

FIREARMS AND DOMESTIC VIOLENCE: A LAW ENFORCEMENT RESPONSE GUIDE

Each year approximately 1,200 Americans die from murder-suicide incidents. In each case, nearly all the killers are males who used firearms, and three-fourths of the cases involved an intimate partner, family or household member.

(The Violence Policy Center, Washington, D.C. 2005)

STATE LAW CONCERNING FIREARMS

720 ILCS 5/24-1.1 (a)	Felon in possession
720 ILCS 5/24-3	Unlawful sale
720 ILCS 5/24-3.1	Unlawful possession (including ammunition)
720 ILCS 5/24-3.4 (b)	Purchase with intent to deliver to a disqualified person
(c)	Provide false info on BATF Transaction Record
720 ILCS 5/24-5 (a)	Alter ID numbers
(b)	Possess with altered ID numbers
720 ILCS 5/24-8	Law enforcement mandated to trace firearms
720 ILCS 5/24-9	Fail to secure firearm from a child
430 ILCS 62/2 (a) (1)	Possess without FOID

RESPONDING TO A VIOLATION OF AN ORDER OF PROTECTION

- Check LEADS & NCIC
*Is there a protective order issued?
Is the order valid?*

Is the order an emergency, intermediate or plenary?

Is remedy 14.5 in effect?

*Has there been service?
Is service needed? If so provide respondent with petitioner copy or a copy thereof, OR complete and serve Short Form Notification (if applicable), OR contact sheriff's office of jurisdiction for service (if applicable)*
- Check FOID status
- Check Criminal History
Are there qualifying convictions?
- Is the alleged violation civil or criminal?

SEIZING FIREARMS AT DOMESTIC SCENES

- Identify the presence of firearms
What? Where?
- Who owns the firearms?
- Is the owner qualified by law to possess firearms?
If not, apply an appropriate search theory:
 - Obtain consent
 - Found in plain view and used in commission of a crime
 - Obtain a warrant
 - Lawful voluntary surrender for safekeeping
- **Remember Georgia v. Randolph (who can consent?)**
- In cases where an arrest is made, ask if firearms should be voluntarily surrendered for safekeeping, even if none were used
- **ENFORCE FIREARMS VIOLATIONS WHENEVER APPLICABLE**

U.S Department of Justice
Bureau of Alcohol, Tobacco & Firearms
Chicago Field Division
525 W. Van Buren St.
Chicago, IL 60607
(312)846-7200

Illinois State Police
Firearms Bureau
801 S. Seventh St., Suite 400M
PO Box 19461
Springfield, IL 62794
(217)782-7980

National Instant Criminal
Background Check System
(877)444-6427
www.fbi.gov/hq/cjisd/nics/index.htm

PERSONS DISQUALIFIED FROM FIREARM POSSESSION

Federal Prohibitions -

- Active and intermediate or plenary Order of Protection *
- Misdemeanor conviction for a crime in which the victim was a family/household member **
- Has been formally and involuntarily committed to a mental institution
- Illegal aliens
- Dishonorably discharged from the Armed Services
- Unlawful users/addicted to drugs

State Prohibitions -

- Under 18 years of age in possession of a concealable firearm
- Under 21 years of age with a misdemeanor conviction or adjudged delinquent
- Narcotic addict
- Been a patient in a mental institution in last 5 years
- Mentally retarded
- Without valid FOID Card when applicable
- If remedy 14.5 is in effect on an Order of Protection

* *Federal law restricts the definition of family/household member to include ONLY those persons who are or have been intimate partners (spouse, former spouse, parent, share a child in common, or persons who have cohabitated in an intimate relationship).*

** *A qualifying misdemeanor requires that one of the elements of the offense include the use or attempted use of physical force, or the threatened use of a firearm.*

RISK ASSESSMENT AND FIREARMS

- Has abuser ever threatened the use of firearms?
- Would the abuser use firearms against law enforcement?
- Has abuser threatened suicide or homicide?
- Has the abuser made prior attempts?
- Does the abuser have a drug and/or alcohol problem?
- Does the abuser have a criminal record that includes assaults against others or crimes of violence?
- Is there a mental illness?
- Has abuser also abused pets?
- Are there children present?
- Is the abuse increasing in frequency and/or severity?
- Has the abuser ever assaulted the victim in public?

WHAT TO INCLUDE IN A DOMESTIC VIOLENCE REPORT

- Officer observations
- Describe any injury
- Photograph any injury
- Was medical treatment required? If so where? Obtain a signed Medical Information Release
- Relationship of victim to offender
- Obtain witness statements (written/audio)
- Obtain victim statement (written/audio)
- Determine primary aggressor
- Document prior DV History*
- Provide IDVA Form*
- Information obtained by a Risk Assessment
- Were children present or are they at risk? If YES, obtain names and ages and contact DCFS
- FOID status
- Was alcohol and/or drugs involved?
- Review and place copy of 9-1-1 call into evidence
- If no arrest made explain why*

* *Required by statute*