

Collaboration to Protect Victims, Children, and Communities from DV Abusers' Access to Firearms in Nevada

Presented By :

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Judges

The **Why**: Scope of the Problem

- Perpetrator's access to firearms =
One of the greatest risk factors for intimate partner homicide; firearms cause the greatest harm (Campbell et al., American Journal of Public Health, 2003)
- Compared to homes without guns, presence of firearms creates:
 - 8-fold** increased homicide risk when offender is an intimate partner of the victim
 - 20-fold** increase when there is a prior history of violence
(N.E. Journal of Medicine)

The **Why**: Scope of the Problem

- Firearms are the weapon of choice for those committing DV homicides:
 - 1980-2008: a firearm was used to commit **more than 2/3** of intimate partner homicides in which a female spouse or ex-spouse was killed
 - For each of those years, more intimate partner femicides were committed with guns than with **all other weapons combined**
 - 2014: 56.9%
 - 2017: 60.6%

The **Why**: Scope of the Problem

Non-lethal use: Coercive Control

“Guns can be lethal quickly and displaying or threatening an intimate partner with a gun can convey a particularly pernicious threat, elicit compliance, and create extreme fear. All are hallmarks of coercive control.”

Sorenson & Schut (2018)

Domestic Violence Homicides in NV

IV. INTIMATE PARTNER HOMICIDE

From 2014 to 2018, 52 women were fatally shot by an intimate partner in the Nevada. This represents 76% of all intimate partner gun homicides in the state.

Intimate partner homicide source: FBI, Supplementary Homicide Reports and Florida Department of Law Enforcement, 2014-2018.

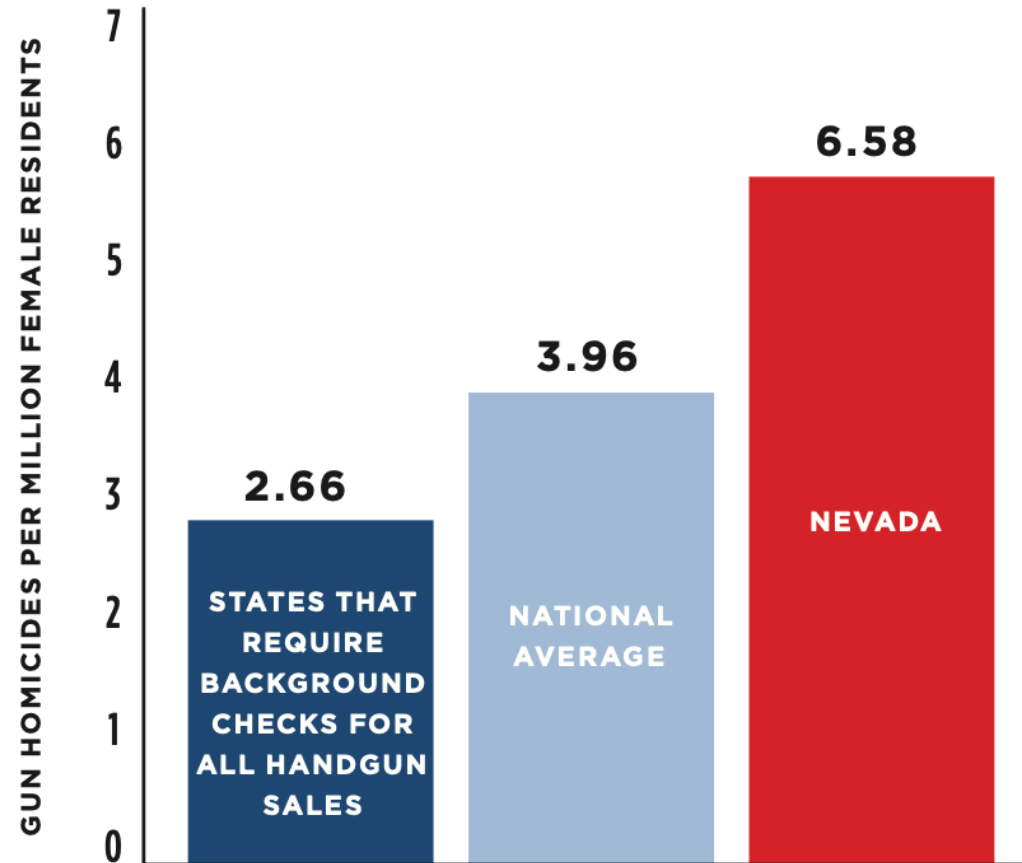
Domestic Violence Homicides in NV

- Women in Nevada are **65 percent more likely to be shot to death** by intimate partners than women nationwide, according to an Everytown analysis of FBI data. In fact, Nevada has the fifth highest rate of domestic violence gun murder of any state in the country.¹

Everytown for Gun Safety, “State background check requirements and rates of domestic violence homicide,” available at <http://every.tw/1fmRnLI>.

Domestic Violence Homicides in NV

RATES OF INTIMATE PARTNER GUN HOMICIDES OF WOMEN



Source: Federal Bureau of Investigation Supplementary Homicide Reports, 2008–2012, and Florida Department of Law Enforcement.

Nevada law: firearms and DV

- If an extended order is in effect, respondent may not purchase or otherwise acquire firearm (NRS 33.0305)
- An extended order may include:
 - (a) A requirement that the adverse party surrender, sell or transfer any firearm in the adverse party's possession or under the adverse party's custody or control
 - (b) A statement that, unless a limited exception is included, the adverse party is prohibited from possessing or having under the adverse party's custody or control any firearm while the order is in effect

What is the legal standard?

Nevada law: firearms and DV

In determining whether to include the the surrender, sell, or transfer provision in an extended order, the court must consider, without limitation, whether the adverse party:

- (a) Has a documented history of domestic violence;
- (b) Has used or threatened to use a firearm to injure or harass the applicant, a minor child or any other person; and
- (c) Has used a firearm in the commission or attempted commission of any crime.

Nevada law: firearms and DV

3. If a court includes firearms provisions it may include a limited exception from the prohibition if the adverse party establishes that:

(a) The adverse party is employed by an employer who requires the adverse party to use or possess a firearm as an integral part of the adverse party's employment;

(b) The adverse party only uses or possesses the firearm in the course of such employment; and

(c) The employer will provide for the storage of any such firearm during any period when the adverse party is not working.

Nevada law: firearms and DV

NRS 33.031 (4):

Violation of firearms prohibition in an extended order a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

Nevada law: firearms and DV

NRS 33.033(1):

If a court orders an adverse party to surrender, sell or transfer any firearm ... the adverse party shall, not later than 24 hours after service of the order:

(a) Surrender firearm to the appropriate local law enforcement agency designated by the court in the order;

(b) Surrender firearm to a person designated by the court in the order;

(c) Sell or transfer firearm to a licensed firearm dealer; or

(d) Submit an affidavit:

(1) Informing the court that he or she currently does not have any firearm in his or her possession or under his or her custody or control; and

(2) Acknowledging that failure to surrender, sell or transfer any firearm in his or her possession or under his or her custody or control is a violation of the extended order and state law.

Risk assessment: Identifying and responding collaboratively to firearms access

2. If the court orders the adverse party to surrender any firearm to a local law enforcement agency ... the law enforcement agency shall provide the adverse party with a receipt which includes a description of each firearm surrendered and the serial number of each firearm surrendered. The adverse party shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide the receipt to the court.

Risk assessment: Identifying and responding collaboratively to firearms access

3. If the court orders the adverse party to surrender any firearm to a person designated by the court ... the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after the adverse party surrenders any firearm to such person, provide to the court and the appropriate local law enforcement agency the name and address of the person designated in the order and a written description of each firearm surrendered and the serial number of each firearm surrendered to such person.

Risk assessment: Identifying and responding collaboratively to firearms access

4. If the adverse party sells or transfers any firearm to a licensed firearm dealer pursuant to paragraph (c) of subsection 1:

(a) The licensed firearm dealer shall provide the adverse party with a receipt which includes a description of each firearm sold or transferred, the serial number of each firearm sold or transferred and, if the firearm was transferred, whether the transfer is permanent or temporary; and

(b) The adverse party shall, not later than 72 hours or 1 business day, whichever is later, after such sale or transfer, provide the receipt to the court and the appropriate local law enforcement agency.

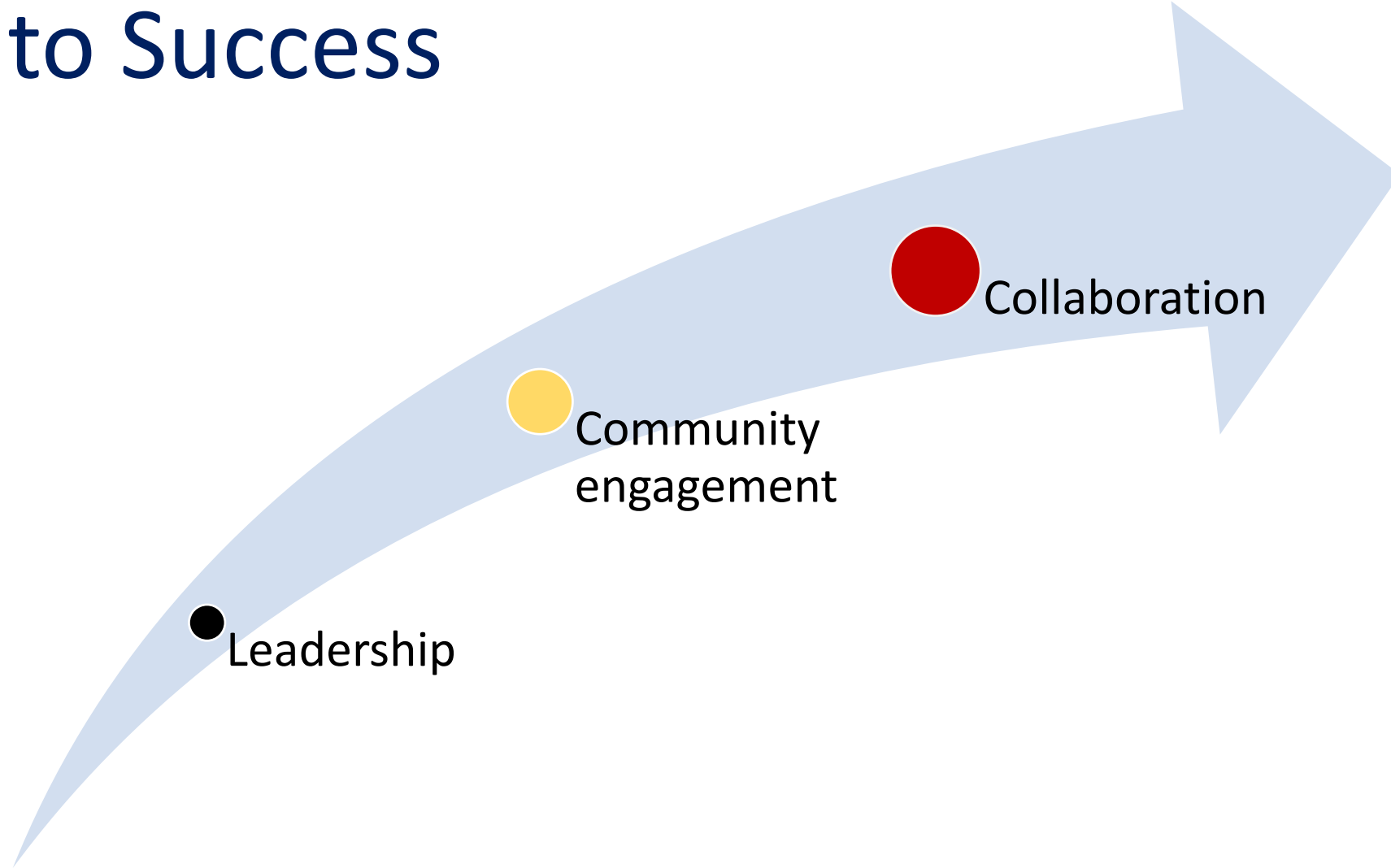
Risk assessment: Identifying and responding collaboratively to firearms access

5. If there is probable cause to believe that the adverse party has not surrendered, sold or transferred any firearm in the adverse party's possession or under the adverse party's custody or control within 24 hours after service of the order, the court may issue and deliver to any law enforcement officer a **search warrant** which authorizes the law enforcement officer to enter and search any place where there is probable cause to believe any firearm is located and seize the firearm.

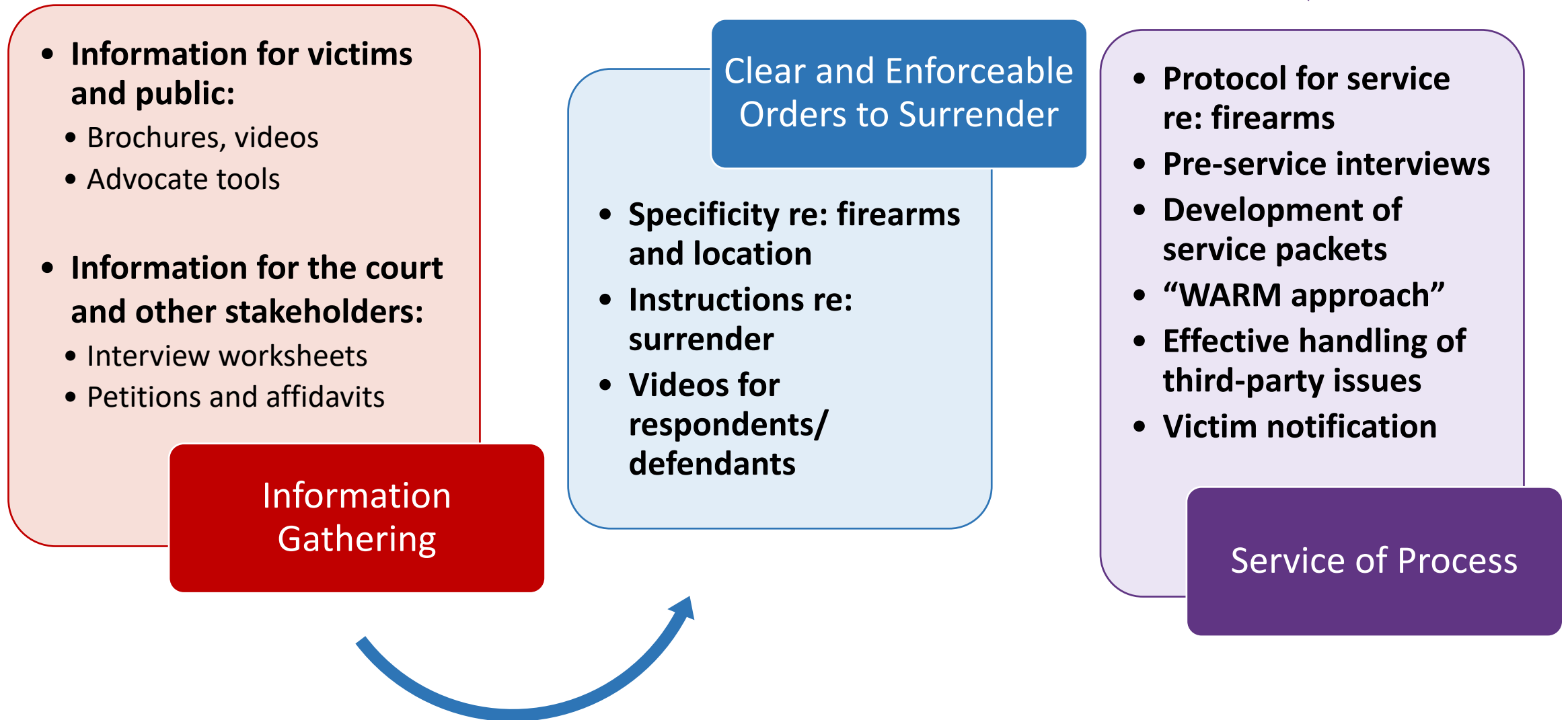
6. A local law enforcement agency may charge and collect a **fee** from the adverse party for the collection and storage of a firearm pursuant to this section. The fee must not exceed the cost incurred by the local law enforcement agency to provide the service.

7. A licensed firearm dealer may charge and collect a **fee** from the adverse party for the storage of a firearm pursuant to this section.

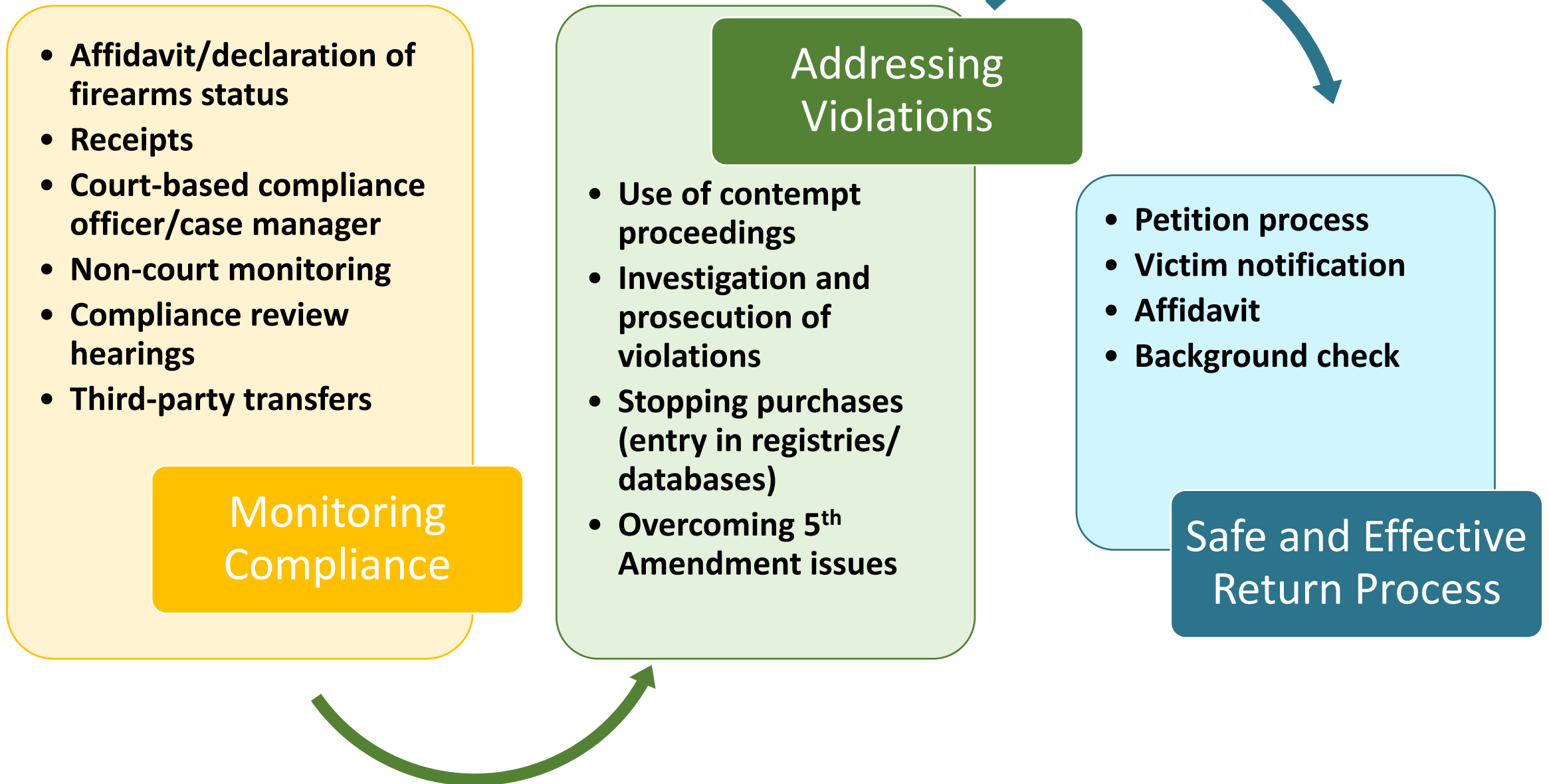
Keys to Success



Components of a Surrender Program



Components of a Surrender Program, Cont.



- **Information for victims and public:**

- Brochures, videos
- Advocate tools

- **Information for the court and other stakeholders:**

- Interview worksheets
- Petitions and affidavits

**Information
Gathering**

STATE OF WISCONSIN, CIRCUIT COURT, COUNTY

☐ Amended

Petitioner's Name

Petitioner's Statement
of Respondent's
Possession of Firearms

Case No.

(THIS FORM IS OPTIONAL. IF YOU CHOOSE TO USE IT, BRING IT TO THE INJUNCTION HEARING.)

ANSWER THE FOLLOWING QUESTIONS:

1. Do you know whether the respondent in this case currently or in the past six months owned or possessed any firearms?

"Firearm" means a weapon that acts by force of gunpowder to fire a projectile, regardless of whether it is inoperable due to disassembly. (§167.31(1)(c), Wis. Stats.)

☐ NO, I do not know that the respondent now owns or possesses, or during the past six months has owned or possessed, any firearms. *(If you answered no, please continue to signature line.)*

☐ YES, I believe the respondent currently, or within the past six months, owned or possessed a firearm. *(If you answered yes, please continue to Question 2.)*

2. List the firearm(s) that you believe the respondent currently, or within the past six months, has owned or possessed, and the quantity, make or model and location of the firearm(s).

Firearm	Quantity	Make/Model	Serial Number	Location of Firearm(s)

[If you need room for additional firearms, attach additional sheet to this form]

Nevada petition for ex parte protection order

7. **Firearms / Guns.** Does the adverse party own a gun or have a gun in his/her possession or control? ☐ No ☐ Yes ☐ I don't know

If you request an extended order, there will be a hearing where the judge may order the other person to surrender, sell, or transfer any firearm, and may prohibit the other person from having a gun. If the other person needs a gun for work, he / she may be allowed to possess a firearm while on duty. This will be discussed at the hearing for an extended order.

Nevada petition for ex parte protection order

8. **Most Recent Threat / Abuse / Incident.**

*Think about the **most recent** incident. These questions ask about the most recent incident only.*

Approximate date it happened: _____

City / State / Location where it happened: _____

Did the other person use or threaten to use a weapon? (*a weapon can be a gun, a knife, or any object that is used to cause or threaten physical harm*)?

☐ No.

☐ Yes. (*describe what kind of weapon was used or threatened*) _____

Getting the Information: Vermont

Defendant's Access to Firearms

Information regarding known firearms is provided below:

Type of Firearm/Other Deadly Weapon (handgun/rifle/knife; make/model if known)	Location of Firearm/Other Deadly Weapon (e.g., bedroom/vehicle)

If there is not enough

Defendant's Use of Firearms/Other Deadly Weapons

The defendant ☐ has ☐ has not used, displayed, or threatened to use a firearm or other deadly weapon against me or against another family member.

If so, please describe below: *(Be specific. What did the defendant do? If the firearm or deadly weapon belonged to someone else, how did defendant get it? Where did the incident happen? Who else was there?)*

(attach a separate sheet of paper if necessary)

Getting the Information: Columbus

FIREARMS INFORMATION WORKSHEET

1. DOES THE PERSON FROM WHOM YOU ARE SEEKING PROTECTION OWN, POSSESS, OR HAVE ACCESS TO FIREARMS? ☐ YES ☐ NO ☐ I DON'T KNOW
IF YES, WHAT TYPE(S) _____
2. WHAT IS THE FIREARM USED FOR? (CHECK ALL THAT APPLY)
☐ PROTECTION ☐ EMPLOYMENT ☐ HUNTING ☐ RECREATION ☐ CRIMINAL ACTIVITY
3. DO YOU KNOW WHERE THIS PERSON USUALLY KEEPS THE FIREARMS?
☐ ON PERSON ☐ IN HOUSE ☐ IN CAR ☐ SOME OTHER PLACE _____
4. HOW DID THIS PERSON OBTAIN THE FIREARM(S)?
☐ PURCHASED FROM A LICENSED GUN DEALER
☐ PURCHASED FROM A FRIEND OR RELATIVE OR SWAP MARKET
☐ KEEPING IT FOR A FRIEND/RELATIVE
☐ I DON'T KNOW
5. DOES THIS PERSON HAVE ANY FIREARM LICENSES OR PERMITS?
☐ YES ☐ NO ☐ DON'T KNOW
6. HAVE YOU EVER SEEN THIS PERSON SHOOT THE GUN? ☐ YES ☐ NO
CLEAN THE GUN? ☐ YES ☐ NO
7. DO YOU KNOW WHETHER THIS PERSON IS COURT-ORDERED NOT TO POSSESS A FIREARM? ☐ YES ☐ NO
8. DO YOU KNOW IF THIS PERSON HAS EVER MADE A GENERAL THREAT WITH A GUN?
☐ YES ☐ NO TOWARDS POLICE OR GOVERNMENT AGENCY? ☐ YES ☐ NO
9. HAS THIS PERSON EVER THREATENED TO SHOOT YOU OR SOMEONE ELSE?
☐ YES ☐ NO WHILE HOLDING OR POINTING A FIREARM? ☐ YES ☐ NO
10. HAS THIS PERSON EVER THREATENED TO KILL THEIRSELF USING A FIREARM?
☐ YES ☐ NO

Getting the Information: Columbus

CASE IDENTIFIER _____ DATE _____

Please circle type of firearm and provide location, if known.

This information will be included with the Order filing but not given/shown to the respondent

SEMI-AUTOMATIC HANDGUN		REVOLVER	
	# _____ LOCATION _____		
# _____ LOCATION _____			
SHOTGUN			
	# _____ LOCATION _____		

BWJP SAFE Tool

Handguns

Semi-Automatic Handguns



Revolvers



- 1. Smith & Wesson 45
- 3. Smith & Wesson 637 Airweight
- 5. Beretta
- 7. Colt 1908 25ACP Caliber

- 2. Glock
- 4. 9mm Pistol
- 6. Smith & Wesson 637 Magnum

- **Specificity re:
firearms and location**
- **Instructions re:
surrender**
- **Videos for
respondents/
defendants**

**Clear and Enforceable
Orders to Surrender**

Ensuring understanding: Columbus

15. ☐ **YOU ARE PROHIBITED** from purchasing or otherwise acquiring a **firearm** while this extended order is in effect, pursuant to NRS 33.0305. Violation of this provision is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.
16. ☐ **YOU ARE PROHIBITED** from owning a **firearm** or having a **firearm** in your possession, custody, or control while this extended order is in effect, pursuant to NRS 202.360(1)(d). Violation of this provision is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

Ensuring understanding: Columbus

☐ **YOU ARE ORDERED** to ☐ surrender ☐ sell ☐ transfer all **firearms** in your possession or under your custody or control to (*transferee*)

within 24 hours of service of this order. You must provide a receipt to the court from the transferee no later than 72 hours or 1 business day, whichever is later, after the surrender, sale, or transfer of such **firearm**(s). The receipt shall include the name and address of the transferee and a written description of each such **firearm**. You must contact law enforcement before approaching a law enforcement officer or law enforcement facility when surrendering **firearm**(s).

Order to Surrender Firearms and Notice of Firearm Surrender Hearing Form CV-803

Utilize this form when:

- 1) Respondent appears at hearing, court grants injunction and finds that respondent possesses firearms, and
- 2) Respondent fails to appear at hearing, court grants injunction and finds that respondent possesses firearms.

Completed by: Court

Purpose of Form: Orders the following: respondent to surrender firearms within a specified period of time, no greater than 48 hours; respondent to appear at a firearms surrender hearing, one week after injunction hearing; stays of the injunction and extension of the TRO.

STATE OF WISCONSIN, CIRCUIT COURT, COUNTY

For Official Use

Petitioner

-VS.-

Respondent

Address (City, State, Zip Code)

☐ Amended

Order to Surrender Firearms and Notice of Firearm Surrender Hearing

Case No.

THE COURT ORDERS:

1. You must appear at a Firearm Surrender Hearing on: (Hearing shall be held within one week of the injunction hearing.)

Date	Time	Location
Circuit Court Judge/Circuit Court Commissioner		

Note: If you request firearm(s) surrender to a third party, both you and the third party must attend the Firearm Surrender Hearing.

2. The injunction granted on [Date] is temporarily stayed until [Date and time, not to exceed 48 hours] at [Time] for purposes of firearm surrender. Any temporary restraining order remains in effect until the stay is lifted.

☐ 3. A temporary restraining order was not previously granted. The court now grants a temporary restraining order prohibiting the respondent from the following conduct: (See CV-403, CV-406, CV-413, CV-429, or JC-1001 for prohibited conduct.)

4. Failure to appear at the hearing may result in the court issuing a warrant for your arrest.

5. You have until [Date and time as listed in #2, not to exceed 48 hours] at [Time] to surrender ALL firearms you own or possess to

- ☐ the sheriff of this county.
- ☐ the sheriff of the county in which the respondent resides:
- ☐ another person. [Name and Address]
- ☐ the sheriff of County.

If you wish to surrender to a third party, you and the third party must appear at the Firearms Surrender Hearing scheduled above. If the court approves the third party, the third party may obtain the firearm(s) directly from the sheriff.

CV-803, 09/14 Order to Surrender Firearms and Notice of Firearm Surrender Hearing

§813.1285(1g), Wisconsin Statutes

This form shall not be modified. It may be supplemented with additional material.

Page 1 of 2

Order to Surrender Firearms and Notice of Firearm Surrender Hearing

Page 2 of 2

Case No.

6. Your known firearm(s) is/are described as and the serial number(s) of said firearm(s) are listed as follows:

Firearm	Quantity	Make/Model	Serial Number

(If you need room for additional firearms, attach additional sheet to this form)

Additional surrender instructions:

7. Once the stay is complete, the injunction immediately goes into full effect.
Note: Once the injunction is in effect, federal law provides penalties for, and you may be prohibited from possessing, transporting, shipping, receiving, or purchasing a firearm, including, but not limited to, a rifle, shotgun, pistol, revolver, or ammunition, pursuant to 18 U.S.C. Section 922(g)(8). Under Wisconsin law, it is a Class G Felony, punishable by a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both, to possess a firearm while subject to an injunction, pursuant to §941.29(2), Wis. Stats.

8. You may possess or transport a firearm(s) only for the purpose of complying with a surrender order. Possessing or transporting a firearm(s) for any other reason may result in criminal penalties.

If you require reasonable accommodations due to a disability to participate in the court process, please call prior to the scheduled court date. Please note that the court does not provide transportation.

BY THE COURT:

☐ Circuit Court Judge ☐ Circuit Court Commissioner

Name Printed or Typed

Date

DISTRIBUTION:

1. Original - Court

2. Petitioner

3. Respondent

4. Law Enforcement

5. Other:

CV-803, 09/14 Order to Surrender Firearms and Notice of Firearm Surrender Hearing

§813.1285(1g), Wisconsin Statutes

This form shall not be modified. It may be supplemented with additional material.

Page 2 of 2

Ensuring understanding: Columbus

INSTRUCTIONS TO RESPONDENTS REGARDING FIREARMS AND DANGEROUS WEAPONS.

Deputy should read this out loud to respondents...

LOOK CAREFULLY AT THE COURT ORDER:

If the Judge or Magistrate has checked the box under section 10 on the Order,

10. DEFENDANT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON at any time while the Order remains in effect, unless the Defendant is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

- ☐ DEFENDANT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEALED CARRY WEAPON LICENSE in Defendant's possession to the law enforcement agency that serves Defendant with this Order.

THEN YOU MUST TURN OVER ALL WEAPONS IN YOUR POSSESSION AS ORDERED AT THE TIME YOU ARE SERVED WITH THE ORDER OR AS OTHERWISE DIRECTED BY LAW ENFORCEMENT. If you are in a location or situation where turning over firearms at time of service is not possible:

CALL FRANKLIN COUNTY SHERIFF'S DEPARTMENT @ 614.525.3333 btwn 8:30 a.m. and 3:30 p.m. Press 0 for "Dispatch" and ask for the Civil Unit. The Civil Unit will schedule a time for a Deputy to pick up firearms from your residence or location where firearms are stored.

DO NOT BRING FIREARMS INTO SHERIFF'S OFFICE OR LOCAL POLICE STATION

Firearms include: handguns and pistols; rifles and shotguns; black powder firearms and muzzle-loading firearms; assault weapons; any weapon that sends a projectile through a barrel and the weapon's frame or receiver.

SO LONG AS YOU ARE NOT OTHERWISE LEGALLY PROHIBITED FROM POSSESSING A FIREARM, usually your firearms are held for only the duration of the protection order, after which time they would be returned to you.

IF YOU ARE ALREADY PROHIBITED FROM POSSESSING FIREARMS BECAUSE OF A PRIOR CRIMINAL CONVICTION OR COURT ORDER, then you should consult with your attorney. **HOWEVER**, Consulting with an attorney **DOES NOT** change your responsibility to fully comply with court orders.

- **Protocol for service re: firearms**
- **Pre-service interviews**
- **Development of service packets**
- **“WARM approach”**
- **Effective handling of third-party issues**
- **Victim notification**

**Service of
Process**

- **Affidavit/declaration of firearms status**
- **Receipts**
- **Court-based compliance officer/case manager**
- **Non-court monitoring**
- **Compliance review hearings**
- **Third-party transfers**

**Monitoring
Compliance**

Petitioner	<input type="checkbox"/> Amended	Order to Surrender Firearms and Notice of Firearm Surrender Hearing
-VS.-		
Respondent		
Address (City, State, Zip Code)		
Case No. _____		

THE COURT ORDERS:

1. You must appear at a Firearm Surrender Hearing on: *(Hearing shall be held within one week of the injunction hearing.)*

Date	Time	Location
Circuit Court Judge/Circuit Court Commissioner		

Note: If you request firearm(s) surrender to a third party, both you and the third party must attend the Firearm Surrender Hearing.

2. The injunction granted on [Date] _____ is temporarily stayed until [Date and time, not to exceed 48 hours] _____ at [Time] _____ for purposes of firearm surrender. Any temporary restraining order remains in effect until the stay is lifted.

- ☐ 3. A temporary restraining order was not previously granted. The court now grants a temporary restraining order prohibiting the respondent from the following conduct: (See CV-403, CV-406, CV-413, CV-429, or JC-1691 for prohibited conduct.) _____

4. Failure to appear at the hearing may result in the court issuing a warrant for your arrest.

5. You have until [Date and time as listed in #2, not to exceed 48 hours] _____ at [Time] _____ to surrender ALL firearms you own or possess to
- ☐ the sheriff of this county.
 - ☐ the sheriff of the county in which the respondent resides: _____.
 - ☐ another person. [Name and Address] _____
 - ☐ the sheriff of _____ County.

If you wish to surrender to a third party, you and the third party must appear at the Firearms Surrender Hearing scheduled above. If the court approves the third party, the third party may obtain the firearm(s) directly from the sheriff.

6. Your known firearm(s) is/are described as and the serial number(s) of said firearm(s) are listed as follows:

Firearm	Quantity	Make/Model	Serial Number

[If you need room for additional firearms, attach additional sheet to this form]

Additional surrender instructions: _____



**THE SUPERIOR COURT OF DEKALB COUNTY
FAMILY VIOLENCE INTERVENTION PROGRAM
COMPLIANCE FORM**

Superior Courts
State of Georgia

COUNTY: _____
CASE NO. _____

_____, Respondent

The Respondent above has been adjudged by a lawful protective order issued in the above referenced case on the _____ day of _____, 20____ at _____ am/pm in the DeKalb County Courthouse at 556 N. McDonough Street Decatur, GA 30030, to have violated the Family Violence Act , at O.C.G.A. §19-13-1 et seq., by committing family violence.

RESPONDENT'S SWORN STATEMENT OF POSSESSION OF FIREARMS AND/OR AMMUNITION

Under penalties of perjury, I declare that the facts below are true:

- 1) I am the Respondent in this case. My name is _____,
and my current address is _____

Please answer the following questions:

- 2) Do you now or have you in the past six months before today, owned or possessed, any firearms or ammunition? (*Initial* the correct statement.)

_____NO, I do not currently own or possess any firearms or ammunition and have not owned any firearms or ammunition in the past six months.

_____NO, I do not currently own or possess any firearms or ammunition but I have owned or possessed firearms and ammunition in the past six months.

_____YES, I do currently own or possess a firearm and ammunition. If you answered yes, continue to #3.

- **Use of contempt proceedings**
- **Investigation and prosecution of violations**
- **Stopping purchases (entry in registries/databases)**
- **Overcoming 5th Amendment issues**

**Addressing
Violations**

- **Petition process**
- **Victim notification**
- **Affidavit**
- **Background check**

Safe and Effective
Return Process

Questions and Discussion

Additional Resources

- *Suggested Components of Law Enforcement Protocols Addressing Firearms in Domestic Violence Cases*, <https://bit.ly/leprotocols>
- *Firearms and Civil Protection Orders: Answers to Judges' Frequently Asked Questions*, <https://bit.ly/firearmsfaq>
- *Spotlight on Promising Practices Around Civil Protection Orders: DeKalb County Compliance Review Docket*, <https://bit.ly/CPOTSpotlight>
- *Moving Beyond the "Honor System": Strategies to Prevent Prohibited Abusers' Access to Firearms*, <https://bit.ly/honorsystemfirearms> (webinar)
- *Compliance Monitoring in Civil Order of Protection Cases*, <https://bit.ly/complianceincpo> (webinar)

For Additional Technical Assistance

- National Council of Juvenile and Family Court Judges - www.ncjfcj.org
 - Darren Mitchell, NCJFCJ Fellow, dmitchell@ncjfcj.org

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