

Strategies for Effective Orders

Potential strategies for advocates, law enforcement and courts at each stage of Protection Order process to ensure safe removal of firearms from abusers subject to protective orders.

Ex Parte Filing – Temporary Protection Order (PO)

- DVPO petitioners routinely file Motion for Surrender with petition.
- Include Motion for Surrender and Order to surrender in all Protection Order packets and with DV forms on AOC website.
- Make sure all courts are using updated protection order forms (Dec 2014) with current language for order to surrender weapons.
- Protection Order clinic: advocates available at courthouse before Protection Order calendar.
- Training for court clerks on new orders and ensuring access for petitioners.
- Always ask about guns in safety planning.
- In temporary orders, use “Law Enforcement will assist” section to direct law enforcement to receive surrendered weapons.
- Update web-based interactive Protection Order form to include orders to surrender weapons (NWJP).
- Develop computer programs to guide petitioners to correct orders and provisions, including firearms provisions. (e.g. TurboTax for protection orders)

Service of Temporary DVPO & Notices Hearing

- Law enforcement: ask respondent to voluntarily surrender weapons at time of service of qualifying order.
- Verbal information/warning to respondent of criminal penalties for possession of guns in violation of protection order.
- Law enforcement: offer to voluntarily take weapons from victim or household members.
- Script / prompt for law enforcement officers to ask about presence of weapons.
- Receipt book and portable storage boxes to facilitate officers receiving firearms at point of service.
- Designate funds to support increased property room staff time for sheriffs and police.

Protection Order Hearing

- Ask petitioner about weapons, even if respondent does not show up to the PO hearing
- Specific instructions to person ordered to surrender firearms: date, where, to whom, how, specific weapons.
- Court read warning to respondent and gun prohibitions on the record.
- Script or bench card to prompt judges and commissions to address weapons in every PO hearing
- If respondent wants to surrender to 3rd party, petitioner can suggest appropriate 3rd parties to the court who can safely receive weapons (similar to supervised visitation).
- Dismiss parties separately from court room after PO hearings.

Firearms Surrender Process

- Notification/process for victim to find out whether weapons were surrendered or not.
- Victim notification when weapons are returned.
- Specific local instruction sheet for respondent: how to physically transfer weapons to law enforcement.
- Law enforcement policy for surrender process.
- Law enforcement partner with pawn shops to store weapons.
- Court requirements for safe, legal appropriate sale of weapons.

- Clerk's office process to send Order to Surrender to law enforcement with DVPO
- Attach photo list of weapons – victim visually identifies known weapons. Forward to law enforcement attached to order.
- Law enforcement receives specific list and description of guns to be surrendered with court order.
- Guidelines for when the court will accept surrender of firearms to a 3rd party, and guidelines for selecting appropriate 3rd party.
- If 3rd party surrender: establish requirements for 3rd party accepting weapons: e.g. must appear in court, signed affidavit and warnings from the court; clear guidelines and instructions for 3rd party receiver; require transfer through law enforcement or licensed dealer; require background check (even if not otherwise required by law)
- Officer safety plan/protocol for firearms surrender and retrieval.
- Law enforcement process for return of weapons.
- Fee for storage of surrendered weapons.

Compliance and Enforcement

- Court require household members who own guns to secure them so that restricted person does not have access or possession.
- Courts routinely set process to verify whether receipt is filed with the court as ordered: e.g. review hearing, status conference, records check.
- Courts establish consistent process/consequence when receipt not filed: e.g. bench warrant, show cause hearing, or contempt charge.
- Receipt of surrender tracked in new or existing database, accessible to law enforcement and court.
- Law enforcement track orders to surrender and check for receipt of surrender. Detectives follow up on orders with no receipt. Open criminal investigation if not resolved.
- Advocates check whether receipt filed. Safety plan with petitioner, plan to follow up after PO hearing.
- Victim can file a contempt motion if the respondent has not surrendered firearms as ordered.
- Law enforcement: investigate reports that respondent has guns in violation of court order. If probable cause: arrest/search warrant on felony unlawful possession.
- STOP task force to identify high risk abusers and prioritize retrieving weapons on those orders.

DV call for Service to law enforcement (with or without DVPO)

- Routinely ask victim/witnesses if there are weapons in the home.
- Document firearms information in incident report, DV supplemental report, and lethality assessment. Description, location, used in past assault or threat?
- Incorporate questions about firearms and plan to safely remove firearms in lethality assessment protocol.
- 911 Dispatch routinely ask whether there are firearms. Get description and location. Find out whether PO in place or offender is prohibited from possession. Relay information to officers.
- Ask/offer to take weapons for safekeeping. Flag firearms removed for DV hold.
- Process for returning weapons from DV hold: check for protection orders, other prohibitions, background check.
- Encourage victim to consider petitioning for PO with order to surrender weapons so that firearms will not be returned.