have safes designed specifically for gun storage; can issue formal receipts upon relinquishment; can directly charge respondent/defendant for storage; can conduct background checks prior to firearms return; can sell firearms that cannot be returned; can work with law enforcement and the courts).
- Pawn shops
 - Pawn shops, like firearms dealers, can often serve as storage sites (have safes designed to securely store valuables; can issue formal receipts upon relinquishment; can directly charge respondent/defendant for storage; may be able to conduct background checks prior to firearms return; can sell firearms that are not redeemed or cannot be returned; can work with law enforcement and the courts).
- Shooting ranges
 - Shooting ranges can also be appropriate storage sites (have safes designed to securely store firearms; can issue formal receipts upon relinquishment; can directly charge respondent/defendant for storage; may be able to work with law enforcement to conduct background checks prior to firearms return; can develop a system for destroying, selling or returning to law enforcement any firearms that cannot be returned; can work with law enforcement and the courts)

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Establishing the Contract/MOU for Storage of Relinquished Firearms

As noted above, if law enforcement intends to use a separate entity to collect and store relinquished firearms, they should first enter into a contract with a non-governmental agency or Memorandum of Understanding (MOU) with that entity. The agreement should make the expectations of each party clear; it should also anticipate situations that may arise and clarify how those should be resolved.

The agreement should contain:

- Steps for surrender and storage, including providing receipts to the court and/or law enforcement to show proof of transfer;
- Protocols to keep firearms safe and secure for the duration of the order;
- Protocols for safe return of firearms at termination of the court order, including a mandatory background check to ensure the person has not become otherwise prohibited;
- Guidelines regarding communication and the sharing of information between agencies;
- Details about law enforcement's access to and control over stored firearms;
- Liabilities and responsibilities of each party;
- Manner and amount of compensation to be paid to the storage facility, including whether the respondent or law enforcement will pay the fees; and
- Process for destroying, selling or otherwise disposing of firearms that are not retrieved after the storage period has ended.

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Best Practices for Relinquishment and Storage of Firearms

Regardless of how and where the weapons are to be stored, the courts and law enforcement can help ensure that the relinquishment and storage process is as effective as possible by:

- Requiring a court order to store firearms initially and a subsequent court order to return the firearms to respondent once the prohibition has been lifted;
- Including clear and enforceable provisions within civil and criminal court orders regarding transfer or relinquishment, including an affidavit from the prohibited person declaring that they either have no access to firearms or that the firearms have been appropriately transferred;
- Providing oral and written information covering:
 - Acceptable means of transfer;
 - Steps in the transfer process;
 - What proof the prohibited person is required to present regarding the transfer; and
 - The timeframe within which the respondent must transfer the firearms;
- Ensuring law enforcement has access to and control over firearms that are stored by separate entities;
- Developing protocols that cover:
 - firearms relinquishment during service of an order;
 - consistent and timely entry of protective orders into relevant databases (III, NCIC, NICs);
 - the return of transferred firearms upon termination of the prohibition (ie. what proof is needed and the requirement to complete a new background check);
 - The destruction or sale of firearms that cannot be returned to the prohibited person; and
- Creating a process to monitor compliance with court orders to relinquish firearms.

It is important to prioritize victim notification and connection to advocacy at each step of the process, including issuance of the initial relinquishment order, information about whether or not the firearms have been relinquished, and when the firearms will be returned to the prohibited person.

Endnotes

- 1 Ruth Leemis, et al., The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Intimate Partner Violence (2022), National Center for Injury Prevention and Control, Centers for Disease Control and Prevention
- 2 See fn. 1



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