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TAKING AIM AT FAMILY VIOLENCE

A REPORT ON THE DALLAS COUNTY
GUN SURRENDER PROGRAM

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GUN SURRENDER PROGRAM

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The Judge Elmo B. Hunter Legal Center for Victims of Crimes Against Women

The Judge Elmo B. Hunter Legal Center for Victims of Crimes Against Women gives law students at the SMU Dedman School of Law the opportunity to provide legal representation to survivors of gender-based harms, including domestic violence, sexual assault, and human trafficking. Partnering with established community organizations, the Hunter Center serves women who are most critically in need of legal assistance and engages in education and advocacy projects that seek long-term solutions to the problem of violence against women.

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This report is dedicated to the countless women, children, and men who are survivors of domestic violence – those who are named and those who remain in the shadows. You are not alone.

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I. EXECUTIVE SUMMARY

THE DALLAS COUNTY GUN SURRENDER PROGRAM (“THE PROGRAM”) PROVIDES DOMESTIC VIOLENCE OFFENDERS who are legally barred from possessing firearms a safe and secure way to surrender any guns they own. Existing state and federal laws prohibit offenders from possessing firearms for a statutorily-specified period of time; offenders who violate the law by possessing guns also expose themselves to criminal penalties. However, prior to the launch of the Program, offenders in Dallas County had few ways to comply with these laws or were unaware that they were required to surrender their firearms. As a result, many offenders continued to possess firearms illegally.

Domestic violence offenders are statutorily barred from owning firearms for good reason. Over the past 25 years, more intimate partner homicides in the U.S. have been committed with guns than with all other weapons combined.¹ Domestic violence homicides are seldom premeditated: the mere presence of a gun in domestic violence situations increases the risk that the survivor will be killed by 500%.² In addition, batterers can also employ guns as tools of terror and intimidation against their partners and children. As one survivor recounted, “He never fired the pistol, but he would sit on my chest and point it at my head. He would put it right next to my temple.”³

The Dallas County Gun Surrender Program was launched in response to a series of devastating domestic violence-related murders committed with guns in Dallas County. The Program was formally launched in May 2015 and continues to be one of a handful of policies and programs throughout the United States that enable domestic violence offenders to comply with existing state and federal laws.

This report examines the Program as it reaches its second anniversary with two goals in mind. First, to objectively evaluate the Program’s strengths and weaknesses in order to make recommendations for the Program’s improvement. Second, to document the

“The difference between a murdered wife and a battered wife is often the presence of a gun.”

– Senator Frank Lautenberg (D-NJ), 1996.

Program so it can serve as a guide to other communities that are considering forming their own gun surrender programs. To these ends, the authors of this report interviewed stakeholders in the Program and examined documents related to the Program’s creation and funding. The authors also analyzed similar programs in El Paso County, Los Angeles, and Multnomah County with an eye toward understanding how best practices from those programs could be implemented in Dallas County.

This report unequivocally concludes that the Program is a vital part of county-wide efforts to protect domestic violence survivors from gun violence. However, the Program is dramatically underutilized. Only a handful of judges refer guns to the Program. Key stakeholders are not collaborating to expand the Program’s operation or to hold non-compliant offenders accountable. The Program is struggling to develop an independent identity apart from the misdemeanor family violence courts, and is hampered by insufficient communication between the many law enforcement agencies, prosecutors, city attorneys, and judges in the county who are tasked with protecting survivors from abuse.

The Program has collected 60 guns in two years—a fraction of the 1,600 guns originally expected to be collected in that time. This report therefore recommends that the Dallas County Program can be improved by:

- implementing a Memorandum of Understanding between community stakeholders;
- offering training for Dallas County judges on how to best utilize the Program;



Images on this page by Zine-X at Trans.lation Vickery Meadow. Zine-X is a group created by young women, for young women, who create artwork, handmade “zines,” and screen printed shirts on the subject of women’s empowerment. Trans.lation Vickery Meadow is an intentional immigrant, people of color, and black-led space that utilizes arts and culture as a form of community organizing and economic development in the diverse neighborhood of Vickery Meadow.

Art by Rabiya Merchant and Rooha Haghar

- creating an office and staff dedicated specifically to Program administration;
- securing additional Program funding to ensure long-term viability;
- increasing accountability for non-compliant offenders;
- increasing community awareness of the Program; and
- considering collaboration with other community advocates, including probation, U.S. Attorney’s Office, and batterer intervention programs.

Two years in, Dallas County has much to be proud of: the Program offers a viable

way for offenders to comply with the law and demonstrates the County’s deep commitment to survivor safety. However, much remains to be done. Fortunately, Dallas County is home to a vibrant and committed network of domestic violence advocates and ample resources to encourage offender compliance. The Dallas County Gun Surrender Program has great potential. The authors hope this report will inspire changes in the Program that will allow it to protect even more survivors in the years to come.

The Program has collected 60 guns in two years—a shadow of the 1,600 guns the Program originally hoped to collect in that time.

II. INTRODUCTION

On January 8, 2013, Karen Cox Smith left her job at UT Southwestern for the evening.⁴ As she walked to her car in the parking garage, she was confronted by her estranged husband, Ferdinand. Karen had separated from Ferdinand because she was ready to leave an abusive husband who had “slapped, punched, choked [her] with his hands, kicked, pulled [her] hair, and jerked [her] neck back” for at least the last 18 years. The nearly two decades of abuse had exacted a terrible physical toll on Karen. As she explained in an application for a protective order, Karen had “suffered black eyes, knots on my head, blurry vision, headaches, busted lips, soreness and hoarseness in my throat, handprints on my neck and cuts on my arm requiring stitches, bruises on my body and legs.”⁵ Despite the severity of this violence, the only serious criminal consequence Ferdinand ever faced was a 1999 charge of aggravated assault with a deadly weapon against his wife. However, he only received 10 years of deferred adjudication, a form of probation, for this offense and he was never convicted of the charge once he had completed his probationary period.

After years of abuse, Karen left Ferdinand after an especially vicious beating. On December 10, 2012, Ferdinand came home and told his wife he felt like killing her. He then strangled Karen until she was unconscious while one of the couple’s three children watched. Four days later, Karen reported the assault to the police and they issued a warrant for Ferdinand’s arrest. Over the next few weeks, Karen corresponded frequently with the police, asking why Ferdinand had not yet been arrested. The police assured her they would arrest him soon. On January 8, the police contacted Karen to inform her that they planned to arrest Ferdinand the next day.⁶

Ferdinand, despite a history of extremely violent behavior towards his wife, and despite subjecting his wife and children to years of violence and threats, was still legally allowed to

possess a gun. He worked as a security guard and was given a weapon as a part of his job. He had this gun with him when he confronted Karen in the parking garage of her work on that evening of January 8th. The pair argued and he became enraged. He pulled out his gun and shot Karen. Karen Cox Smith died in the parking garage.

A few months after Karen’s murder, Tyrone Allen shot and killed his girlfriend, Breshauna Jackson.⁷ Like Ferdinand Smith, Tyrone had a history of violence against his partners. In early 2013, another woman, Breanna Tyler, sought protection from him, telling the court in her protective order application, “I have lost my job because Tyrone would constantly come up there causing a scene. Tyrone has told me that [he] has assaulted other people and has told me he does not care about going to jail.”⁸ The court granted Breanna’s request and, on February 4, 2013, Tyrone received notice of the protective order.

Once the protective order was issued, Tyrone was prohibited from possessing a firearm by both state and federal law. In fact, the protective order explicitly notified him of this fact. However, when Tyrone was asked about the order months later, he said that no one had asked him whether he had a gun, and nobody had told him he could surrender it or had given him the opportunity to do so. In fact, Tyrone continued to keep his handgun in his car while he used drugs and neglected to take his prescribed medication for schizophrenia and bipolar disorder.

In the weeks leading up to Breshauna’s death, Tyrone became increasingly erratic. On Easter Sunday 2013, Allen reportedly shot a gun into the air and threatened to kill Breshauna’s sister. Ten days later, he shot a woman in the back because she wouldn’t offer him a ride. That same day, Breshauna told police that Tyrone called and threatened to hurt her. This erratic and violent behavior ultimately culminated in Tyrone shooting Breshauna at her mother’s house. Breshauna, who was pregnant with the couple’s child, was pronounced dead at the hospital.

Karen and Breshauna’s murders shocked the Dallas community. Their murders also exposed a critical gap in the Dallas County legal system. State and federal law bars batterers convicted of certain crimes and abusers with existing protective orders from possessing firearms. However, at the time Karen and Breshauna were killed, these laws were rarely enforced. Judges in many courts in Dallas County could ask criminal defendants or protective order respondents if they had access to guns, but few did. Furthermore, even if the judges who granted Breshauna’s protective order or Ferdinand Smith’s deferred adjudication had asked these men whether they owned guns and ordered them to surrender any they had, there was no system in place to coordinate such a surrender.

In response to this lack of infrastructure, the Mayor of Dallas, Mike Rawlings, convened a Taskforce on Domestic Violence to address the city’s and county’s efforts to combat domestic violence and intimate partner homicide. As a part of this effort, Judge Roberto Cañas, Jr., Presiding Judge of County Criminal Court 10, led a Dallas County-wide effort to create a Program that would facilitate the surrender of guns by those prohibited by law from possessing them. The Program created a public-private partnership with a local privately-owned gun range and offered batterers who were no longer legally permitted to possess weapons a safe and discrete place to surrender their firearms for the duration of the period that they were prohibited from possessing them. By creating this Program, Dallas County joined a handful of counties and cities in the United States that promote domestic violence survivor safety by offering an avenue for gun surrender.

This report evaluates the Dallas County Gun Surrender Program (“the Program”) on the Program’s second anniversary. To prepare this report, student attorneys at the Judge Elmo B. Hunter Legal Center for Victims of Crimes Against Women at SMU Dedman School of Law interviewed representatives from the following institutions:

- Dallas County Commissioners Court
- Dallas County Courts
- Dallas County Sheriff’s Department
- Dallas County District Attorney’s Office
- Dallas City Council, Mayor’s Taskforce on Domestic Violence
- Genesis Women’s Shelter & Support
- Southern Methodist University
- Texas Call to Action
- Texas Council on Family Violence
- The Family Place
- United States Department of Justice

The authors also visited the DFW Gun Range, where guns were surrendered and stored for the first two years of the Program, and interviewed a Sheriff’s Department deputy about the current storage site utilized by the Program, the Kenneth Mitchum Gun Range. The Kenneth Mitchum Gun Range is owned and operated by the Dallas County Sheriff’s Department. The authors reviewed forms used in the current Program, the grant application



*Judge Roberto Cañas,
Presiding Judge of County Criminal Court 10*

used to fund the Program, and public documents associated with the Program. In addition, the authors conducted comparative research into gun surrender programs in other cities and counties.

Before delving into issues of domestic violence and gun possession, it should be noted that this report uses traditional gender nouns to describe people affected by domestic violence. While many men are impacted by domestic violence, either by female or male partners, the vast majority of domestic violence is committed by men against their female partners. Therefore, this report uses male pronouns to describe the abusers and uses female pronouns to describe those who have been abused. The authors have also chosen to use the term “survivor” to describe someone who has been affected by domestic violence rather than the term “victim.” This framing underscores the trauma domestic violence causes, while not defining a person based solely on the violence she has endured.

The Dallas County Gun Surrender Program is an important and innovative effort to further the goal of protecting and empowering survivors of domestic violence in Dallas County. Both nationally and in Texas, intimate partner homicide is strongly correlated with access to firearms. An official Program that encourages domestic violence offenders to surrender their weapons and provides a mechanism to actually surrender their guns is a crucial method of encouraging compliance with state and federal law. Further, the Program also sends a message that Dallas County is committed to exposing and continuously working to eradicate domestic violence. The current Dallas County Program, unlike programs in other cities that

were ultimately shuttered, can continue this important and life-saving work because of the strong leadership of Dallas County officials and broad-based community support.

However, this report concludes that the Program has substantial room for growth. Specifically, this report recommends that the Gun Surrender Program:

- Be implemented through a Memorandum of Understanding between community stakeholders;
- Offer training for Dallas County judges on how to best utilize the Program;
- Create an office and staff dedicated specifically to Program administration;
- Secure additional Program funding to ensure long-term viability;
- Increase accountability for non-compliant offenders;
- Increase community awareness of the Program; and
- Consider collaboration with other community advocates including probation, U.S. Attorney’s Office, and batterer intervention programs.

Part III of this report provides general background information on domestic violence and gun ownership in Dallas County. As this report will discuss, Dallas County is a diverse, populous county located in a state with permissive gun ownership laws. Part III then reviews state and federal laws restricting gun access for domestic violence offenders. It concludes by providing a brief overview of relevant portions of the Dallas County legal system.

The Program sends a message that Dallas County is committed to eradicating domestic violence.

Part IV explains how the Dallas County Gun Surrender Program operates today. Part IV also describes historical events leading to the Program's creation and imagines the journey of two hypothetical offenders through the Program as a way of illustrating the Program in action.

Part V of this report examines gun surrender programs in other jurisdictions in the United States. Comparing and analyzing these other programs can highlight issues facing the Dallas County Program as well as provide examples of successful programs and practices that can be selectively replicated and/or applied to the Dallas County Program. This report examines programs in (1) El Paso County, Texas; (2) Los Angeles, California; and (3) Multnomah County, Oregon. Finally, Part VI analyzes the Dallas Program's successes

and Part VII highlights potential areas of improvement.

Part VIII then provides specific recommendations for the Program's improvement. The Program is an important community resource that has had real and substantial effects on the safety of domestic violence survivors. As Tyrone Allen told a reporter following his conviction for the murder of Breshauna Jackson, "he would have willingly given up his gun had anyone in Dallas County asked for it."⁹ The authors believe that adopting any of the recommendations in this report will expand and improve the Dallas County Program, and will honor the commitment Dallas County officials have made to prevent future horrific intimate partner homicides like those of Karen Cox Smith and Breshauna Jackson.



The Dallas, Texas skyline

III. BACKGROUND INFORMATION

A. CLOSER LOOK AT DALLAS COUNTY

Dallas County is the second-most populous county in Texas and the ninth-most populous in the United States. Several characteristics of Dallas County are especially relevant to this report:

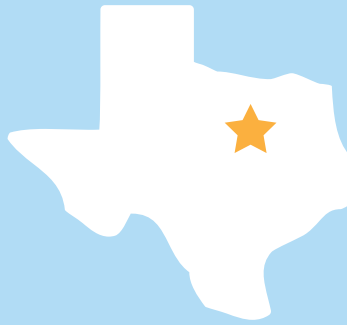
- The County seat and the city with which the County is most closely identified is Dallas, Texas: a vibrant city of almost 2 million and the ninth largest city in the United States. In addition to Dallas, thirteen cities and towns, and portions of numerous other cities, comprise the County. With the exception of unincorporated Sandbranch, each municipality has its own police force. In addition, the Dallas County Sheriff's Office has jurisdiction in all areas of the county.
- Although the Sheriff operates the seventh largest jail in the United States, several municipalities also have their own jails. Hence, the many communities within Dallas County are served by a complex patchwork of government service providers that often provide intersecting and overlapping services.
- Dallas County is a racially, ethnically, culturally, and linguistically diverse county. The County includes significant populations of non-native English speakers and non-English speakers from Mexico, South America, Asia, Africa, and the former Soviet Union.
- Like all counties in Texas, Dallas County is governed by a Commissioners Court. This court has five members: the county judge (also known as the chief administrator) and four commissioners. The county judge is elected by the county at-large and the four commissioners are elected by the voters in their respective districts.

DALLAS COUNTY

DALLAS COUNTY

encompasses ten cities, three towns, a small unincorporated community, and portions of seventeen other cities in addition to Dallas

- 53.54% – White (33.12% Non-Hispanic White)
- 22.3% – Black or African American
- 0.1% – Native American
- 5.15% – Asian
- 0.06% – Pacific Islander
- 14.04% – Other
- 2.7% – Two or more races
- 38.3% – Hispanic or Latino (of any race)



CITY OF DALLAS

is the largest municipality in Dallas County. Part of the Dallas-Ft. Worth Metroplex, the largest inland metropolitan area in the United States

- 50.7% – White (28.8% Non-Hispanic White)
- 24.8% – Black or African American
- 0.7% – Native American & Alaskan Native
- 2.9% – Asian
- 2.6% – Two or more races
- 42.4% – Hispanic or Latino (of any race)

At the 2006-2010 American Community Survey 5-Year Estimates, among the Hispanic population, 36.8% of Dallas was Mexican, 0.3% Puerto Rican, 0.2% Cuban and 4.3% other Hispanic or Latino.

A DIVERSE POPULATION



807,621
HOUSEHOLDS

HOUSEHOLD DATA

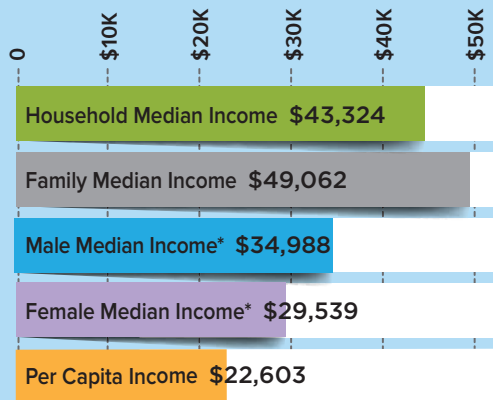
458,057
HOUSEHOLDS



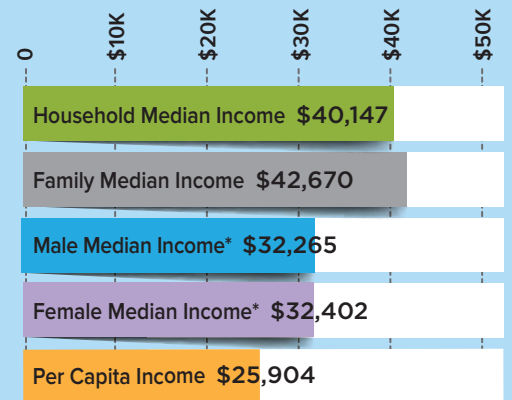
- 35.1% – have children under the age of 18 living with them
- 46.9% – married couples living together
- 14.1% – have a female householder with no husband present
- 33.9% – non-families
- 27.3% – made up of individuals
- 5.9% – someone living alone who is 65 years of age or older

- 29.1% – have children under the age of 18 living with them
- 36.1% – married couples living together
- 16% – have a female householder with no husband present
- 42% – classified as non-family households

INCOME



*Full time income



*Full time income

About **10.6% OF FAMILIES** and **13.4% OF THE POPULATION** are below the poverty line.
18% of those under age 18 and 10.5% of those age 65 or over.

About **18.7% OF FAMILIES** and **21.7% OF THE POPULATION** are below the poverty line.
33.6% of those under age 18 and 13.4% of those age 65 or over.



The Texas State Capitol in Austin, Texas

B. DOMESTIC VIOLENCE AND FIREARMS IN DALLAS COUNTY

1. EXISTING STATE AND FEDERAL GUN STATUTES PROHIBIT GUN OWNERSHIP BY DOMESTIC VIOLENCE OFFENDERS

A broad array of federal and state laws have been enacted to protect survivors of domestic violence by restricting batterers' firearm access. Appendix A lists relevant state laws. Under Texas law:

- Some groups of convicted batterers are barred from owning firearms for a certain period of time.
- Convicted felons are not allowed to possess firearms for five years after they are released from prison or conclude probation or parole.¹⁰ Examples of domestic violence-related felonies include sexual assault and aggravated domestic assault, or “intentionally, knowingly or recklessly causes serious bodily injury to another person.”¹¹

- Batterers convicted of class A misdemeanor assault involving a family member or dating partner are not allowed to possess firearms for five years after release from prison or probation.¹² Class A misdemeanor assault means (1) “intentionally, knowingly, or recklessly caus[ing] bodily injury to another”...(2) intentionally or knowingly threaten[ing] another with imminent bodily injury...or (3) intentionally or knowingly caus[ing] physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.”¹³
- Batterers who are the subject of active protective orders cannot possess firearms.¹⁴ Typically, a protective order precludes contact between a batterer and a survivor. Protective orders may be issued in criminal cases, family law cases, and civil cases. Usually, protective orders in Texas are issued for two years. However, lifetime orders can be issued in severe cases.
- Generally, it is against the law to sell firearms to convicted felons.¹⁵ It is also illegal to sell, lease, loan, or give a handgun to any one against whom a protective order exists.¹⁶
- When a batterer is the subject of a family violence protective order and has a license to carry an open or concealed weapon, the court must suspend that license.¹⁷ In a stalking, sexual assault/abuse or trafficking protective order, the court may suspend a license possessed by the offender.¹⁸
- After a batterer is convicted of certain crimes, the court adjudicating his case must inform him that he is barred from carrying a weapon for a certain period of time.¹⁹

Appendix A also lists relevant federal laws. Under federal law, felons and batterers against whom there are “qualifying protective orders” are barred from possessing weapons.²⁰

Under the Lautenberg Amendment, anyone who has been convicted of a “misdemeanor crime of domestic violence” is barred from possessing a firearm for life.

Congress stipulates that “qualifying protective orders” exist “with respect to a person, the spouse . . . , a former spouse . . . an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabitated with the person.”²¹ The federal prohibition runs for the duration of the protective order.²²

Federal law is much stronger than Texas law regarding gun possession by convicted domestic violence offenders. Under the Lautenberg Amendment, anyone who has previously been convicted of a “misdemeanor crime of domestic violence” is barred from possessing a firearm for life.²³ A “misdemeanor crime of domestic violence” is an offense that “is a misdemeanor under Federal, State, or Tribal law . . . [and] has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by [an intimate partner].”²⁴ The Lautenberg Amendment also makes it a federal crime to knowingly sell or give a firearm or ammunition to people convicted of “qualifying misdemeanor[s] of domestic violence.”²⁵ This means that even if an offender would be permitted to possess a firearm under state law, federal law dictates that he will never be allowed to possess a firearm.

Both federal law and Texas law punish violations with criminal penalties. Under federal law, for instance, batterers who possess a weapon when they are subject to “qualifying protective orders” may be sentenced up to 10 years in prison or \$250,000 in fines (or some combination of both).²⁶ Under Texas law, the same offense is punishable by up to 1 year in county jail, up to a \$4,000 fine, or both. If

Laws restricting batterers' access to firearms also have broad public support. A 2014 study of Texas voters found that 79% support requiring domestic abusers to turn in their guns and 61% support requiring people subject to a restraining order to surrender their firearms.²⁸

the batterer attempts to possess a weapon a second time or violates the protective order via assault, he faces 2-10 years in prison, up to a \$10,000 fine, or both.²⁷

A few key themes emerge when considering this brief overview of relevant law.

1. First, elected officials on both sides of the aisle, in both Texas and Washington, D.C., agree about the importance of protecting survivors of domestic violence by restricting batterers' access to firearms. The severity of the penalties attached to the laws speaks to how strongly officials feel about this issue.
2. Laws restricting batterers' access to firearms also have broad public support. A 2014 study of Texas voters found that 79% support requiring domestic abusers to turn
3. If properly enforced, state and federal law has the potential to dramatically increase survivor safety. However, enforcement can be challenging in a state without mandatory gun registration.
4. Given the severity of the criminal penalties attached to these laws, facilitating batterer compliance helps both batterers and survivors. Batterers who violate these laws face severe criminal penalties that may hinder their ability to seek employment, fulfill financial responsibilities, participate in their children's lives, and alter patterns of abuse.

2. DOMESTIC VIOLENCE AND FIREARMS

In the United States, female intimate partners are more likely to be murdered by firearm than by all other means combined.²⁹ **In Texas, 61% of the 2015 intimate partner femicides occurred via firearm.**³⁰ In fact, studies show that the presence of a firearm in a domestic violence situation elevates the risk of homicide for a survivor by 500%.³¹ Furthermore, many domestic violence homicides are not premeditated and are the culmination of a cycle of escalation and heat-of-the-moment rage. Therefore, restricting firearm access for domestic violence offenders, even temporarily, can dramatically reduce the number of intimate partner deaths. In states that require a background check for every handgun sale, for instance, 38% fewer women are shot to death by intimate partners.³²

Even without shooting their partner, batterers who have access to firearms still use

52% of survivors surveyed said they would feel safer if law enforcement took their partner's guns and 67% believed their partner was capable of killing them.

"[He] never fired the pistol, but he would sit on my chest and point it at my head. He would put it right next to my temple."³³

weapons as a means of control and intimidation over their partner.

A 2014 study by the National Domestic Violence Hotline attempted to quantify this dynamic by anonymously surveying survivors of domestic violence throughout the United States.³⁴ Of the respondents who said their partner had access to firearms, 22% said their partner had threatened to use the firearm to kill the survivor or her family members or commit suicide and 10% said their partner had fired a gun in an argument. Critically, 52% of survivors surveyed said they would feel safer if law enforcement took their partner's guns and 67% believed their partner was capable of killing them. Furthermore, a 2009 study from the Bureau of Justice Statistics found that among households with a female survivor of intimate partner violence, 38% had children under age 12 living in the home.³⁵ This means that restricting batterer access to firearms decreases the number of young children who may be exposed to gun violence or put in harm's way.

3. INTIMATE PARTNER VIOLENCE IN THE CITY OF DALLAS AND DALLAS COUNTY

In 2015, the Mayor of Dallas, Mike Rawlings, assembled Dallas County elected officials, survivor advocates, judges, prosecutors, and city officials to work towards a common purpose of protecting survivors and fighting domestic violence in Dallas communities.³⁶ The Dallas Domestic Violence Taskforce (the “Taskforce”) has been successful in bringing together community leaders from all over the city and the county, and has supported research that works to collect and analyze information related to domestic violence.

The data the Taskforce has collected to date confirms that domestic violence affects many Dallas residents.³⁷ Between 2014 and 2016, the Dallas Police Department (“DPD”) received and investigated 29,905 domestic violence-related emergency calls.³⁸ During this same time, DPD filed a total of 7,844 family violence cases. DPD also responded to 327 protective order violations, which occur when an abuser approaches or contacts a survivor in direct violation of an order from the court. From 2015 to 2016, the Dallas County District Attorney’s Office (“DCDA”) reported that the Dallas courts granted 400 orders of protection, dropped 64, dismissed 89, and denied 27.

Since 2015, there have been 30 family violence-related murders within the City of Dallas, although this annual number has been decreasing over the years.³⁹ Of the 30 family violence-related murders, 5 were intimate partner homicides and 80% of the victims were female.⁴⁰

Outside of the City of Dallas, statistical information regarding domestic violence is less available. However, according to the Texas Council on Family Violence (“TCFV”), Dallas County had the highest number of intimate partner homicides in the state in 2013 and the second highest number of intimate partner homicides in the state in 2015.⁴¹ The homicides TCFV counted were all femicides;⁴² nine were committed using firearms.⁴³

As valuable as the statistics compiled by the Taskforce and TCFV are, it is important to remember that certain key statistics cannot be quantified. Gun owners are not required to register their weapons in Texas, making it impossible to determine how many of the calls for service that DPD responded to or protective orders the DCDA recorded involved gun owners. Moreover, no organization is collecting data on the number of domestic violence incidents that involve firearms in Dallas County.



Members of the Mayor’s Taskforce on Domestic Violence and UT Dallas researchers celebrating the release of the Dallas Domestic Violence Taskforce Annual Summary Report. From left to right: Dr. Tim Bray, Councilwoman Tiffinni Young, Councilwoman Jennifer Staubach Gates, Dr. Denise Paquette Boots, Anthony Galvan.

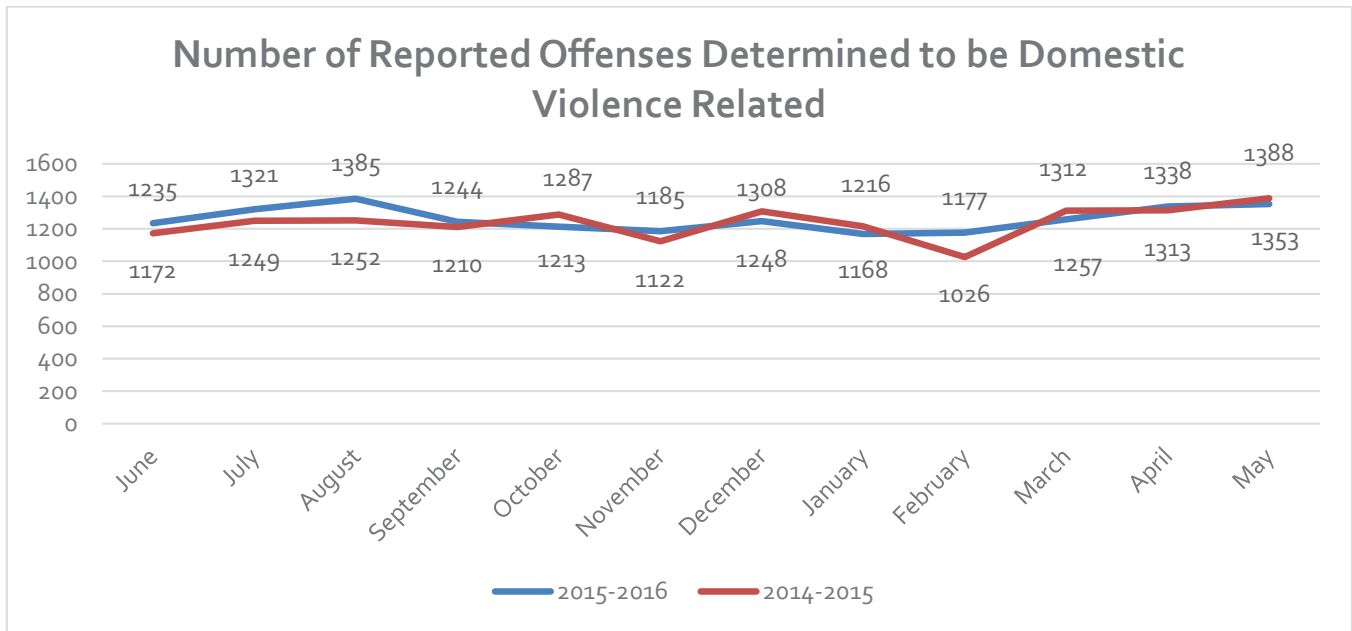


Figure 21. Reported offenses determined to be domestic violence-related

Source: Dallas Domestic Violence Taskforce Annual Summary Report 2015-2016

DPD filed a total of 7,844 family violence cases over the previous two years, and those reported in 2015- 2016 made up 51 percent (4,011) of them. Figure 22 demonstrates that the month of May had the highest number of cases filed for 2015-2016, with 418 cases filed. In contrast, December was the month with the highest number of cases filed for 2014-2015, with 389 cases filed.

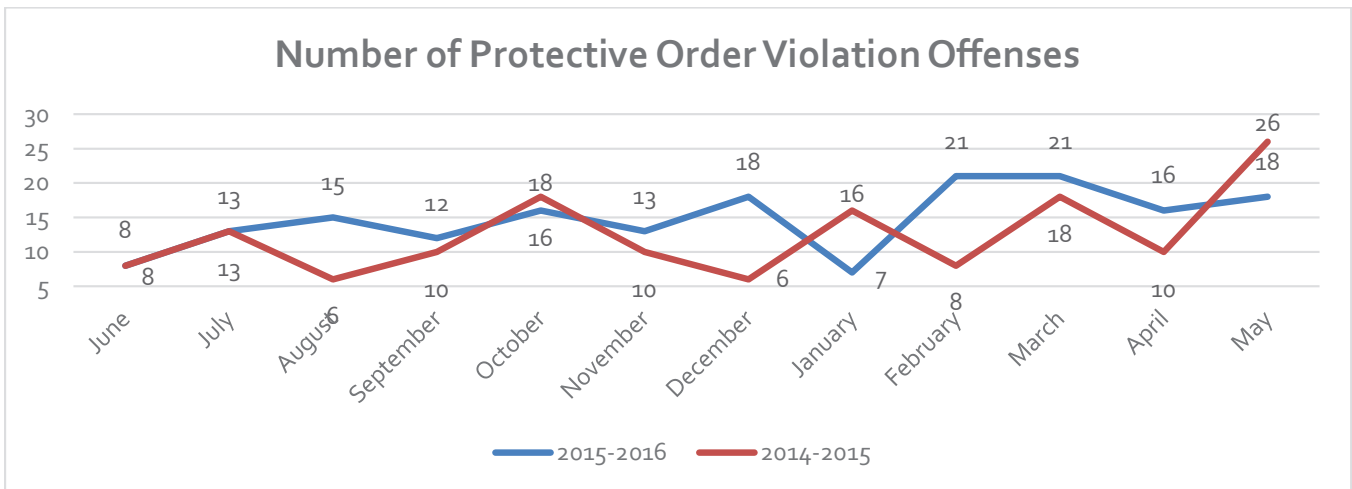


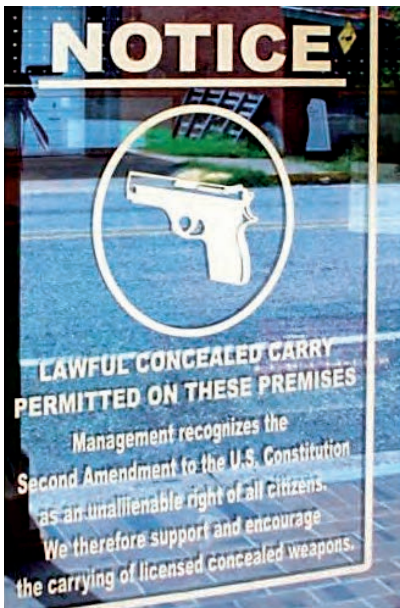
Figure 23. Number of protective order violations reported, June 2014 - May 2016

Source: Dallas Domestic Violence Taskforce Annual Summary Report 2015-2016

Over the past two years, the total number of protective order violations was 327; 178 of those occurred during the 2015-2016 reporting period. This represents a 19 percent increase from the 149 reported during the 2014-2015 reporting period. Protective order violations occur whenever a victim holds a court-granted protective order and the perpetrator violates the requirements on the order; these orders could include limitations on communication, distance between the victim and the perpetrator, and other stipulations determined by the court. Figure 23 presents the monthly distribution of protective order violations during the previous two years. The highest number of violations in 2015-2016 occurred in both February and March, with 21 violations each, which did not exceed the high mark of 2014-2015, which was 26 in May.

4. DOMESTIC VIOLENCE SERVICES IN DALLAS COUNTY

Both the city of Dallas and Dallas County are served by an “active, progressive, and growing group of shelters, partners, and advocates.”⁴⁴ The Taskforce’s Annual Summary Report on Domestic Violence provides an excellent overview of services available to survivors of domestic violence in the city of Dallas.⁴⁵ Significantly, despite the best efforts of service providers, shelter bed space remains at a premium in Dallas.⁴⁶ From June 2015 to May 2016, more than 10,154 men, women, and children in Dallas were turned away from domestic violence shelters due to lack of space.⁴⁷ As a result, ensuring the safety of survivors in their homes is an especially important priority in Dallas because there may not be another safe place for a survivor to live away from her abuser.



.....

An example of a sign in compliance with Texas’ open-carry/concealed carry laws.

5. GUN LAWS AND GUN OWNERSHIP IN DALLAS COUNTY

Generally, Texas gun laws are highly favorable to gun owners. Texas does not require:

- state permits to purchase firearms,
- firearm registration,
- owner licenses for firearms, or
- background checks for private sales of firearms.

Texas state law specifically prohibits municipal governments from regulating the ownership, transfer, storage, or licensing of firearms, ammunition, or accessories. Local ordinances can regulate the discharge of firearms (such as for noise, nuisance or public safety), but not in contradiction of state law concerning justified use of a firearm.⁴⁸

As noted earlier, Texas’ permissive gun laws make it difficult to determine how many residents of Dallas County own firearms. A study in the journal *Injury Prevention* estimated that 35.7% of the population of Texas owns guns. However, gun ownership is usually slightly lower in densely populated urban areas than in rural areas. This suggests that perhaps 32% of Dallas residents own guns or approximately 383,301 people. Statistically speaking, a substantial number of these gun owners are probably male. According to the Pew Charitable Trust, men in all states are three times as likely as women (37% vs. 12%) to personally own a gun. However, women are more likely than men to live with someone else who owns a gun.



The Frank Crowley Court Building, home to the Dallas County Criminal Courts and District Criminal Courts

C. THE DALLAS COUNTY LEGAL SYSTEM

The Dallas County Gun Surrender Program is situated within the Dallas County judiciary, a complex network of civil and criminal county and district courts, constables, the district attorney's office, investigators, and clerks of the courts. Relevant components of the Dallas County judiciary include:

COUNTY CRIMINAL COURTS⁴⁹

- Dallas County has 13 County Criminal Courts. County Criminal Courts have original jurisdiction over all criminal cases involving Class A and Class B misdemeanors, which are the more serious minor offenses. In Dallas County, County Criminal Courts 10 and 11—presided over by Judges Roberto Cañas and Shequitta Kelly, respectively—hear only misdemeanor domestic violence cases. This means that defendants who appear before Judge Cañas and Judge Kelly have been arrested and charged with a crime involving bodily harm to an intimate partner.
- When a defendant is convicted of a misdemeanor crime of domestic violence in a County Criminal Court, that defendant is permanently ineligible to possess firearms.
- In addition to a conviction for a specific instance of family violence, County Criminal Court judges can issue “no contact” or “stay away” orders as conditions of bond or probation, the violations of which could result in a new criminal charge or incarceration.

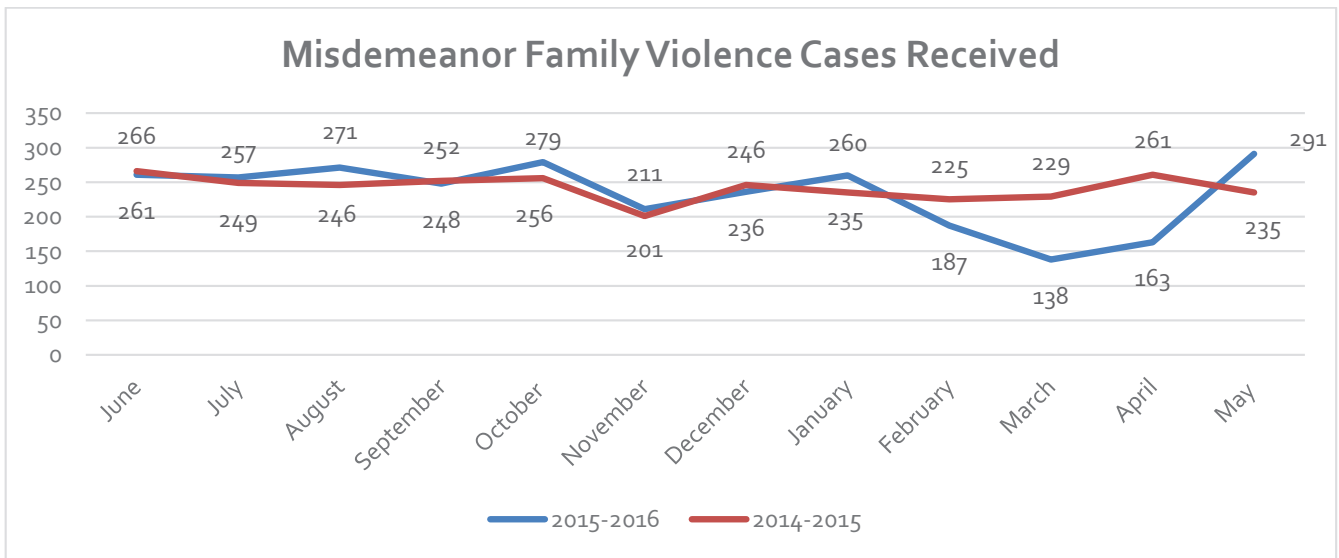


Figure 35. Misdemeanor family violence cases received
 Source: Dallas Domestic Violence Taskforce Annual Summary Report 2015-2016

The Dallas County District Attorney's Office reported receiving 2,802 misdemeanor domestic violence cases during the 2015-2016 reporting period, a drop of 3.5 percent from the total number of cases received in 2014-2015. As Figure 35 demonstrates, the number of domestic violence cases received remained between 200 and 300 per month, except for the months of February, March and April, when they fell below 200.

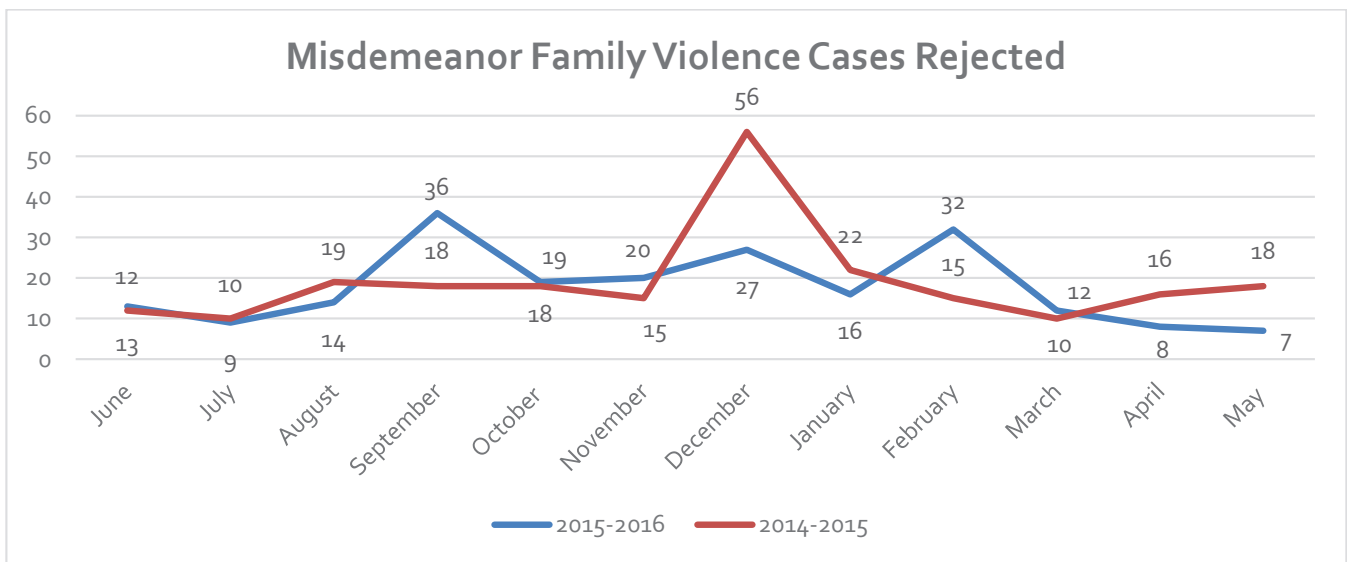


Figure 36. Misdemeanor family violence cases rejected
 Source: Dallas Domestic Violence Taskforce Annual Summary Report 2015-2016

The District Attorney's Office reports data regarding orders of protection and the number of cases that were granted, dropped, dismissed, and denied. In 2015-2016, 400 orders of protection were granted, 64 were dropped, 89 were dismissed and 27 were denied. Table 8 illustrates the monthly numbers of orders of protection that were granted, dismissed, dropped, and denied in the Dallas County in 2015-2016.

DISTRICT CRIMINAL COURTS

- Dallas County has 17 District Criminal Courts. District Courts are trial courts with original jurisdiction over felony offenses. Although there is not currently a court that exclusively hears felony domestic violence cases, Judge Brandon Birmingham in the 292nd District Court administers the Dallas County Felony Domestic Violence Court, which monitors highly dangerous family violence offenders on probation for a felony.
- When a defendant is convicted in a District Criminal Court, that defendant is permanently ineligible to possess firearms.
- In addition to a conviction for a specific instance of family violence, County District Court judges can issue “no contact” or “stay away” orders as conditions of bond or probation, the violations of which could result in a new criminal charge or incarceration.

FAMILY DISTRICT COURTS

- Dallas County has 7 Family District Courts that hear family law cases such as divorces and paternity lawsuits. Each court has two judges — one elected Judge and one appointed Associate Judge.
- Judges in Family District Court conduct hearings for protective orders issued in connection with family law cases. Family violence protective orders provide criminal penalties for abusers who violate the order by coming within a certain distance of survivors or threatening or stalking them. Once the protective order has been granted, the judge may question the respondent about firearm possession and order any firearms to be surrendered. The respondent is not



Newly-instated Dallas County District Attorney Faith Johnson



Dallas County Sheriff Lupe Valdez

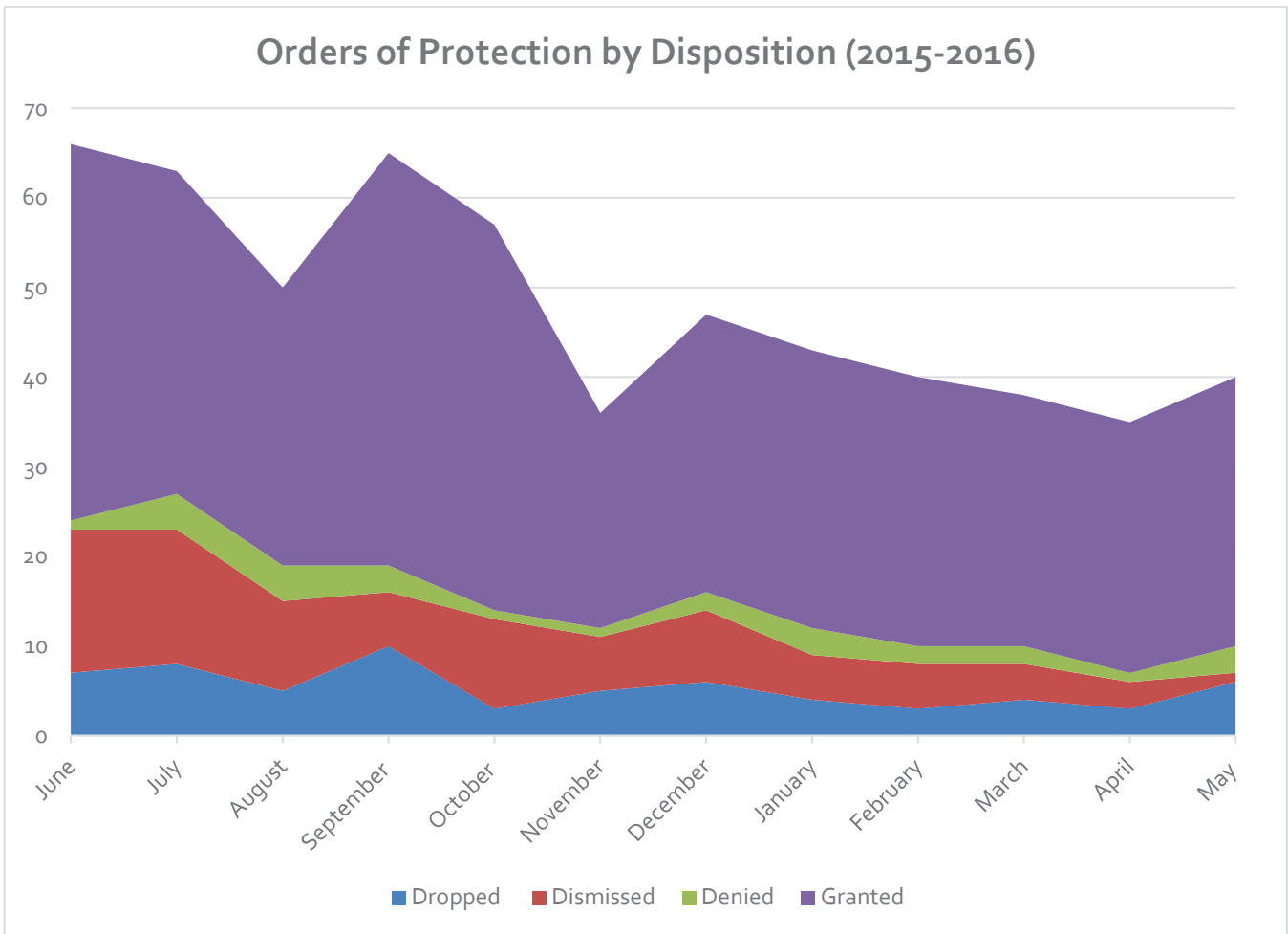


Figure 42. Orders of protection by disposition

Source: Dallas Domestic Violence Taskforce Annual Summary Report 2015-2016

Compared to 2014-2015, the total number of orders of protection that were granted remained approximately the same in 2015-2016 (400 in 2015-2016, compared to 387 in 2014-2015). The number of orders of protection that were dropped increased by 77 percent (from 36 in 2014-2015 to 64 in 2015-2016), and the number that were denied increased by 145 percent (from 11 in 2014-2015 to 27 in 2015-2016). A 12 percent decrease was observed in the number of orders of protection that were dismissed (89 in 2015-2016, from 101 in 2014-2015).

Figure 42 graphs the monthly trends in orders of protection for each disposition in 2015-2016. The total number of orders of protection of any disposition peaked in the months of June, July, August, September and October, with 50 or more orders of protection granted, dismissed, dropped, or denied in each month. The highest number of orders of protection of any disposition were observed in the month of June (66).



The George Allen County Civil Court building, home to the Dallas County Family District Courts and Civil Courts

eligible to own or possess any firearms for the duration of the protective order, typically two years.

CIVIL COURTS

- Civil matters in Dallas County are heard in both County Courts at Law and District Civil Courts.
- Survivors without underlying family law or criminal cases can request protective orders in civil court.

In Dallas County, the District Attorney's Office prosecutes domestic violence crimes. The District Attorney's Office has a Family Violence Division that focuses on violent felony offenses between intimate partners. The Family Violence Division also represents applicants for criminal and family law protective orders.⁵⁰ The District Attorney's Office recently announced

plans to open a network of community centers located in local police stations. Assistant District Attorneys at these centers will help survivors of domestic violence apply for protective orders, although protective order hearings will continue to take place at the county courthouses. An increase in protective order applications is expected as a result of the opening of the centers.⁵¹

Finally, the Dallas County Sheriff's Department ("Sheriff's Department") is the law enforcement agency with jurisdiction over the entirety of Dallas County. The Sheriff's Department works in concert with the Dallas County judiciary by executing warrants that are issued by the Dallas County judges. The Sheriff's Department also coordinates with local city police forces throughout the county to answer domestic violence calls and serve warrants.



Judge Roberto Cañas

IV. THE DALLAS COUNTY GUN SURRENDER PROGRAM

A. HISTORICAL EVENTS LEADING TO THE CREATION OF THE GUN SURRENDER PROGRAM

Although laws requiring domestic violence offenders to surrender their firearms have been in effect since the 1990s, options for offenders to comply with surrender orders have been extremely limited. Prior to 2014, Dallas law enforcement would not accept weapons surrendered to them, except insofar as the weapon was evidence of a crime. As a result, offenders who wanted to comply with the law could either sell their firearms or give them to friends or family members for safe-keeping. Both options presented challenges for offenders and survivors. An offender who sold his weapons could present proof of the sale to the court overseeing his case. However, the

offender would then be unable to reclaim the weapon upon the termination of the protective order. Offenders who gave their weapons to friends or family could easily reclaim them, and could—theoretically—also easily access the weapons during the protective order or waiting period. In addition, informally storing weapons with friends or family members made it difficult for offenders to present mandated proof of compliance to the courts.

In 2014, the murders of multiple women by their intimate partners galvanized advocates in Dallas County to push for implementation of policies addressing domestic violence in Dallas communities. Dallas Mayor Mike Rawlings convened the Dallas Domestic Violence Taskforce to discuss ways to combat domestic violence in Dallas. One of the suggestions in the Taskforce's early meetings was a gun surrender

program. At the time, a gun surrender program in Texas had been implemented in El Paso County. As a member of Mayor Rawlings' group, Judge Cañas spearheaded the development of a gun surrender program in Dallas, using the El Paso Program as a model for the Dallas County Program. The Dallas County Gun Surrender Program formally launched in May 2015.⁵²

B. HOW THE DALLAS COUNTY GUN SURRENDER PROGRAM WORKS

What follows is a snapshot of the Dallas County Gun Surrender Program after two years in operation. The purposes of this snapshot are two-fold. First, to provide a written record of the Program that survivors, advocates, and offenders can use to better navigate and understand it. Second, to provide an opportunity for reflection and growth—both within the Dallas County domestic violence advocacy community, and for other cities contemplating creating similar gun surrender programs.

1. PROGRAM ADMINISTRATION

The Program is administered jointly by Judge Cañas and the Dallas County Sheriff's Department. Thus far, Judge Cañas oversees efforts to secure funding for the Program and acts as a point of contact for the Program with other members of the Dallas judiciary. Prosecutors can, and do, participate in removing guns from individuals who have been convicted, but the Dallas County District Attorney's Office is not an official partner in the Gun Surrender Program. The Dallas County Sheriff's Department houses and manages the day-to-day operation of the Program. Until early 2017, the Department provided a part-time deputy who processed surrendered weapons at the privately-owned DFW Gun Range and communicated with judges and offenders to ensure offender compliance with court orders. This deputy's salary was covered by a grant Judge Cañas had secured for the Program (see below). The Sheriff's Department now houses the Program at the county-owned Kenneth

Mitchum Gun Range. Both Judge Cañas and the Sheriff's Department collaborate to maintain statistics on the Program.



2. PROGRAM FUNDING

The Gun Surrender Program is currently funded by a grant from the Criminal Justice Division of the Governor's Office of Texas. The grant is approved for up to three years and must be renewed each year. The grant is predicated on receiving matching funds from the County Commissioner's Office. Each year, the County Commissioner's Office has contributed between \$14,000 and \$30,000, and the Governor's Office has made up the difference for a total grant of \$63,000 per year. Grant funds paid for storage facility rental fees, a security system, initial purchases of gun lockers and other equipment, and the salary of the part-time deputy who formerly staffed the Program facilities at the DFW Gun Range. Funding through the Governor's Office will expire in August 2017. It is unclear whether the Commissioner's Court will continue to contribute any funds to the Program after the expiration of the grant.



The DFW Gun Range, where the Program was originally housed

3. PROGRAM FACILITIES

The Sheriff's Department oversees the storage and maintenance of surrendered guns. Until January 2017, guns surrendered to the Program were stored in a small room at the DFW Gun Range. The Sheriff's Department rented the room and staffed the office with a deputy from 10:00 am - 3:00 pm on weekdays. Surrendered weapons were wrapped up carefully and kept under lock and key in metal gun lockers.

A private gun range was initially chosen as the best location for the Program based on the assumption that gun owners would feel more comfortable surrendering their weapons in a private environment, rather than at a police station or law enforcement headquarters. In addition, the Gun Surrender Program agreed to allow DFW Gun Range to sell firearms that were turned over to the Program but never reclaimed.

On January 9, 2017, the Program moved to the Kenneth Mitchum Gun Range, a range operated by the Sheriff's Department and located near Hutchins, Texas. Under this new arrangement, a deputy will call offenders who have been referred to the Program to arrange a place of surrender. Because the Kenneth Mitchum Gun Range is not open to civilians, deputies will arrange to meet the offender at another conveniently-located law enforcement location. The deputy will receive the firearm and then transport it back to the Kenneth Mitchum Gun Range for storage.

Once an offender is confirmed to be eligible to possess firearms again, the deputy will meet the offender at a law enforcement location and return the firearm. If an offender has been convicted and is permanently ineligible to possess firearms, weapons surrendered to the Kenneth Mitchum Gun Range will be destroyed.

rather than released back into the community. This process achieves multiple goals: First, it provides a larger storage location, rent free, with the capacity to destroy firearms on the property without outsourcing to a third party. Second, it values law enforcement safety by not allowing civilians onto a large Gun Range property and arranging surrender at law enforcement locations. Third, it accommodates the offenders with an individualized approach that also respects their privacy through the more discrete method of meeting at various law enforcement locations that are not identified to the public.

4. HOW GUNS ARE REFERRED TO THE PROGRAM

Currently, referral to the Program begins when a Dallas County judge determines that a batterer is legally barred from possessing a firearm. This determination could happen in four instances:

- The batterer was convicted of a qualifying misdemeanor;
- The batterer was convicted of a felony;
- The batterer is the respondent in a valid protective order; or
- The batterer is the defendant in a criminal case in which the Judge has made firearm surrender a condition of bond or deferred probation.

If a batterer is not allowed to possess a gun, a judge must next determine whether the batterer already owns a firearm. Gun registration is not required in Texas; hence, courts rely primarily on self-reporting to determine whether or not an offender owns firearms.⁵³ The ways in which judges try to elicit information about firearm ownership vary. Some judges ask a series of fairly pointed questions and emphasize the penalties that may arise from lying to a judge under oath. Judges could also solicit information from other sources such as the survivor, witnesses, survivor advocates, the probation department, or the District Attorney's Office. This is the case in other counties with more extensively-enforced gun surrender programs.

In practice, however, information about gun ownership appears to rarely come from these sources in the Dallas Program. On the criminal side, the survivor is often not present when conditions of bond are set, which is the earliest point at which a judge could conclude that a criminal defendant is ineligible to possess weapons. Moreover, Dallas County does not currently have strong channels of communication between the courts and survivor's advocates who might learn information about firearm possession in their interactions with the survivor. There is also no collaboration with other police departments, probation officers, or defense attorneys who all might help coordinate the Program.

If the offender admits to gun ownership, the judge can issue a court order instructing the offender to surrender his weapons and submit proof that he did so.⁵⁴ Court orders of this kind typically contain a date by which the offender must comply and refer the offender to the Program to arrange surrender. If the judge suspects gun ownership, but cannot confirm this by speaking with the offender, the judge could—in theory—issue a warrant to have the offender's home searched for the gun. This practice does not appear to be taking place in Dallas County.



Referrals to the Dallas County Program begin in the courtroom

Critically, although offender compliance with state and federal law is mandatory, referral to the Program by a judge is discretionary. A judge may choose not to refer offenders to the Program at all. And even if judges do decide to participate in the Program, they have great discretion as to whether and how they inquire about gun ownership and inform gun owners about the Program.

5. SURRENDER OF THE WEAPON

When a judge issues a court order instructing an offender to turn over his weapon to the Program, the order is faxed from the court to the Sheriff's Department. A sheriff's deputy contacts the offender and arranges for him to surrender his weapons at a law enforcement location. When the deputy contacts the offender, she notes the date designated in the order by which the gun must be surrendered. If the offender fails to surrender the weapon within the timeframe provided by the judge, the sheriff's office informs the judge of this lapse.

Upon learning of the lapse, the judge could order the offender's bond to be revoked, could issue a search warrant authorizing the Sheriff's Department to search the offender's property for the firearm, or could charge the offender with contempt of court. As it stands now, however, judges who participate in the Program are not required to take any of these steps.

When a weapon is surrendered, the Sheriff's Department notes the serial number of the weapon and may submit the firearm for a ballistics test to determine if the weapon has been used in the commission of an unrelated crime. Assuming the weapon has not been used or obtained illegally, the gun is tagged, packed securely, and stored in one of the cabinets at the storage facility.

6. ULTIMATE DISPOSITION OF THE WEAPONS

In cases involving protective orders, weapons surrendered to the Program may be ultimately returned to their owners when

the owners are legally entitled to possess the firearms again. In order to reclaim a weapon, an offender must obtain a court order permitting him to do so. The offender must also pass a background check confirming there are no other active protective orders against him and that he has not been convicted of any other crime that would prohibit him from possessing guns.

Critically, although offender compliance with state and federal law is mandatory, referral to the Program by a judge is discretionary.

In cases involving criminal convictions, the weapon cannot be returned to the original owner. Additionally, some protective order respondents choose not to reclaim their weapons even after they are allowed to do so. In these instances, the Sheriff's Department contracts with a third-party vendor to destroy the weapons. In all cases, if the Sheriff's Department determines that the weapon was used in the commission of a crime, the gun is transferred from the Program to evidence storage.

7. PROGRAM DOCUMENTATION

Currently, the Gun Surrender Program does not have a central administrator and is not formalized in writing; Judge Cañas and the Sheriff's Department run the Program in addition to their primary judicial and law enforcement duties. The Program does not have an online presence and is not codified in the Dallas County Code or any court procedural rules.

The only written documents defining the Program are the grant application Judge Cañas submitted to the Governor's Office and the County Commissioner's Office, and a series of internal forms that judges use to refer offenders to the Program and the Sheriff's Department

uses to keep track of weapons. In addition, a now-expired memorandum of understanding between the Program and the DFW Gun Range described some aspects of the Program. The memorandum is no longer valid, as gun storage has been moved to the Kenneth Mitchum Gun Range.

8. UPCOMING CHANGES

To further survivor safety and batterer accountability, Judge Cañas is in the process of appointing a pretrial compliance officer. This officer would monitor persons accused of domestic violence and released on condition of bond to ensure that they are following the court's bond conditions, such as compliance with protective orders and prohibition of firearm possession. The officer also would monitor offenders' participation in an approved Batterer Intervention Program. The position will be filled by a peace officer who has the power to make arrests in the event that the accused is not complying with the court's orders.

In addition, Judge Cañas is creating "bench cards" that will provide guidance to other judges on how to ask offenders about gun ownership and make referrals to the Program. Judge Cañas anticipates releasing the bench cards in April 2017. A sample bench card is available in Appendix D. Judge Cañas will also offer, upon request, one-on-one training to judges on how to use the cards.

9. CURRENT AREAS OF UNCERTAINTY

During the interviews conducted in order to understand the structure of the Gun Surrender Program, a number of unresolved "grey areas" in the Program emerged. Some unanswered questions include:

- How can judges' participation in referring offenders to the Program be increased?
- What can a judge do to determine if an offender is not telling the truth about gun ownership?
- What measures are in place to assure accountability if an offender fails to surrender his/her weapon?

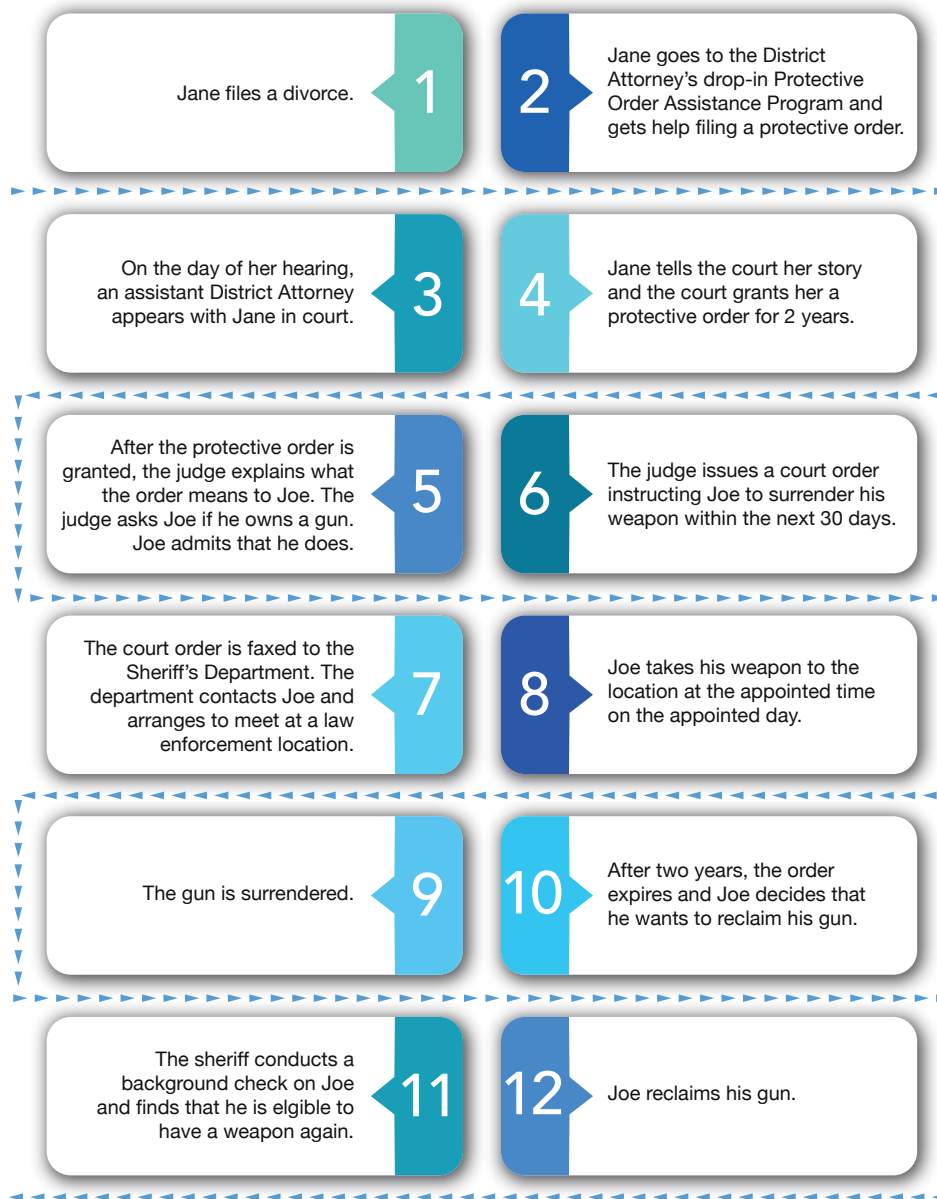
- What is the precise nature of the roles and responsibilities of non-judicial actors (e.g., the District Attorney's Office and survivors' advocates) and how the Program can better utilize their expertise?
- In what situations does an order to surrender weapons place survivors in increased danger? What resources are available to survivors if removal of guns from batterers increases the risk of violence to the survivor?
- What if a person who surrenders a gun to the Dallas Program has a protective order against them in another county? How will the Dallas judge know about that order?
- What can be done with a weapon if the person to whom it will be returned doesn't pass a background check?
- Can a weapon be released to a family member if the original owner doesn't pass a background check?



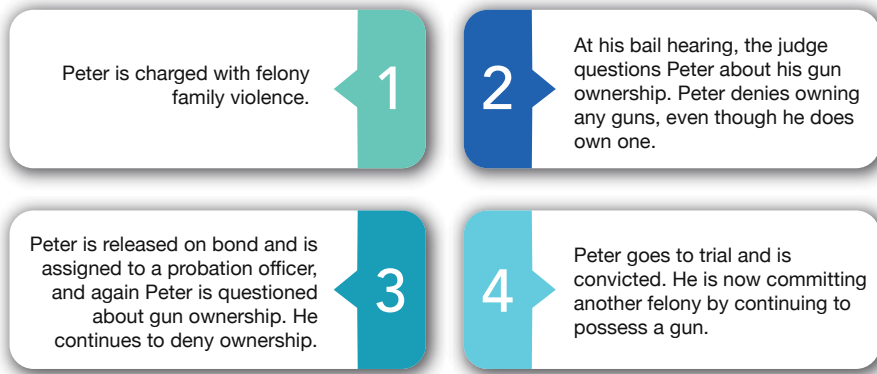
A law enforcement location, like one where a sheriff's deputy might meet a batterer to return a weapon that had been surrendered to the Program

10. THREE HYPOTHETICAL JOURNEYS THROUGH THE PROGRAM

To illustrate the Program in action, imagine two hypothetical offenders. The first, Joe, has been lashing out violently against his wife, Jane,⁵⁵ for more than a year. One week ago, Joe hit Jane and destroyed many of her personal possessions. Jane didn't call the police and doesn't want to press charges, but is afraid of Joe and has decided to file for divorce and apply for a protective order.



In contrast, the journey of the second offender through the Program is much bumpier. Peter and Sally have been together off and on for four years. Peter has always been controlling and angry, but has become even more so since he began abusing alcohol. Recently, Peter and Sally got in an argument because he thought she was seeing another man. Peter attempted to strangle Sally and Sally's daughter called the police. Officers on the scene conduct a lethality assessment and ask Sally if Peter owns any firearms. She answers truthfully that she does not know. Peter is arrested and charged with felony assault but officers do not search the home or Peter's car for any firearms.



Note that Peter’s refusal to admit gun ownership creates a roadblock that the Program is not currently equipped to address. Moreover, by continuing to possess a weapon after being convicted of a felony, Peter is committing another crime. Even if Peter does admit gun ownership, his trip through the Program may not be entirely smooth.



C. PROGRAM RESULTS

Originally, the Program was projected to collect approximately 800 guns per year. This estimate was based on the fact that Dallas County Courts adjudicate approximately 8,000 cases with qualifying convictions or protective orders each year. Estimating conservatively that a mere 10% of offenders in these cases own firearms, Program founders anticipated that approximately 800 people would surrender weapons into the Program each year. Note that this initial estimate generated serious concerns about storage space.

In reality, however, the results have been much more modest. Since its inception, the Program has accepted only 60 firearms. Ten of these weapons were later released back to four individuals after they passed a background check.

Twelve cases that resulted in firearm surrender were from Judge Cañas' courtroom in the County Criminal Court #10. These cases resulted in the surrender of 16 guns. The

remaining seventeen cases that resulted in firearm surrender were from the courtroom of Judge C. Andrew Ten Eyck, Associate Judge of the 254th Family District Court. These seventeen cases resulted in the surrender of 44 guns. No offenders have been referred to the Gun Surrender Program from any other courtroom, including County Criminal Court #11, which only hears misdemeanor domestic violence cases, and all felony criminal courts.

Federal restrictions on gun possession by domestic violence offenders apply throughout the United States and most states have adopted similar laws that prohibit domestic violence offenders from possessing guns for some period of time. As a result, several other U.S. cities and counties have also created gun surrender programs. Reviewing some of these programs provides insight into best practices that could be implemented in the Dallas County Program. Thoughtful review also highlights environmental and structural factors that are unique to Dallas and may make expanding the existing Program more challenging.

Originally, the Program was projected to collect approximately 800 guns per year. In reality, however, the results have been much more modest. Since its inception, the Program has accepted 60 firearms.



El Paso, Texas

V. OTHER GUN SURRENDER PROGRAMS IN THE UNITED STATES

This report examines gun surrender programs in two other counties and one city: (1) Multnomah County in Oregon; (2) the city of Los Angeles in California; and (3) El Paso County in Texas. Los Angeles and El Paso County share demographic similarities with Dallas. El Paso is also in Texas, and is an example of a program that is also wrestling with Texas' permissive gun laws. The City of Los Angeles' program is relevant to the Dallas County

Program because Los Angeles is also a large and disparate territory, and it exemplifies how another gun surrender program developed in that type of environment. Multnomah County, while different than Dallas County in demographics and size, is highlighted here because the Multnomah County Gun Surrender program is especially robust and well-organized in a state with laws favorable to gun owners.

A. EL PASO COUNTY GUN SURRENDER PROGRAM

El Paso County is located in west Texas along the Mexico and New Mexico borders. Like Dallas County, El Paso County is governed by a Commissioners Court, which includes a county judge and four commissioners.⁵⁶ As of the 2012 census, El Paso's population was over 772,000.⁵⁷ The population is almost 80% Hispanic or Latino, 17% Anglo, and about 2% African-American.⁵⁸ El Paso County is home to The University of Texas at El Paso, El Paso Community College, and Fort Bliss military base.⁵⁹

The El Paso County gun surrender program was initiated in May 2005 by bringing together multiple local law enforcement agencies, prosecutors, defense attorneys, survivors' advocates, and members of the judiciary.⁶⁰ The Domestic Violence Firearms Surrender Advisory Committee developed the program's procedures over a period of three years, and El Paso County implemented these protocols in 2007.⁶¹

The procedures addressed the various situations in which a domestic violence offender might have an opportunity to surrender his firearm, both through law enforcement or the court system.⁶² The procedures also outlined the processes for both surrendering a firearm and retrieving a surrendered firearm.

As the first responders, law enforcement agents are the first to interact with domestic violence offenders, and are thus positioned to make initial inquiries about firearm possession.⁶³ The El Paso program required both El Paso Sheriff's Department and El Paso Police Department officers to ask about firearm possession at the scene of a domestic violence incident.⁶⁴ If an officer determined a firearm had been used in the incident of violence, the weapon was confiscated and stored as evidence of the crime.⁶⁵ If a firearm was not used in the incident, but the offender possessed a firearm, law enforcement asked the owner to voluntarily surrender the firearm at the scene. If the offender refused, but the offender was arrested and the law enforcement agent believed a party to be in danger, the



The El Paso County Courthouse

agent could obtain a Magistrate's Order of Firearm Surrender. If the Order was granted, the Sheriff's Office could confiscate the firearm. Once surrendered, either voluntarily or not, law enforcement was required to catalogue identifying information about the firearm and take it to a storage facility. In certain situations, the firearm may also have been subject to a ballistics test to determine if it had been used in any other crime.

Upon surrender, the property clerk issued a receipt to the firearm's owner. When the offender was once again allowed to possess the firearm, he was required to present the receipt and a valid form of identification. In addition, the offender was required to have passed a recent background check. If there was a legal reason why the firearm could not be returned to the owner (for example, if the owner abandoned the firearm or was not approved to retrieve it), then the Sheriff's Department legal advisor and the offender were notified. Law enforcement agencies had policies dictating how these firearms should be disposed of.

The El Paso program addressed when and how the court should inquire into gun ownership in some depth.⁶⁶ When a judge granted an Emergency Protective Order, the judge verbally inquired whether the offender owned a firearm, or whether a firearm was present in the offender's home. The verbal inquiry was made to both parties as well as any witnesses who might have such knowledge. If

the offender confirmed possession of firearms, or if possession was denied but the magistrate determined that the defendant was in fact in possession of firearms, the magistrate could issue an Order to Surrender Firearms.

In the family courts, judges were required to ask about firearms at each stage of the protective order process. At the temporary protective order hearing, the presiding judge asked the applicant-survivor if there were any firearms in the home, and if the respondent-offender had access to firearms. If the respondent-offender did not willingly admit possession of firearms or agree to temporarily surrender a firearm he did possess, the court made a note in large letters on the Temporary Protective Order as a signal to law enforcement to take proper precautions when serving the Order.

At the final protective order hearing, the court conducted a full inquiry into whether the offender had access to or possessed firearms, including questioning witnesses. If the court found that the offender did possess firearms, the court included in the protective order an order for the surrender of any firearms. The court would also fax the Sheriff's Department the relevant information and paperwork so that law enforcement would know if the offender did not surrender his firearms within the required 48 hours.

Once the protective order expired, barring any other legal impediments, the offender was entitled to possess firearms again. However, sixty days before the expiration of the protective order, the County Attorney informed the protective order applicant that she could file a Motion to Prevent Firearm Return. The court then determined whether the offender was legally eligible to possess firearms. If there were no other impediments, the offender was required to file a

Motion to Retrieve Firearms thirty days before the protective order expired.

These El Paso protocols are notable for both their breadth and their depth. These procedures take care to address survivor safety, and encourage judges to take an active role in questioning offenders, survivors, and other witnesses as to gun ownership. However, the program did not focus to the same degree on encouraging criminal courts to refer weapons to the program. Most of the policies outlined by the El Paso protocols apply to protective order hearings. In contrast, the current Dallas County Gun Surrender Program is enforced by Judge Cañas, who presides over a Dallas County criminal court. Thus, the vast majority of people who are referred to the Dallas County Gun Surrender Program are defendants in misdemeanor family violence cases rather than respondents subject to protective order applications. It should be noted, however, that it is possible for all judges in Dallas County to ask about firearm possession during protective order hearings, and this report encourages such a practice.

The El Paso program was built heavily around the leadership of El Paso County Judge Patricia Macias. However, when Judge Macias left the bench in 2012, the program floundered. The program had not been memorialized in any local rules or memoranda of understanding between local agencies. Similarly, El Paso County had never invested in any staff that was specifically dedicated to the program and its long term success. While law enforcement in El Paso continue to ask about firearms at the scene of domestic violence incidents, and will accept any firearms surrendered willingly, following Judge Macias' departure, the program's operation through the El Paso County court system has become essentially defunct.



Los Angeles, California

B. CITY OF LOS ANGELES GUN SURRENDER PROTOCOL

Los Angeles is located in Southern California and is the second most populous city in the United States. Like Dallas County, Los Angeles is home to a population that is racially, culturally, ethnically, linguistically, and socio-economically diverse.⁶⁷ However, the city of Los Angeles is less bureaucratically complex than Dallas County. For instance, Los Angeles only has one police department while Dallas County includes the Dallas County Sheriff's Department, Dallas Police Department, and the police departments of the many smaller municipalities that also comprise Dallas County.

The Los Angeles Gun Surrender Protocol was rolled out in late 2013. The Protocol is a joint effort between the Los Angeles Police Department and the Los Angeles City Attorney's Office. Under the Protocol, when a criminal protective order is issued, the defendant must surrender any guns he owns to local law enforcement within 24 hours of service of the order. As an alternative, the defendant may give his firearms away or sell them to a licensed gun dealer. Within 48 hours of service, the defendant must file a receipt with the court showing compliance with the

order. One of the most impressive aspects of the Los Angeles program is the speed with which surrender occurs. In many other jurisdictions, offenders are given up to 30 days to turn over their firearms. In addition, the Los Angeles program carries serious and swift consequences for non-compliance. Failure to comply with the order will result in a bail review hearing and may subject the defendant to additional criminal charges for contempt of court and possession of a firearm by a prohibited person. The City Attorney has also announced his willingness to prosecute cases where a domestic violence perpetrator or someone with a restraining order is caught trying to buy a gun.

Some aspects of the Los Angeles Protocol are admirable, but virtually impossible to replicate in Texas, where individual gun possession has historically been fiercely guarded. Without a state-wide registry, for instance, efforts to determine whether or not an offender possesses a gun will always be hampered in significant ways. However, some aspects of the Los Angeles Protocol are highly relevant to the Dallas County Program. For instance, the degree of collaboration between the City Attorney's Office and the Los Angeles Police Department creates a system of enforcement for collecting firearms and penalizing violators that is atypically "swift, certain, and severe."

The Protocol is a joint effort between the Los Angeles Police Department and the Los Angeles City Attorney's Office.

The effectiveness of the Protocol is greatly bolstered by the fact that California maintains a database containing records of all firearm sales and transfers. This means that at the time a qualifying case is filed, Los Angeles law enforcement can provide the prosecutor with a copy of the defendant's firearm history. As a result, determining firearm ownership does not necessarily depend on the judge questioning the defendant in detail or on the defendant's truthfulness.⁶⁸

Significantly, the Los Angeles Protocol is situated in a state in which firearm possession is closely regulated. All firearm sales are recorded by the state, and have a ten-day waiting period. Unlike most other states, California has no provision in its state constitution that explicitly guarantees an individual right to keep and bear arms. The state statute requiring removal of firearms is a "shall" statute, which means that the action is mandatory.⁶⁹ Arrest is not required for the removal of firearms, nor is the firearm required to have been used in an incident of abuse.⁷⁰



Portland, the county seat of Multnomah County, Oregon

C. MULTNOMAH COUNTY GUN SURRENDER PROGRAM

The final gun surrender program this report examines is in Multnomah County, Oregon. The county seat and most populous city in the county is Portland. Unlike the diverse demographics of Dallas County, the demographics of Multnomah County are more homogenous. As of the 2010 census, Multnomah County had a population of about 766,000,⁷¹ and 75% of the population was white.⁷² However, like Texas, Oregon has permissive state-wide gun laws. Oregon is a “shall issue” state for concealed handgun licenses, which means that if an applicant for a concealed handgun license meets all the requirements outlined in the statute, the state does not have any discretion in whether or not to issue the license, and “shall” do so.⁷³

Moreover, Oregon is an open carry state.⁷⁴ However, despite operating in a less restrictive legal environment, Multnomah County has developed a detailed and successful firearm surrender program for domestic violence offenders. The Multnomah County program provides an important example of how a state with more lenient gun ownership laws can still successfully enforce a program that removes guns from domestic violence offenders.

Significantly, Multnomah County’s program centers on a Memorandum of Understanding (“MOU”), which establishes protocols and responsibilities for the Multnomah County Circuit Court, the Multnomah County District Attorney’s Office, and the Portland Police Bureau.⁷⁵ The Multnomah County MOU was

signed in September 2014. Oregon law already provides that a judge issuing an ex parte protective order shall, if requested by the petitioner, order “[o]ther relief that the court considers necessary to: [p]rovide for the safety and welfare of the petitioner and the children in the custody of the petitioner.” The MOU stipulates that signatories will use this authority to remove guns from domestic violence offenders.

Specifically, when a civil domestic violence restraining order is issued, the offender must instantaneously surrender any firearms in their immediate possession to law enforcement. Otherwise, the offender has 48 hours to surrender any firearms they possess. No later than 3 days after service, the offender must present to the court an affidavit stating that he has surrendered all firearms to either law enforcement or a third party.

is responsible for executing any warrants issued, reviewing completed investigations to determine whether contempt charges should be filed or arrest warrants filed with the court, and prosecuting any contempt charges. The MOU also provides forms and documentation for different phases of the gun surrender process. These forms are accessible on the county court website.⁷⁷

The Multnomah County program provides another strong example of close collaboration between law enforcement, the courts, and prosecutors. Like the Los Angeles program, the Multnomah County program emphasizes prompt surrender and consistent penalties for non-compliant offenders. Unlike the El Paso program, the Multnomah program has used an MOU to successfully establish a foundation and longevity for the program that clearly outlines each stakeholder’s respective role.

The Multnomah County program provides an important example of how a state with more lenient gun ownership laws can still successfully enforce a program that removes guns from domestic violence offenders.

Under the MOU, the County Circuit Court agrees to track cases in which offenders fail to timely file affidavits regarding firearm possession and surrender.⁷⁶ At least once a month, court officials forward a list of individuals who have failed to file firearm affidavits to the Portland Police Bureau and the Multnomah County District Attorney. The Portland Police Bureau, upon receipt of the information, determines whether to assign an investigator to the individual. This investigator can follow up with the offender, and if necessary, contact the District Attorney to determine whether a contempt arrest warrant should be issued. The District Attorney’s Office

VI. SUCCESSFUL ASPECTS OF THE DALLAS COUNTY GUN SURRENDER PROGRAM

In just two years, the Dallas County Gun Surrender Program has already had a significant impact. First and foremost, firearms are being surrendered to the Program. Offenders who are referred to the Program have complied with gun surrender orders. Moreover, there has been an increase in the number of firearms collected each year the Program has been in operation. In addition, anecdotal evidence suggests that, generally, more judges are asking about firearms in their courtrooms, more prosecutors are working with protective order applicants to ascertain whether their abusers own firearms, and more survivors' advocates are pushing for firearm surrender as a beneficial policy in combating intimate partner violence.

The Program has a strong foundation and does not have to start from scratch, making it easier to implement changes and improvements. Unlike other gun surrender programs, the Dallas Program has a long-term storage facility and strong protocols in place. The new process of storing guns at the Sheriff Department-owned facility means that there is more secure storage available, and the Sheriff's Department has developed individualized surrender procedures that encourage surrender while respecting offender privacy. The Program has already successfully returned firearms to several participants who are no longer barred from firearm ownership. Furthermore, Judge Cañas has instituted initial policies and forms that provide a template for a Memorandum of Understanding and other formal documentation. Additionally, there is a semi-formal agreement between Judge Cañas and the Sheriff's Department to coordinate Program efforts. There was also a memorandum of understanding between the Program and the DFW Gun Range, which previously stored the firearms and served as a safe place for surrender.

The Program has already begun to serve as an example for other cities that wish to initiate a gun surrender program of their own. Judge



Dallas Mayor Mike Rawlings

Cañas recently consulted with the Battered Women's Justice Project on a novel gun surrender pilot project that the organization hopes to initiate in several cities around the United States.

The Gun Surrender Program continues to enjoy strong leadership and broad community support. In the dozens of interviews and meetings the authors conducted while researching this report, not a single person, including staunch Second Amendment supporters, disagreed with the Program's goal of removing guns from dangerous domestic violence offenders. Dallas County's leaders understand that this Program is a valuable tool that encourages compliance with existing state and federal law, ensures domestic violence survivor safety, and increases security in local communities.

Dallas County has also made it clear that it takes domestic violence seriously, and has instituted a number of innovative programs in addition to the Gun Surrender Program aimed at combating domestic violence in the community. The Mayor's Taskforce on Domestic Violence draws significant attention to the issue, and many city councilmembers proudly participate in the Taskforce's initiatives. Furthermore, the Taskforce's Annual Report is

an important tool that increases both awareness of domestic violence issues in the community and transparency of the city of Dallas' use of resources to combat domestic violence.

Finally, Dallas has also emphasized that domestic violence is not a "women's issue" and has dedicated resources to bring men into the conversation. The mayor's Dallas Men Against

Abuse campaign highlights the important role men play in combatting and ending domestic violence. Local batterer intervention programs are also significant in helping men seek treatment and take accountability for their actions. Finally, local domestic violence shelters are expanding the number of beds available for male survivors of domestic violence.

Dallas County's leaders understand that this Program is a valuable tool that encourages compliance with existing state and federal law, ensures domestic violence survivor safety, and increases security in local communities.

VII. GAPS IN THE CURRENT DALLAS COUNTY SURRENDER PROGRAM

Examining programs in other jurisdictions highlights possible areas of growth for the Dallas County Program. The most significant problem with the current Dallas County Program is that little has been done to create self-sustaining mechanisms for the Program to operate autonomously. Currently, no aspect of the Program is memorialized in writing, with the exception of a grant application and a now-lapsed memorandum of understanding between the Program and the DFW Gun Range. As a result, there is considerable confusion within the agencies and courts that utilize the Program about who should make decisions about challenging legal questions that arise; who should guide the growth of the Program; and how county agencies and courts can be held accountable for the degree to which they participate in and support the Program. Members of the public who want to gain information about the Program are similarly stymied. No information about the Program is publicly available apart from a few news articles that were published when the Program began.

Relatedly, the Dallas County Program is hampered by a lack of communication and understanding between the many law enforcement agencies, prosecutors, city attorneys, and judges in the county. The Los Angeles and Multnomah County programs are successful — in large part — because the agencies involved in their enforcement have close ties and clearly delineated roles in carrying the programs out.

Speed and efficiency of surrender is a crucial indicator of the Program's success.

Poor communication and the lack of self-sustaining mechanisms have contributed to the problem of uneven participation in the Program by Dallas County judges. Currently, only two judges have referred weapons to the Program. Given the number of judges in Dallas County who hear qualifying criminal cases or grant protective orders, this means that the Dallas County Program is significantly underutilized. Because the Program is judge-driven, offenders who own guns and appear in courtrooms where judges choose not to inquire aggressively about possession will almost certainly not surrender their weapons, even if they commit a federal offense by doing so.

Uneven participation raises concerns about the Program's long-term viability. In El Paso County, for instance, only one county judge was actively enforcing the program's protocols. When that judge left the bench, no other judges continued to question offenders. Currently, the El Paso Sheriff's Department and other law enforcement officials continue to request voluntary surrender at the scene of an incident, and policies and procedures for storage and safe return of firearms remain in place. However, having only one county agency operating a gun surrender program does not solve the problems of long-term sustainability, community collaboration, or expanding the reach of this program.

Two additional serious problems for the Dallas County Program are that the Program gives offenders a fairly wide window of time to surrender their guns, and that follow-up procedures for non-compliant offenders have not been established. Unlike in Los Angeles or Multnomah County, where offenders must surrender their guns within 48 hours, Dallas County often gives offenders up to 30 days to comply with an order to surrender. This wide window of time signals to the public that surrendering firearms in a timely and organized

manner is not a top priority. Considering the strong correlation between gun possession and intimate partner homicide, and the unpredictability of a domestic violence abuser's behavior, speed and efficiency of surrender is a crucial indicator of the Program's capacity as a public safety mechanism.

At the same time, it is important to make sure the courts and law enforcement are following the proper constitutional procedures by giving offenders sufficient time to collect their firearms and turn them in before activating punitive non-compliance procedures. Trust between the justice system and domestic violence offenders is an important component in making sure that the Program is effective. Thus, the Program must strike a balance between offenders' constitutional protections and making it clear that swift and efficient compliance is mandatory.

Even if this balance is accommodated, enforcement of the Program is difficult because the Program does not currently have policies or procedures to ensure accountability for non-compliant offenders. Significantly, the Program does not delineate with whom the responsibility lies. This is an opportunity for courts, prosecutors, and law enforcement to all contribute to making sure offenders are surrendering firearms properly; however, no chain of command or point person is in place.

Another significant challenge with the Dallas County Gun Surrender Program is, as with all large-scale, county-wide community efforts, funding. The Program is currently

funded through a grant from the state. For the first 18 months of the Program, surrendered firearms were stored at the DFW Gun Range, a private facility that rented out a room to the Sheriff's Department. A deputy was stationed at the Gun Range for a few hours during the week, and received, catalogued, and reported when offenders who had been ordered to surrender firearms did so. This state grant paid for the deputy's salary.

As of early 2017, however, the Sheriff Department's lease with the DFW Gun Range expired, and firearms are now stored at the Kenneth Mitchum Gun Range, which is owned and operated by the Sheriff's Department.⁷⁸ The Sheriff's Department now utilizes a more individualized process for surrendering firearms. This is an important method because it makes offenders more comfortable surrendering their firearms. However, this location may cause problems with resources — specifically with the Sheriff's Department's ability to dedicate manpower to enforcing the Program — if there is an increase in the number of people referred to the Program and the number of firearms surrendered.

A crucial problem with funding the Program for the future is that it is unclear whether funding from the current source will continue. Furthermore, there is nobody designated to research how to procure additional funding, and it is undecided who would be in charge of such an effort. Finally, it is uncertain if there are any state, local, or private funds available to fund the Program.



VIII. RECOMMENDATIONS

Since its inception in 2014, the Dallas County Gun Surrender Program has made significant strides in addressing the link between intimate partner homicides and firearm possession. As this report indicates, however, there is more that the Dallas community can do. The authors make the following recommendations to expand and improve the Program.

A. ADOPT A MEMORANDUM OF UNDERSTANDING BETWEEN KEY STAKEHOLDERS

This report recommends that Dallas County adopt a Memorandum of Understanding

(“MOU”) like the one adopted in Multnomah County. An MOU is a non-binding agreement that commits signatories to certain shared goals and responsibilities. It delineates specific roles for all the stakeholders who sign, and also demonstrates the stakeholders’ buy-in to the Program.

The Multnomah County MOU is a useful model because it formalizes the responsibilities and policies of multiple county-wide agencies. It makes clear to these stakeholders what is expected of them and encourages the agencies to sign the document to honor the agreement and hold themselves accountable. Yet despite delineating responsibilities, the MOU offers flexibility because it is not binding and allows

the signing parties the flexibility to adjust if needed. In contrast, El Paso County's gun surrender program foundered in part because there was no written agreement among the stakeholders. Although the El Paso Program had detailed standards and policies, it was spearheaded almost entirely by a single judge. Once that judge was no longer on the bench, and there was no formal agreement keeping the program in place or outlining agencies' roles and responsibilities, the program dissolved.

The Dallas County Gun Surrender Program currently does not have any formal documentation establishing an agreement between the participants. The only written agreement that existed was between Dallas County and the private gun range that was responsible for storing the surrendered firearms. However, the Program is no longer associated with the gun range. At this moment, if Judge Cañas were, for whatever reason, no longer able to coordinate the Program, the Program would likely cease to exist. Formally setting out terms, roles, and responsibilities for participants in the Gun Surrender Program would at least ensure that there is a blueprint for continuing the Program beyond Judge Cañas' involvement.

Dallas County should implement an MOU that expressly provides a common plan of action for the Program's operation. Ideally, the following stakeholders would sign the MOU:

- Dallas County Commissioner's Court
- Mayor's Task Force on Domestic Violence
- All Dallas County Judges with jurisdiction over Class A Misdemeanors
- All Dallas County Judges with jurisdiction over felonies
- All Dallas County Judges with jurisdiction over family law cases
- All Dallas County Judges with jurisdiction over civil cases
- Dallas County Sheriff's Department
- Dallas Police Department
- Dallas County Probation Office
- Dallas County District Attorney's Office

- Dallas County Intimate Partner Fatality Review Team

The Dallas County MOU should begin with a statement that all the signing agencies agree to participate as fully as possible in the Gun Surrender Program. The MOU should address each of the signatories' roles and responsibilities. It should also outline a process for record-keeping and require regular reporting on both the Program's operation and offender compliance. A reporting requirement can also help the parties renegotiate or reform procedures that are not functioning properly. The authors have created a sample memorandum for the Gun Surrender Program that can be found in Appendix B.

The authors recognize that finding the time to bring all of these stakeholders into one room, let alone getting them to agree to the terms of the MOU, is a herculean task. The effort to agree to an MOU will require meetings to discuss both the goals of the Program and the terms of the MOU. Multiple drafts will likely

Dallas County should implement a Memorandum of Understanding that expressly provides a common plan of action for the Program's operation.

need to be written, and the final MOU will need to be updated to make sure all the policies and procedures are up-to-date and functioning properly. However, making the effort to memorialize the Gun Surrender Program in a written document is an important step in showing that the stakeholders and decision-makers of Dallas County are committed to making sure firearms are being properly surrendered.

B. TRAIN JUDGES ON BEST PRACTICES FOR USING THE DALLAS COUNTY GUN SURRENDER PROGRAM

A general commitment from judges to ask about firearm possession in protective order hearings or domestic violence cases is not enough. Judges should agree to participate in training on how to best utilize the Gun Surrender Program. Training should include general information about domestic violence and the correlation between gun possession, domestic violence, and intimate partner homicide.

In addition, judges should be trained on the specific procedures involved in a firearm hearing. They should also be provided with bench cards summarizing best practices for using the Gun Surrender Program in their respective courtrooms. Judge Cañas has already drafted a bench card for judges' use, which is included in Appendix D of this report.

C. COORDINATE THE PROGRAM THROUGH A DEDICATED OFFICE

Dallas County should create a single office responsible for coordinating the Gun Surrender Program that is run by a full-time administrator. The office should be distinct from Judge Cañas' courtroom; it could be a department within an existing agency such as the Sheriff's Department, or an independent office housed, for example, in the courthouse.

A dedicated office would be responsible for (1) organizing records; (2) storing relevant files and documents; and (3) keeping track of firearms that have been surrendered as well as tracking individuals who have not adhered to Firearm Surrender Orders. The dedicated administrator would be responsible for notifying the Sheriff's Department, district attorneys, and judges whether offenders have surrendered their firearms, and notifying offenders when they are eligible to pick up their firearms.

This office could also serve as a source of

Judges should agree to participate in training on how to best utilize the Gun Surrender Program.

information to the community, such as survivor education and broader community advocacy. The office should have an online presence with Frequently Asked Questions and relevant information, as well as a phone number for people to call directly. Such an office would need a physical location, a computer, a fax machine, phones, at least one staff member, and plenty of storage space. All of these require funding, which is discussed below.

A lower-cost alternative to the dedicated office is to use the bailiffs already stationed in the courthouse. As employees of the Sheriff's Department, bailiffs could coordinate with the Department to administer the day-to-day function of the Program. While using the bailiffs might cut down on costs, there are significant disadvantages to adopting this type of administration. The Program currently suffers from a lack of centralized oversight. Using bailiffs as administrators does not address this issue because bailiffs do not have decision-making power and would not establish an independent identity for the Program. A Program of this complexity needs to be run by someone with the authority to make higher-level decisions, and in the absence of someone appointed specifically for this job, confusion may arise about where these decisions are coming from. Moreover, using bailiffs makes the Program more diffuse, and does not give the Program a public face.

D. SECURE CONTINUOUS AND LONG-TERM FUNDING

The Program will need additional funding to support its continued growth. The Program's current source of grant funding expires in August 2017, and cannot be renewed. Securing funding is critical to establishing an independent identity for the Dallas County

Program and ensuring its long-term survival. Ideally, funding would come from diverse sources so that the Program is not in jeopardy if any one source is unexpectedly unable to continue supporting the Program.

E. HOLD NON-COMPLIANT OFFENDERS ACCOUNTABLE

The courts, prosecutors, and law enforcement should work together closely to hold non-compliant offenders accountable. Currently, the Gun Surrender Program does not include swift and consistent penalties for offenders who admit they own firearms, are ordered to surrender them, are prohibited by federal law from owning them, and refuse to do so. Moreover, there is currently no way to determine whether an offender who claims he does not have a weapon is actually telling the truth.

Because Texas does not have a mandatory firearm registry, there is no foolproof way to determine gun ownership. However, accurate reporting among offenders would rise if all judges questioned offenders about their ownership closely and consistently. In addition, accurate reporting would increase if judges and prosecutors questioned witnesses about offenders' gun ownership.

If an offender is found to own a gun and the judge determines the situation warrants an order of surrender, the offender should be given no more than 72 hours in which to surrender that weapon. Following the example of Los Angeles and Multnomah County, consequences for non-compliance with a surrender order should be "swift, certain, and severe." Penalties should also be standardized throughout the county so that defendants and protective-

Reporting among offenders would rise if all judges questioned offenders about their ownership closely and consistently.

order respondents have advance notice of the punishment for non-compliance.

One way to increase compliance is through the execution of search warrants. For example, if the court learns that an offender has not surrendered his firearm in the allotted time, the court can issue a search warrant to allow law enforcement to conduct a search for firearms in an offender's home. Authority for such a search would come from the offender's refusal to comply with a court order, as well as the reasonable belief that possession of the firearm poses an immediate threat to the survivor. In addition, the court could include a verbal warning in its order that failure to comply may result in the search of the offender's home or vehicle. In addition to

Following the example of Los Angeles and Multnomah County, consequences for non-compliance with a surrender order should be "swift, certain, and severe."

search warrants, the court could consider arrest warrants or revocation of bond if the offender refuses to comply with either the reporting requirement or with the surrender order. Such actions would be similar to the authority courts have to revoke bond if a defendant is ordered to take a drug test and fails or refuses. Defense attorneys can help explain these potential consequences to their clients.

Moreover, if the offender is on probation for a prior offense and is prohibited from possessing a firearm by federal law, probation officers also have the power to conduct searches of the probationer's property without a warrant. Probation officers can thus coordinate with local as well as federal prosecutors in making sure offenders are complying with the law. For example, if an offender is found to possess a firearm, state prosecutors can recommend the case to the United States Attorney's Office for prosecution.

An increase in the issuance and execution of warrants raises potential concerns. First, Fourth Amendment (which protects against unreasonable searches and seizures) concerns are implicated. However, when other defendants are released on parole or deferred adjudication, and are subject to a parole officer's oversight, similar searches are routinely enforced as a condition of parole. District attorneys, courts, and parole boards could therefore utilize similar procedures in order to ensure domestic violence offenders' compliance.

Second, and most significantly, law enforcement does not currently have the ability to follow through with execution of these warrants. Such enforcement requires enormous resources and personnel that the departments may not be able to accommodate.

Even if law enforcement were able to create a special department whose sole purpose is to execute gun surrender-related warrants, a third disadvantage is implicated - increased danger to law enforcement agents who are tasked with serving these warrants. Offenders often do not want to surrender their firearms, and they especially may not want law enforcement searching their homes for these firearms. This issue is not easily overcome, but it has been addressed in other jurisdictions. In Butte County, California, law enforcement's use of the W.A.R.M. method - officers in plain clothes, driving unmarked cars, speaking to offenders in calm and empathetic voices - has proved crucial in ensuring compliance with firearm surrender and decreasing the level of danger to law enforcement.

In general, it is important for the Gun Surrender Program to employ consistent penalties for failure to comply with questions about gun possession or a gun surrender order. Using such penalties sends a message to the offender, the survivor, and the public that

courts are serious about removing firearms from abusers. This could lead to an increase in survivors reporting incidents of domestic violence, as well as encourage offenders to be honest or risk legal repercussions.

F. INCREASE PUBLIC AWARENESS AND VISIBILITY OF THE GUN SURRENDER PROGRAM

The Gun Surrender Program should expand its visibility within the Dallas community as a way to increase public support for the Program. This would not only encourage survivor and offender reporting, but also increase accountability for the Program.

Generally, Dallas County community leaders, including local elected officials and survivors' advocates, should participate in education initiatives that raise public awareness about the links between firearms and domestic violence. In particular, it is important to explain to the public that existing Texas and federal law prohibits gun ownership by domestic violence offenders, that gun surrender initiatives serve to facilitate compliance with existing laws, and that such programs can significantly reduce the number of intimate partner homicides.

In addition, Program leadership should educate the public about the Program and how to navigate it. Program leadership should create an online presence for the Program and provide brochures in the courthouse about how guns are referred to the Program. Additionally, the Program's Memorandum of Understanding should be released to the public to demonstrate transparency and trust.

The Mayor's Task Force on Domestic Violence is already doing important work to raise public awareness about intimate partner violence and homicides. The Task Force's annual report on intimate partner violence is crucial to understanding how this issue affects

Program leadership should educate the public about the Program and how to navigate it.

Dallas County and what changes can be made in order to protect survivors of domestic violence. Continuing to incorporate information about the Gun Surrender Program into the Task Force's report will both increase Program accountability and raise the Program's profile.

G. CONSIDER COLLABORATION WITH PROBATION, THE U.S. ATTORNEY'S OFFICE, AND BATTERER INTERVENTION PROGRAMS

The Gun Surrender Program could expand its reach by deepening relationships with many of the agencies, courts, and advocacy groups that serve Dallas County. However, three collaborators stand out as having the greatest potential to strengthen the Program. First, probation officers within the Dallas County Courts interact extensively with criminal defendants and have broad authority to inquire into the firearms owned by defendants. Probation officers have authority to conduct urine or blood testing on defendants if they believe the defendants are using drugs, action that survives Fourth Amendment scrutiny;⁷⁹ probation officers might similarly be able to

search for firearms if they believe defendants are in possession of firearms in violation of federal and state laws.

Second, the United States Attorney's Office could levy federal penalties against non-compliant offenders. Federal laws prohibiting gun possession generally contain harsher consequences than similar state laws. As a result, prosecution by the local U.S. Attorney's Office could play a tremendous role in encouraging Program compliance. Finally, local batterer intervention programs play a key role in educating batterers about domestic violence and could increase awareness of the Program as well as state and federal prohibitions on domestic violence offender gun ownership.

It is important for the Gun Surrender Program to employ consistent penalties for failure to comply with questions about gun possession or a gun surrender order.



H. APPLICATION OF RECOMMENDATIONS TO THE DALLAS SYSTEM

This part of the report imagines what an ideal journey of a survivor through the Dallas County Gun Surrender Program might look like. This portion combines the most salient and productive features of other gun surrender Programs to illustrate the most constructive form a gun surrender program should take.

1. CRIMINAL CHARGES FROM DOMESTIC VIOLENCE INCIDENT

The first hypothetical describes a domestic violence incident where a firearm was not used in the assault. The survivor, Sally, has been physically attacked by her boyfriend. She has managed to call the police, who arrive and separate the two. Following police protocol and conducting a lethality assessment, the law enforcement agent asks both Sally and her boyfriend if there are firearms in the home. The

offender says there are none, but Sally directs the officer to a handgun stored in a safe under the bed. The offender is arrested for assault, and the officers make a note of the handgun's presence, recording its make and model and location in the home. The offender is arrested for assault and taken to jail.

At the bail hearing, the judge questions the offender about the firearm and whether he possesses any others. On the recommendation of his defense counsel, the offender answers truthfully that the handgun under the bed is the only firearm he possesses. As a condition of granting bail, the judge orders the offender to surrender his firearm to law enforcement within 24 hours. The offender is notified that failure to abide by this order will result in a revocation of his bail and possible contempt of court charges. The court gives the offender a copy of the order to surrender firearms, along with a page of Frequently Asked Questions such as where to surrender the firearm, procedures and conditions for its return, and more.

Twenty-four hours has passed and the offender has not surrendered his firearm. The law enforcement agency to which the offender was told to submit his firearm notifies the District Attorney in charge of the case, as well as the presiding court. The judge issues an order revoking the offender's bond and orders the seizure of firearms listed in the firearm surrender order; the judge faxes the information to the law enforcement agency and the District Attorney. The District Attorney informs the offender's defense counsel that his client's bond has been revoked because he has failed to surrender his firearms. The agency then sends an officer, in plain clothes and in an unmarked car to the offender's home. The plain clothes officer speaks with the offender and informs him he cannot legally possess a firearm and he is required to turn it over to the agent at this time. The offender complies. The officer retrieves the firearm, confirms it is the firearm listed in the firearm surrender order, and brings the weapon to the safe storage location. The offender is returned to jail.

In the meantime, Sally decides to move forward with criminal charges against her

boyfriend. She meets with the District Attorney, who advises her to meet with the survivor's advocate on staff at the courthouse. The advocate explains the process of pursuing a case against the offender, including that continued engagement with the criminal justice system may result in a trial at which Sally would be needed to testify. The advocate assures Sally that she will be with Sally through each stage of the process, and Sally will not be expected to face her abuser alone. The advocate puts Sally in touch with a local domestic violence shelter and counselors specializing in domestic abuse. Feeling supported and safe for the first time in years, Sally knows that she has the strength to end her abusive relationship, assist in the criminal prosecution against her batterer, and move forward with her life.

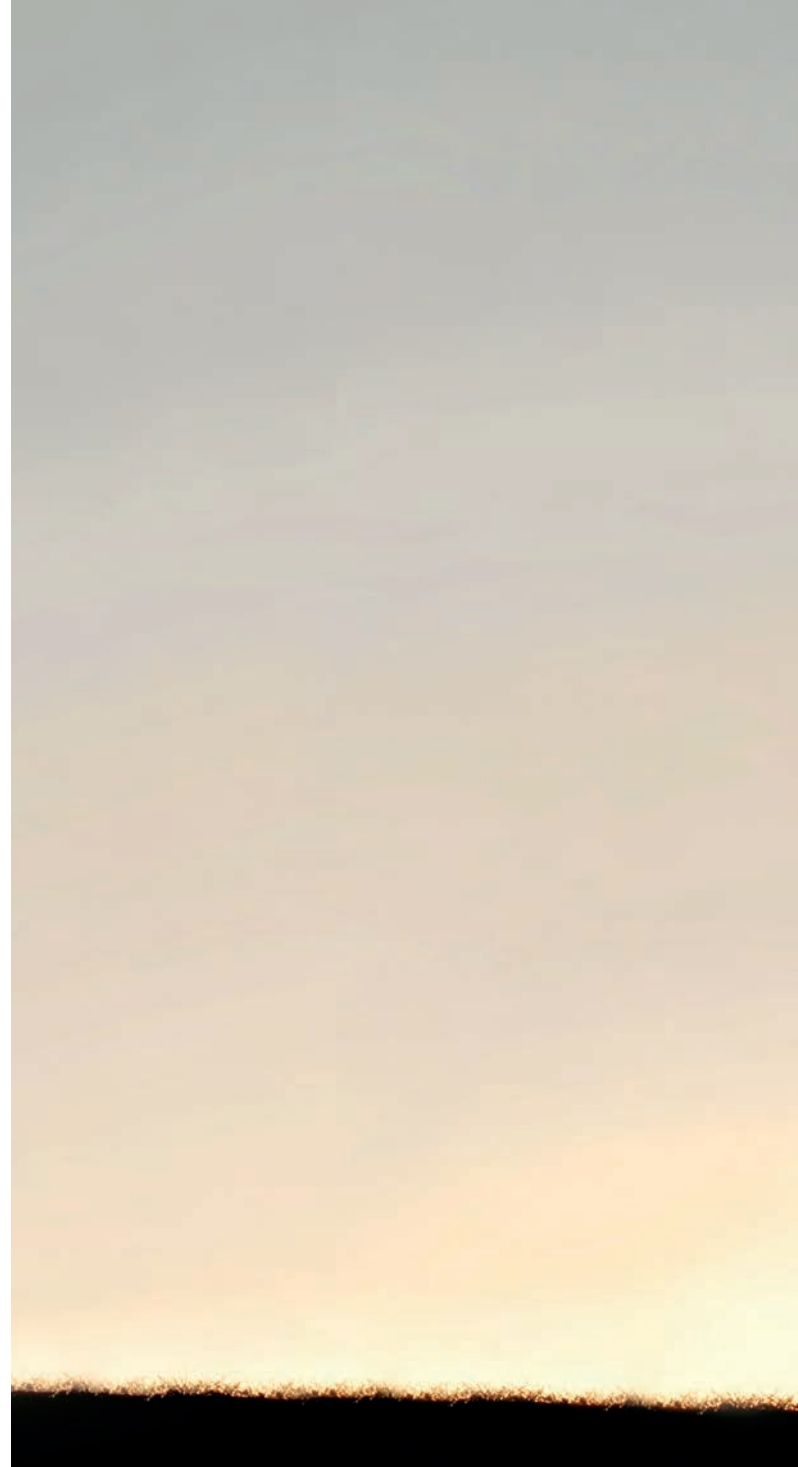
The abuser is convicted of misdemeanor family violence at trial. Under federal law, he is ineligible to possess firearms ever again as a result of the conviction. Therefore, when the deputy learns of the offender's conviction, the Sheriff's Department destroys the weapon according to Department protocols.

2. PROTECTIVE ORDER

In the second hypothetical, Sally seeks a protective order. Sally's boyfriend has abused her for years. What began as a loving relationship has devolved into the cycle of abuse. The cycle begins when Sally's boyfriend becomes angry and tense. Sally feels like she has to walk on eggshells around her boyfriend and is afraid to ask him basic questions like what he wants to eat for dinner. She knows what will happen if she catches him at just the wrong time: the tension becomes too much and her boyfriend will "snap" and become violent. Sometimes he just yells at her and throws things, but sometimes he hurts Sally. He has punched her, pulled her hair, kicked her, and threatened to kill her. Afterwards, he will apologize profusely, swear it will never happen again, buy her flowers and tell her how much he needs her and loves her. For a brief moment in time, Sally thinks maybe this time he has really changed. But soon, he becomes tense and angry, and the cycle begins all over again.

Finally, Sally has had enough. She changes the locks and kicks him out of the apartment they shared. He has left her threatening voicemails and Sally is afraid he will try to break into the apartment. She researches the protective order process in Dallas County and finds a brochure on seeking a protective order.⁸⁰ She follows the instructions in the brochure and goes to the courthouse to file for a protective order. The survivors' advocate helps her through the process and refers her to organizations where she can receive counseling for domestic violence. The advocate also works with Sally to develop a safety plan and provides her with information about the court date for her protective order hearing. The advocate then asks Sally whether her boyfriend owns any firearms. Sally, who is not a native English speaker, says yes, but she does not know which ones. The advocate provides Sally with a flyer with pictures of different kinds of firearms. Sally points to the two that she has seen her boyfriend with, and the advocate includes this information in Sally's file. This file is then given to the District Attorney, who prepares a Petition for a Protective Order and a Motion for Firearm Surrender Order.

At the protective order hearing, Sally, accompanied by the survivors' advocate and the District Attorney, testifies. The judge questions her about whether she has ever been threatened with a gun or strangled, and she answers in the affirmative to both. The judge, having been trained on domestic violence issues, knows that these are two of the highest indicators of lethality. The judge then questions Sally's ex-boyfriend, asking him if he owns any firearms. The judge points to the District Attorney's filings, which confirm Sally's claims that her ex-boyfriend owns a firearm. The ex-boyfriend denies possession of a firearm, but upon further questioning, the judge determines that the ex-boyfriend does indeed possess a firearm and that he is a danger to Sally. The judge grants the protective order and issues an Order to Surrender Firearms. The Order includes details about where and when the ex-boyfriend may surrender his firearms. The judge warns the ex-boyfriend that failure to surrender his firearms will lead to a warrant for a contempt of court



charge and may result in jail time. The judge also warns that the ex-boyfriend may not own or possess any other guns during the time the protective order is in place, and to do so is against state law.

The law enforcement agent in the courtroom takes the Protective Order and the Order to Surrender Firearms to the Sheriff's Department. The ex-boyfriend surrenders his firearms within the allotted 48 hours, receives a receipt for his firearm, and promptly files the receipt with



the court as proof of surrender. The Sheriff's Department official logs the date and time of surrender, the make, model, and any identifying information about the firearm, and notifies the court and the District Attorney that the surrender has occurred. The Department also runs a ballistics test to determine whether the firearm has been used in any outstanding crimes. The District Attorney notifies Sally of the surrender.

After two years, the protective order expires. Sally has moved on with her life, and her

boyfriend has entered and completed a Batterer Intervention Program. He has not contacted or seen Sally or otherwise violated the protective order. He asks the court to return his firearm, and after running a background check and confirming there are no other legal impediments to his firearm possession, the court issues a Return of Surrendered Firearm Order. He goes to the place where the firearm is being stored, presents the court order, and his firearm is returned.



Art above and at right by Rabiya Merchant from the Zine-X group at Trans.lation Vickery Meadow

IX. CONCLUSION

Since its inception in 2015, the Dallas County Gun Surrender Program has become a vital part of the effort to protect domestic violence survivors in Dallas County. The Program represents a tremendous step toward ensuring that domestic violence offenders comply with state and federal law.

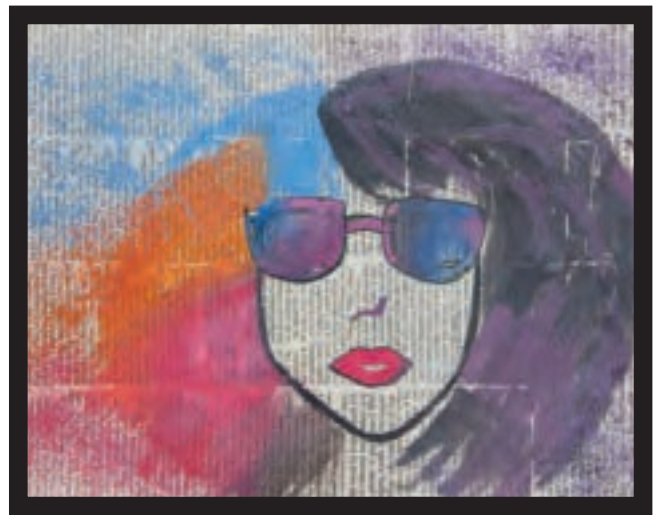
As this report indicates, the Gun Surrender Program still has significant room for growth. Specifically, this report recommends that the Program: (1) implement a Memorandum of Understanding between community stakeholders; (2) offer training for Dallas County judges on how to best use the Program;

(3) create an office and staff dedicated specifically to Program administration; (4) secure additional Program funding to ensure long-term viability; (5) increase accountability for non-compliant offenders; (6) increase community awareness of the Program; and (7) consider collaboration with other community advocates, including probation, U.S. Attorney's Office, and batterer intervention programs. These changes will ensure the longevity of the Program and expand the number of Dallas County residents who benefit from the important service the Program offers.

As the Gun Surrender Program moves forward, the authors of this report caution

against the impulse to make the perfect the enemy of the good. As this report has demonstrated, Texas gun laws make it unlikely that any gun surrender program in this state will achieve 100% compliance because gun ownership is often impossible to verify. However, none of this undermines the fundamental benefits that the Gun Surrender Program provides to Dallas County residents and the potential of the Program to grow. The very existence of the Program encourages compliance.

Finally, reports such as this one tend to focus on quantifiable data that can be counted and catalogued. Certainly, this report has analyzed the number of guns collected by the Program and speculated extensively about why this number is not higher. In closing, however, the authors want to emphasize that the program also provides many intangible benefits that elude the capture of numerical data. A vibrant and comprehensive gun surrender program shows survivors that Dallas cares about their safety and will be active, committed, and responsible in ensuring that



safety. Few cities and counties in the United States have an active gun surrender program. Even fewer have a program that has survived for more than two years. The fact that such a program exists in Dallas County speaks to the depth of the county's commitment to eliminating domestic violence. Implementing the changes recommended in this report will re-affirm that commitment and continue Dallas' bold work that saves lives.

A vibrant and comprehensive gun surrender program shows survivors that Dallas cares about their safety and will be active, committed, and responsible in ensuring that safety.

APPENDICES

Appendix A: Relevant Federal and State Firearm Statutes

Federal Statutes Prohibiting the Delivery, Receipt, and Possession of Firearms in Certain Instances Related to Domestic Violence

The **Gun Control Act (GCA) of 1968 (18 U.S.C. § 921 et seq.)** is a U.S. federal law that regulates the firearms industry and firearms owners. The entire text of **18 U.S.C. § 922**, the most relevant portion of the statute, is reproduced below. In particular, the following sub-sections relate to gun possession by family violence offenders:

- **18 U.S.C. § 922(g)(8)**, enacted in 1994 as part of the Violent Crime and Law Enforcement Act, of which the Violence Against Women Act is also a part, prohibits certain court-restrained abusers from possessing firearms and ammunition.
- **18 U.S.C. § 922(d)(8)** prohibits the transfer of firearms and ammunition to people who are subject to qualifying protection orders.
- **18 U.S.C. § 922(g)(9)** prohibits a person convicted of a “misdemeanor crime of domestic violence” (MCDV) from possessing firearms and ammunition. This subsection is commonly referred to as the Lautenberg Amendment.
- **18 U.S.C. § 922(d)(9)** prohibits the transfer of firearms and ammunition to a person who has been convicted of an MCDV.
- **18 U.S.C. § 922(a)(6)** makes it a crime for any person to knowingly make false statements or furnish false identification that is intended or is likely to deceive a firearm importer, manufacturer, dealer, or collector regarding the lawfulness of a firearm transfer.

§922. Unlawful acts

(a) It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause

to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, unless—

(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) the manufacture of such ammunition is for the purpose of exportation; or

(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) is for the purpose of exportation; or

(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;

9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

“Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a

Appendix A: Relevant Federal and State Firearm Statutes

firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are _____

Signature _____ Date _____.”

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who 2 has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) has been convicted in any court of a misdemeanor crime of domestic violence.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce;

or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to—

Appendix A: Relevant Federal and State Firearm Statutes

- (A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or
 - (B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.
- (p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—
- (A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or
 - (B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.
- (2) For purposes of this subsection—
- (A) the term “firearm” does not include the frame or receiver of any such weapon;
 - (B) the term “major component” means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and
 - (C) the term “Security Exemplar” means an object, to be fabricated at the direction of the Attorney General, that is—
 - (i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17–4 PH stainless steel in a shape resembling a handgun; and
 - (ii) suitable for testing and calibrating metal detectors:
 - Provided, however, That at the close of such 12-month period, and at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a “Security Exemplar” which contains 3.7 ounces of material type 17–4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.
- (3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.
- (4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.
- (5) This subsection shall not apply to any firearm which—
- (A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and
 - (B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.
- (6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.
- (q)(1) The Congress finds and declares that—
- (A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;
 - (B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;
 - (C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary 3 the House of Representatives and the Committee on the Judiciary of the Senate;
 - (D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;
 - (E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;
 - (F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;
 - (G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;
 - (H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves— even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-

related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm—

- (i) on private property not part of school grounds;
- (ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;
- (iii) that is—
 - (I) not loaded; and
 - (II) in a locked container, or a locked firearms rack that is on a motor vehicle;
- (iv) by an individual for use in a program approved by a school in the school zone;
- (v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
- (vi) by a law enforcement officer acting in his or her official capacity; or
- (vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm—

- (i) on private property not part of school grounds;
- (ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;
- (iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
- (iv) by a law enforcement officer acting in his or her official capacity.

(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

- (1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or
- (2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 923, unless—

(A) after the most recent proposal of such transfer by the transferee—

- (i) the transferor has—
 - (I) received from the transferee a statement of the transferee containing the information described in paragraph (3);
 - (II) verified the identity of the transferee by examining the identification document presented;
 - (III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and
 - (IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

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- (ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or
 - (II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;
 - (B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;
 - (C)(i) the transferee has presented to the transferor a permit that—
 - (I) allows the transferee to possess or acquire a handgun; and
 - (II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and
 - (ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;
 - (D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;
 - (E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or
 - (F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because—
 - (i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;
 - (ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and
 - (iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.
- (2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.
- (3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—
 - (A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1) 4) of the transferee containing a photograph of the transferee and a description of the identification used;
 - (B) a statement that the transferee—
 - (i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;
 - (ii) is not a fugitive from justice;
 - (iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);
 - (iv) has not been adjudicated as a mental defective or been committed to a mental institution;
 - (v) is not an alien who—
 - (I) is illegally or unlawfully in the United States; or
 - (II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
 - (vi) has not been discharged from the Armed Forces under dishonorable conditions; and
 - (vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;
 - (C) the date the statement is made; and
 - (D) notice that the transferee intends to obtain a handgun from the transferor.
- (4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or

local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—

- (A) the chief law enforcement officer of the place of business of the transferor; and
- (B) the chief law enforcement officer of the place of residence of the transferee.

(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

- (i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);
- (ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and
- (iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

- (A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or
- (B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(8) For purposes of this subsection, the term “chief law enforcement officer” means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

- (B)(i) the system provides the licensee with a unique identification number; or
- (ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d) of this title) of the transferee containing a photograph of the transferee.

(2) If receipt of a firearm would not violate subsection (g) or (n) or State law, the system shall—

- (A) assign a unique identification number to the transfer;
- (B) provide the licensee with the number; and
- (C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

- (A)(i) such other person has presented to the licensee a permit that—
 - (I) allows such other person to possess or acquire a firearm; and
 - (II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and
- (ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;
- (B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or
- (C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because—

- (i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

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- (ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and
 - (iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.
- (4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.
- (5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than \$5,000.
- (6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—
 - (A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or
 - (B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.
- (u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.
- (x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—
 - that is suitable for use only in a handgun.
- (2) It shall be unlawful for any person who is a juvenile to knowingly possess—
 - (A) a handgun; or
 - (B) ammunition that is suitable for use only in a handgun.
- (3) This subsection does not apply to—
 - (A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—
 - (i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;
 - (ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—
 - (I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or
 - (II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;
 - (iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and
 - (iv) in accordance with State and local law;
 - (B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;
 - (C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or
 - (D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.
- (4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.
- (5) For purposes of this subsection, the term “juvenile” means a person who is less than 18 years of age.

- (6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.
- (B) The court may use the contempt power to enforce subparagraph (A).
- (C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.
- (y) Provisions Relating to Aliens Admitted Under Nonimmigrant Visas.—
- (1) Definitions.—In this subsection—
- (A) the term “alien” has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and
- (B) the term “nonimmigrant visa” has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).
- (2) Exceptions.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—
- (A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;
- (B) an official representative of a foreign government who is—
- (i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or
- (ii) en route to or from another country to which that alien is accredited;
- (C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or
- (D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.
- (3) Waiver.—
- (A) Conditions for waiver.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—
- (i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and
- (ii) the Attorney General approves the petition.
- (B) Petition.—Each petition under subparagraph (B) shall—
- (i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and
- (ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).
- (C) Approval of petition.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—
- (i) would be in the interests of justice; and
- (ii) would not jeopardize the public safety.
- (z) Secure Gun Storage or Safety Device.—
- (1) In general.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.
- (2) Exceptions.—Paragraph (1) shall not apply to—
- (A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or
- (ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or
- (B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);
- (C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or
- (D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10

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calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

(3) Liability for use.—

(A) In general.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

(B) Prospective actions.—A qualified civil liability action may not be brought in any Federal or State court.

(C) Defined term.—As used in this paragraph, the term “qualified civil liability action”—

(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.

Texas Statutes Prohibiting the Delivery, Receipt, and Possession of Firearms in Certain Instances Related to Domestic Violence

Texas law contains several provisions under the Family Code, Penal Code, Code of Criminal Procedure, and Government Code that govern gun possession for family violence offenders.

Texas Family Code § 85.022(b)(6)

In a protective order, the court may prohibit the person found to have committed family violence from: possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

Texas Family Code § 85.022(d)

In a protective order, the court shall suspend a license to carry a handgun issued under Subchapter H, Chapter 411, Government Code, that is held by a person found to have committed family violence.

Texas Family Code § 85.026(a)

Each protective order issued under this subtitle, including a temporary ex parte order, must contain the following prominently displayed statements in boldfaced type, capital letters, or underlined:

A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH. NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER.

IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION.

A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS.

Texas Family Code § 85.042(e)

The clerk of the court issuing an original or modified protective order under Section 85.022 that suspends a license to carry a handgun shall send a copy of the order to the appropriate division of the Department of Public Safety at its Austin headquarters. On receipt of the order suspending the license, the department shall:

- (1) record the suspension of the license in the records of the department;
- (2) report the suspension to local law enforcement agencies, as appropriate; and
- (3) demand surrender of the suspended license from the license holder.

Texas Family Code § 86.002(a) and (b)

(a) On receipt of a request for a law enforcement information system record check of a prospective transferee by a licensed firearms dealer under the Brady Handgun Violence Prevention Act, 18 U.S.C. Section 922, the chief law enforcement officer shall determine whether the Department of Public Safety has in the department's law enforcement information system a record indicating the existence of an active protective order directed to the prospective transferee.

(b) If the department's law enforcement information system indicates the existence of an active protective order directed to the prospective transferee, the chief law enforcement officer shall immediately advise the dealer that the transfer is prohibited.

Texas Government Code § 411.187(a) and (c)

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- a) The department shall suspend a [concealed handgun] license under this section if the license holder:
 - (1) is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;
 - (2) fails to notify the department of a change of address, name, or status as required by Section 411.181;
 - (3) commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or
 - (4) is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.
- c) The department shall suspend a [concealed handgun] license under this section:
 - (1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), (3), or (4), except as provided by Subdivision (2);
 - (2) for not less than one year and not more than three years, if the person's license:
 - (A) is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1); and
 - (B) has been previously suspended for the same reason;
 - (3) until dismissal of the charges, if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or
 - (4) for the duration of or the period specified by:
 - (A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection (a)(5); or
 - (B) the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection (a)(6).

Texas Penal Code § 25.07(a)(4)

A person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, stalking, or trafficking case and related to the safety of a victim or the safety of the community, an order issued under Chapter 7A, Code of Criminal Procedure, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally...possesses a firearm....

Texas Penal Code § 46.02(a-1)(2)(B)

A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which...the person is... prohibited by law from possessing a firearm.

Texas Penal Code § 46.04(b)

A person who has been convicted of an offense under Section 22.01, punishable as a Class A misdemeanor and involving a member of the person's family or household, commits an offense if the person possesses a firearm before the fifth anniversary of the later of:

- (1) the date of the person's release from confinement following conviction of the misdemeanor; or
- (2) the date of the person's release from community supervision following conviction of the misdemeanor.

Texas Penal Code §46.04(c)

A person, other than a peace officer, as defined by Section 1.07, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to an order issued under Section 6.504 or Chapter 85, Family Code, under Article 17.292 or Chapter 7A, Code of Criminal Procedure, or by another jurisdiction as provided by Chapter 88, Family Code, commits an offense if the person possesses a firearm after receiving notice of the order and before expiration of the order.

Texas Penal Code §46.04(e)

An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) or (c) is a Class A misdemeanor.

Texas Penal Code § 46.06(a)(5)-(6)

A person commits an offense if the person:

sells, rents, leases, loans, or gives a handgun to any person knowing that an active protective order is directed to the person to whom the handgun is to be delivered; or knowingly purchases, rents, leases, or receives as a loan or gift from another a handgun while an active protective order is directed to the actor.

Texas Code of Criminal Procedure Art. 17.152(b)

Except as otherwise provided by Subsection (d), a person who commits an offense under Section 25.07, Penal Code, related to a violation of a condition of bond set in a family violence case and whose bail in the case under Section 25.07, Penal Code, or in the family violence case is revoked or forfeited for a violation of a condition of bond may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate determines by a preponderance of the evidence that the person violated a condition of bond related to:

- (1) the safety of the victim of the offense under Section 25.07, Penal Code, or the family violence case, as applicable; or
- (2) the safety of the community.

Texas Code of Criminal Procedure Art. 17.292(b)(4)

At a defendant's appearance before a magistrate after arrest for an offense involving family violence, the magistrate shall issue an order for emergency protection if the arrest is for an offense that also involves... possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

Texas Code of Criminal Procedure Art. 17.292(g)

An order for emergency protection issued under this article must contain the following statements printed in bold-face type or in capital letters:

A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE OR A STALKING OR TRAFFICKING OFFENSE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE, AS APPLICABLE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS. THE POSSESSION OF A FIREARM BY A PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR IMPRISONMENT.

NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER.

Texas Code of Criminal Procedure Art. 18.19

DISPOSITION OF SEIZED WEAPONS.

(a) Weapons seized in connection with an offense involving the use of a weapon or an offense under Penal Code Chapter 46 shall be held by the law enforcement agency making the seizure, subject to the following provisions, unless:

- (1) the weapon is a prohibited weapon identified in Penal Code Chapter 46, in which event Article 18.18 of this code applies; or
- (2) the weapon is alleged to be stolen property, in which event Chapter 47 of this code applies.

(b) When a weapon described in Paragraph (a) of this article is seized, and the seizure is not made pursuant to a search or arrest warrant, the person seizing the same shall prepare and deliver to a magistrate a written inventory of each weapon seized.

(c) If there is no prosecution or conviction for an offense involving the weapon seized, the magistrate to whom the seizure was reported shall, before the 61st day after the date the magistrate determines that there will be no prosecution or conviction, notify in writing the person found in possession of the weapon that the person is entitled to the weapon upon written request to the magistrate. The magistrate shall order the weapon returned to the person found in possession before the 61st day after the date the magistrate receives a request from the person. If the weapon is not requested before the 61st day after the date of notification, the magistrate shall, before the 121st day after the date of notification, order the weapon destroyed, sold at public sale by the law

Appendix A: Relevant Federal and State Firearm Statutes

enforcement agency holding the weapon or by an auctioneer licensed under Chapter 1802, Occupations Code, or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the magistrate. If the magistrate does not order the return, destruction, sale, or forfeiture of the weapon within the applicable period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction, sale, or forfeiture of the weapon from the magistrate. Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under this subsection. Proceeds from the sale of a seized weapon under this subsection shall be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

(d) A person either convicted or receiving deferred adjudication under Chapter 46, Penal Code, is entitled to the weapon seized upon request to the court in which the person was convicted or placed on deferred adjudication. However, the court entering the judgment shall order the weapon destroyed, sold at public sale by the law enforcement agency holding the weapon or by an auctioneer licensed under Chapter 1802, Occupations Code, or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the court if:

- (1) the person does not request the weapon before the 61st day after the date of the judgment of conviction or the order placing the person on deferred adjudication;
- (2) the person has been previously convicted under Chapter 46, Penal Code;
- (3) the weapon is one defined as a prohibited weapon under Chapter 46, Penal Code;
- (4) the offense for which the person is convicted or receives deferred adjudication was committed in or on the premises of a playground, school, video arcade facility, or youth center, as those terms are defined by Section 481.134, Health and Safety Code; or
- (5) the court determines based on the prior criminal history of the defendant or based on the circumstances surrounding the commission of the offense that possession of the seized weapon would pose a threat to the community or one or more individuals.

(d-1) Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under Subsection (d). Proceeds from the sale of a seized weapon under Subsection (d) shall be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

(e) If the person found in possession of a weapon is convicted of an offense involving the use of the weapon, before the 61st day after the date of conviction the court entering judgment of conviction shall order destruction of the weapon, sale at public sale by the law enforcement agency holding the weapon or by an auctioneer licensed under Chapter 1802, Occupations Code, or forfeiture to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the court. If the court entering judgment of conviction does not order the destruction, sale, or forfeiture of the weapon within the period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction, sale, or forfeiture of the weapon from a magistrate. Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under this subsection. Proceeds from the sale of a seized weapon under this subsection shall be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

Appendix B: Sample Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into by and between:

Dallas County Judges with Jurisdiction over Misdemeanor Criminal Matters

Dallas County Judges with Jurisdiction over Felony Criminal Matters

Dallas County Judges with Jurisdiction over Family Law Cases

Dallas County Sheriff's Department

Dallas County District Attorney's Office

Dallas County Probation Office

Dallas County Commissioners' Court

A. Purpose

Under Texas law, if a person is convicted of misdemeanor or felony family violence, that person must surrender any firearms he possesses. The law also allows a court to restrict anyone who is subject to a protective order from possessing firearms when the court determines such restriction is necessary to protect the safety and welfare of a protective order applicant, and any child or children in the applicant's custody. Experts recognize that possession of a firearm by a domestic batterer drastically increases the risk of death of anyone in the household.

Therefore, it is in the interest of public safety and welfare that individuals who have been prohibited from possessing firearms by a Texas court or under Texas law must comply with this prohibition and surrender any firearms for the duration of the judge's order or as long as state law requires.

In recognition of this important public safety issue, all signatories to this document commit to using the full extent of their available resources to support and enforce the Dallas County Gun Surrender Program, which collects and stores firearms that are surrendered subject to state law or a court order, and to continue efforts to improve the Program in the future.

This Memorandum of Understanding establishes minimum procedures in Dallas County for individuals to surrender firearms when ordered to do so, and practices for enforcement against individuals who fail to comply with the firearms prohibition. Signatories may incorporate additional policies if necessary to better facilitate the Program.

B. Procedure to Surrender Firearms

In Dallas County, when a person is convicted of misdemeanor or felony family violence, the judge shall issue an order of firearm surrender. When a protective order has been granted, the judge shall conduct a substantial inquiry into firearm possession at protective order hearing including receiving information from witnesses and victims. This does not negate the use of judicial discretion in the judge's inquiry.

When a Dallas County judge issues an order to surrender firearms, the individual who is ordered to surrender his firearms is given notice, either by the judge in the hearing or by the Dallas County Sheriff's Department. Individuals served with such an order who have firearms in their possession or control at the time of service must turn those firearms over to law enforcement immediately. Any firearms not immediately available to the individual at the time of notice must be surrendered to law enforcement or a qualified friend or relative within ___ hours. If individuals are served in jail, they must turn their firearms over within ___ hours of being released.

Individuals may surrender their firearms at the following location(s):

- Location A, located at number street, city, Texas, zip code (phone number)
- Location B, located at number street, city, Texas, zip code (phone number)

When the individual surrenders his firearms, the law enforcement agent who receives the firearms shall issue a receipt to the individual confirming the surrender. Alternatively, individuals may transfer their firearms to a friend or relative who must pass a Texas State Background Check and sign a notarized affidavit confirming receipt.

Within three court days of conviction for a relevant offense, or service of the protective order, individual must file a firearms affidavit with the court that shows the receipt confirming firearm surrender. The firearms affidavit may also include the notarized firearm affidavit if surrendered to a friend or relative who now has the firearm. If the individual is served while in jail, they have _____ business days from their release to file the affidavit.

All signatories agree to participate in the process of responding to non-compliant offenders, according to the procedures outlined below, as well as any other relevant protocols each department utilizes.

C. Roles and Responsibilities

Judges with jurisdiction over misdemeanor criminal matters agree to:

- Attend a training or CLE addressing domestic violence and/or gun violence.
- Conduct a full inquiry of defendants who are ineligible to own firearms about firearm possession and determine whether an emergency protective order is necessary during the criminal case.
- Question victims and witnesses about defendant's current firearm possession.

Appendix B: Sample Memorandum of Understanding

- Track cases where an affidavit of firearm surrender is not filed with the court in the allotted timeframe. Then, determine whether, using the court's discretion, an arrest warrant should be issued, a compliance hearing should be held, bond should be revoked for failure to surrender, or no further action should be taken.
- Forward a list of individuals who have failed to file firearm affidavits to the Dallas County Sheriff's Department and the Dallas County District Attorney's Office at least once a month.

Dallas County Judges with jurisdiction over felony criminal matters agree to:

- Attend a training or CLE addressing domestic violence and/or gun violence.
- Conduct a full inquiry of defendants who are ineligible to own firearms about firearm possession and determine whether an emergency protective order is necessary during the criminal case.
- Question victims and witnesses about defendant's current firearm possession.
- Track cases where an affidavit of firearm surrender is not filed with the court in the allotted timeframe. Then, determine whether, using the court's discretion, an arrest warrant should be issued, a compliance hearing should be held, bond should be revoked for failure to surrender, or no further action should be taken.
- Forward a list of individuals who have failed to file firearm affidavits to the Dallas County Sheriff's Department and the Dallas County District Attorney's Office at least once a month.

Dallas County Judges with jurisdiction over family law cases agree to:

- Attend a training or CLE addressing domestic violence and/or gun violence
- Conduct a full inquiry of respondents who are ineligible to own firearms about firearm possession and determine whether a protective order is necessary. The court will then determine whether a Firearm Surrender Order should be issued.
- Question victims and witnesses about respondent's current firearm possession.
- Track cases where an affidavit of firearm surrender is not filed with the court in the allotted timeframe. If the firearm is not surrendered, in violation of the protective order, then inform the protective order recipient and inquire whether the case should be referred to the District Attorney's Office for prosecution.
- Forward a list of individuals who have failed to file firearm affidavits to the Dallas County Sheriff's Department and the Dallas County District Attorney's Office at least once a month.

Dallas County Sheriff's Department agrees to:

- Assign a deputy to serve the offender with notice to surrender his firearms. The Sheriff's Department will receive this information from the relevant court.
 - Determine whether or not an investigator will be to conduct a more substantial inquiry into the individual.

- The deputy will:
 - Contact the petitioner or victim to ascertain additional information regarding the location and type of the firearm(s) possessed by the defendant/respondent as well as other information, including updated contact numbers and addresses.
 - Inform the defendant/respondent the deadline to surrender his firearms, and if desired, set up a time for the individual to surrender his firearms at a designated location.
 - Contact the assigned probation or parole officer, if the individual is currently on probation or parole, to determine if the probation officer is able to follow up with the individual to coordinate retrieval of the firearm(s) or otherwise bring the individual into compliance with the provisions of the Firearm Surrender Order.
 - Complete a form documenting when the individual has failed to surrender his firearms and is violation of the Firearm Surrender Order. The deputy will notify the appropriate District Attorney and the court who may determine whether the individual should be held in contempt of court.
 - If a Contempt Arrest Warrant is issued, the deputy will begin preparing for arrest and/or search warrant service per Dallas County Sheriff Department protocols.
 - Prepare and issue a receipt to be included with the individual's affidavit of surrender when the individual surrenders the firearm(s) within the allotted time. The deputy will complete a special report documenting the date, time, and location of the firearm surrender, the make and model of the firearms, and any identifying features of the firearms.
 - Store the firearm(s) and/or ammunition according to Dallas County Sheriff's Department protocols.

Dallas County District Attorney agrees to:

- Inquire about abuser's firearm possession during the initial phase of the protective order or misdemeanor domestic violence investigation as well as at other stages of the trial, including in the courtroom at hearings.
- Provide legal advice to the Dallas Sheriff's Department during their investigation of individuals who fail to file required firearm affidavits with the court.
- Review all completed investigations forwarded by the Dallas Sheriff's Department to determine whether or not contempt charges with an accompanying arrest warrant will be filed with the court.
- Notify the Dallas Sheriff's Department if contempt charges with an accompanying arrest warrant are filed with the court.
- Provide legal advice to the Dallas Sheriff's Department during the execution of any warrants.
- Prosecute any contempt charges filed.

Appendix B: Sample Memorandum of Understanding

Dallas County Probation Community Supervision and Corrections Department agrees to:

- Ask about parolee's firearm possession at initial probation meeting, and if parolee admits to firearm possession, inform the court and district attorney assigned to parolee's case.
- Discuss consequences if parolee does not surrender any firearms he possesses, or is untruthful about such possession.
- Continue to inquire about firearm possession for the duration of parolee's probationary period.
 - Contact the judge and district attorney if reasonable suspicion of improper firearm possession by parolee.
- Cooperate with Dallas County Sheriff's Department, if asked, with execution of valid search warrants.

Dallas County Commissioner's Court agrees to:

- Support and facilitate the Dallas County Gun Surrender Program to the best of their ability.

Dallas County Judges with Jurisdiction over Misdemeanor Criminal Matters

Signature

Date

Dallas County Judges with Jurisdiction over Felony Criminal Matters

Signature

Date

Dallas County Judges with Jurisdiction over Family Law Cases

Signature

Date

Dallas County Sheriff's Department

Signature

Date

Dallas County District Attorney's Office

Signature

Date

Dallas County Probation Community Supervision and Corrections Department

Signature

Date

Dallas County Commissioner's Court

Signature

Date

Appendix C: Current Dallas County Gun Surrender Program Forms

Date _____ Time _____

phone in person
Advocate _____

Protective Order Screening Sheet

Please fill out this form front and back and turn it back into the window when you are finished. This is just a Protective Order Screen Sheet. Filling this form out does not mean you have a protective order. You will still need to talk to one of our Protective Order Advocates to see if you qualify for a Protective Order.

Please be advised: This is a private District Attorney Work Product. This form cannot be removed from the 10th floor nor can we make copies to provide to you. The information you provide below will be confidential and this Protective Order Screening Sheet will be kept and filed away for our records.

Applicant Name: _____ **DOB:** _____
Other prior married or maiden names used _____ **Phone #:** () _____
E-mail Address: _____ **Alternate Phone #:** () _____
Respondent Name: _____ **DOB:** _____
(Respondent is the person you want to file against)
Relationship: _____ **Length of Relationship:** _____
Respondent address: NO YES

Have you applied for a Protective Order in this office in the past? NO YES If so, when? _____
BELOW "A" STANDS FOR APPLICANT (YOU) AND "R" STANDS FOR RESPONDENT

<p>Divorce filed _____ Do you have a final divorce order? <input type="checkbox"/> NO <input type="checkbox"/> YES</p> <p>Custody filed _____ Do you have a final custody order? <input type="checkbox"/> NO <input type="checkbox"/> YES</p> <p>Does A have a criminal past? <input type="checkbox"/> NO <input type="checkbox"/> YES</p>	<p>Are you a Registered Sex Offender? ___ NO ___ YES</p> <p>Do you have children together? <input type="checkbox"/> NO <input type="checkbox"/> YES # of Children _____</p> <p>Has CPS been involved? <input type="checkbox"/> NO <input type="checkbox"/> YES</p> <p>Caseworker, # _____</p>	<p>R in Jail <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES EPO done <input type="checkbox"/> NO <input type="checkbox"/> YES (Emergency Protective Order) Does R have a criminal past? <input type="checkbox"/> NO <input type="checkbox"/> YES What states has the R lived in over the last 10 years? _____</p>
--	--	---

Most Recent Physical or Threat Incident:

Date: _____ **Agency/Police Report #:** _____

Did you sustain any injuries; if so, describe injuries: _____
Did you receive medical attention? NO YES _____

Previous Physical or Threat Incident:

Date: _____ **Agency/Police Report #:** _____

Appendix C: Current Dallas County Gun Surrender Program Forms

Did you sustain any injuries; if so, describe injuries: _____

Did you receive medical attention? NO YES _____

Date: _____ Agency/Police Report #: _____

Did you sustain any injuries; if so, describe injuries: _____

Did you receive medical attention? NO YES _____

Does the abuser have any mental health issues? NO YES Diagnosis: _____

Does the abuser have an alcohol or drug problem? NO YES

Does the abuser have access to firearms and or other weapons? ____ NO ____ YES

Do you know where they are located? ____ NO ____ YES

Why are you requesting a protective order?

Relevant Notes

FOR OFFICE USE ONLY

Resources and Information: Not Interested Crime Victims Compensation Vine-Victim Information and Notification

Legal Copy of EPO Safety Plan Counseling Shelter Other Resources _____

Criminal Advocate Notified: _____

Applicant's Race: Asian/Pacific Islander Black Hispanic White Other: _____

Applicant's Age Range: 17 and under 18-25 26-40 41-64 65 and older

Reason for Disqualification: Qualifies, but no address No Relationship No Family Violence Open Divorce/Custody

Open CPS Investigation Criminal History/Pending Case Other _____

Comments: _____

Cause No _____

STATE OF TEXAS

§

IN THE _____

VS

§

§

DALLAS COUNTY, TEXAS

COURT ORDER TO ENSURE COMPLIANCE WITH FEDERAL AND STATE LAWS REGARDING FIREARM POSSESSION IN CASES INVOLVING DOMESTIC VIOLENCE

The Defendant having been convicted in this domestic violence case is subject to federal law and which places a life-time ban and State law which places a five-year ban on the Defendant from possessing any firearms. To ensure compliance with federal and state law the Court hereby ORDERS:

1. No later than (Date) _____ at (time) _____, Defendant must offer proof that he/she is not in possession of the firearms listed in (4) below.
2. To prove compliance with federal and state law, the Defendant shall either:
 - a. Permanently Surrender the firearm(s) listed in (4) below to the Dallas County Sheriff's Department at DFW Gun Range and then present the receipt from the Sheriff's Department to the Court no later than the date and time named in (1) above.
 - b. Permanently forfeit or sell the firearm(s) listed in (4) below to a third-party that:
 - i. Has a federal license to purchase firearms and is approved by the Court; or
 - ii. Appears in court with the Defendant on or before the date and time named in (1) above and:
 1. States in-court and under oath that they understand the criminal liability involved in granting possession of a firearm or ammunition to the above-named Defendant; and
 2. Passes a federal firearm background check (expenses to be incurred by the Defendant or third-party).
3. **FAILURE TO COMPLY WITH THIS ORDER WILL RESULT IN THE FILING OF FEDERAL CRIMINAL CHARGES UNDER TITLE 18, STATE CRIMINAL CHARGES UNDER CHAPTER 46 OF THE TEXAS PENAL CODE, VIOLATION OF PROBATION, CONTEMPT OF COURT CHARGES, OR ALL OF THE ABOVE.**
4. Make/Model/Serial Number of all firearms in the Defendant's care, custody or control:

Judge

Date

Cause No. _____

STATE OF TEXAS

§

IN THE _____

vs.

§

§

DALLAS COUNTY, TEXAS

**COURT ORDER TO ENSURE COMPLIANCE WITH CONDITIONS OF PROBATION OR
CONDITIONS OF BOND REGARDING FIREARM POSSESSION**

Pursuant to the Defendant’s conditions of probation or bond, the Defendant shall not possess firearms for the duration of probation or while the Defendant is on bond. To ensure compliance with these conditions the Court hereby ORDERS:

1. No later than (Date) _____ at (time) _____, Defendant must offer proof that he/she has complied with conditions of probation or conditions of bond.
2. To prove compliance, the Defendant shall either:
 - a. Temporarily Surrender the firearm(s) listed under (4) below, to the Dallas County Sheriff’s Department at DFW Gun Range and then present the receipt from the Sheriff’s Department to the Court no later than the date and time named in (1) above.
 - b. Sell or temporarily forfeit the firearm(s) listed under (4) below to a third-party that:
 - i. Has a federal license to purchase firearms and is approved by the Court; or
 - ii. Appears before the Court with the Defendant on or before the date and time named in (1) above and:
 1. States in-court and under oath that they understand the criminal liability involved in granting possession of a firearm to the above-named Defendant; and
 2. Passes a federal firearm background check (available at DFW Gun Range) (expenses to be incurred by the Defendant or third-party).
3. **FAILURE TO COMPLY WITH THIS ORDER WILL RESULT IN THE FILING OF STATE CRIMINAL CHARGES UNDER CHAPTER 25 OF THE TEXAS PENAL CODE, VIOLATION OF PROBATION, VIOLATION OF BOND, CONTEMPT OF COURT CHARGES, OR ALL OF THE ABOVE.**
4. Make/Model/Serial Number of Firearms in the Defendant’s care, custody or control

Judge

Date

**Appendix D:
Bench Card Created
by Judge Cañas**

GUN SURRENDER PROCEDURES IN DOMESTIC VIOLENCE CASES

NO GUNS AS A CONDITION OF PROBATION

Deferred	Neither state nor federal law prohibits possession, but it is best practice to order the surrender. Hold a hearing to determine possession (see Holding a Hearing below).
Straight/Conviction	Possession of a firearm is prohibited by both state and federal law. The federal prohibition is for life. Hold a hearing to determine possession (see Holding a Hearing below).

NO GUNS AS A CONDITION OF BOND

Bond conditions	Discretionary but it is best practice to order the surrender. Hold a hearing to determine possession (see Holding a Hearing below).
-----------------	--

HOLDING A HEARING

Inquire of both sides whether the Defendant owns, possesses or controls access to a firearm.

Defendant has no guns.	Require Defendant to sign an Affidavit of Non-possession. (See below for affidavit.)
Defendant does have guns.	Issue either a Temporary Surrender Order (bond or deferred), or a Permanent Surrender Order (any type of conviction). (See below for orders.)

DEFINITION OF POSSESSION

“A person who possesses an article may exercise custodial and managerial powers to ensure exclusivity of possession, to allow others access only, or to allow others to exercise care, custody, control or management over the article.” Gant v. State, 116 S.W.3d 124 (Tex.App. – Tyler, 2003) pet. ref’d. See also, U.S. v. Booth, et.al., 111 F.3d 2 [1st Cir. September 1997].

AFFIDAVIT OF NON –POSSESSION

Go over the statements in the affidavit to ensure the Defendant can sign the affidavit truthfully. File the affidavit along with the other documents in the case.

TEMPORARY OR PERMANENT SURRENDER ORDERS

Set return date and time	Defendant must return to your court with proof of surrender to the Sheriff's Department.
Firearm description	In the order, provide the most accurate description possible of the firearm(s) to be surrendered so the Sheriff knows.
Sheriff's information	At the bottom of the order is the contact information for the Defendant to use to schedule a time to surrender the firearm(s) in the order. The Court should independently notify the Sheriff's Department of the Court's order.

SURRENDER OF FIREARMS TO A THIRD PARTY

Set date and time	Defendant must return to your court with the Third-Party. The Third-Party must provide proof that they are legally able to possess firearms. (The Sheriff's Department can run a background check.)
Consequences	When the Third-Party is before you, admonish them about the consequences of providing the firearms to the Defendant. (The consequences are listed on the Third-Party Surrender Order.)

RETURN OF FIREARMS

Background check	Require the Defendant to prove that he/she can legally possess a firearm. (The Sheriff's Department can do an NCIC check.)
Issuance of return order	Ensure that you accurately describe the firearms to be returned. Review the surrender order in the case if necessary.

RESPONDING TO ACTS OF NON-COMPLIANCE

Options include violation of bond or probation, new charges for contempt or perjury, or new charges under Tex. Penal Code 25.07 or 46.04 or 46.06 or 18 U.S.C. Section 922.

RELEVANT STATUTES

18 U.S.C. Section 921 (a)(32)

18 U.S.C. Section 922 (d)(1) & (9); (g)(1) & (9)

Texas Penal Code Section 25.07 (a)(4)

Texas Penal Code Sections 46.04 & 46.06

Appendix E: El Paso County Program Forms

**INFORMATION FOR RESPONDENTS
REGARDING SURRENDER AND RETURN OF FIREARMS
FAMILY COURTS**

- If a Protective Order has been entered and served ordering you to surrender all firearms in your possession, you must designate a representative to surrender all firearms to the police department or sheriff's office as outlined on the Order to Surrender and obtain a surrender receipt (property receipt).
- If a Protective Order has been entered ordering you to surrender all firearms in your possession, you must bring the receipt of surrender (property receipt) to the El Paso District Clerk's Office within 48 hours of service of the order, for filing in the court file.

IT IS A FEDERAL CRIME FOR A RESPONDENT TO POSSESS A FIREARM WHEN A PROTECTIVE ORDER IS IN EFFECT AGAINST HIM/HER, PURSUANT TO 18 U.S.C. §922(g)(8). THE PENALTY FOR VIOLATING THIS SECTION MAY INCLUDE UP TO TEN (10) YEARS IMPRISONMENT AND/OR \$250,000.00 FINE.

IT IS ALSO UNLAWFUL FOR A PERSON CONVICTED OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE TO POSSESS A FIREARM PURSUANT TO 18 U.S.C. § 922(g)(9).

**HOW TO GET YOUR FIREARMS BACK
IF YOUR PROTECTIVE ORDER IS NO LONGER IN EFFECT**

All firearms surrendered to law enforcement will be kept by them during the term of the Protective Order. Upon expiration or dismissal of the protective order, you may request the return of your firearm(s) by filing a motion to the court within 30 days after the expiration of the protective order. Your motion should contain the following:

1. Verification to the Court that:
 - a. The firearm(s) is/are legally owned by you (Respondent);
 - b. You (Respondent) have not been found guilty of a felony in Texas or any other state;
 - c. You (Respondent) have not been found guilty of a misdemeanor crime of domestic violence in Texas or any other state;
 - d. There is no injunction in effect against you (Respondent) in Texas or any other state;
 - e. There is a no forfeiture action pending against you (Respondent) in another court;
 - f. You (Respondent) have never been adjudicated mentally defective or been committed to a mental institution; and
 - g. There is not a legal impediment to you (Respondent) owning or possessing a firearm, including but not limited to those mentioned above.
2. Attach a copy of the receipt of surrender (property receipt).
3. Include a description of the firearm(s) that were surrendered and its/their serial number(s).

The judge will review your motion and determine if your firearm(s) should be legally returned. If the judge determines that your firearm(s) should be returned, the judge will enter a court order providing for its/their return. A copy of this court order will be sent to the petitioner in the case. If the judge determines that there is not a legal basis for your firearm(s) to be returned upon review of your motion, the court shall set a hearing on your request.

Upon the judge determining that your firearm(s) should be returned and entering a court order providing for its/their return, bring a certified copy of the court order and the surrender receipt to the law enforcement agency where you surrendered your firearm(s).

E.3

**Information for Respondents Regarding Surrender and Return of Firearms—
Family Courts**

VOLUNTARY SURRENDER/FIREARMS RECEIPT

AS THE PERSON IN CARE, CUSTODY AND CONTROL OF THE BELOW LISTED FIREARMS, I HAVE AGREED TO VOLUNTARILY SURRENDER THE BELOW LISTED FIREARMS FOR SAFEKEEPING IN THE EL PASO POLICE DEPARTMENT'S CUSTODY. THESE OFFICER/S ARE AUTHORIZED BY ME TO TAKE THIS/THESE FIREARMS AND PLACE THEM IN A SECURE FACILITY. THIS VOLUNTARY SURRENDER AND PERMISSION IS BEING GIVEN BY ME VOLUNTARILY AND WITHOUT THREATS OR PROMISES.

LAST NAME: _____
FIRST NAME: _____
DOB: _____
ADDRESS: _____
WEAPON MAKE: _____
WEAPON MODEL: _____
SERIAL NUMBER: _____
SPECIAL IDENTIFIERS: _____

CASE NUMBER: _____
POLICE OFFICER: _____ ID#: _____

I UNDERSTAND THAT MY FIREARM WILL BE HANDLED IN ACCORDANCE WITH THE POLICY OF THE EL PASO POLICE DEPARTMENT WHICH MAY INCLUDE ENTERING THE BALLISTIC INFORMATION FROM EACH FIREARM INTO THE NATIONAL INTEGRATED BALLISTIC INFORMATION NETWORK. THIS MAY TAKE UP TO 14 DAYS TO COMPLETE.

SIGNATURE: _____ DATE: _____

TO RETRIEVE A FIREARM YOU MUST CONTACT THE AUXILIARY SUPPORT UNIT AT HEADQUARTERS (564-7000) AND REQUEST A CRIMINAL HISTORY CHECK. YOU WILL BE ADVISED IF THE CCH CHECKS "CLEAR". THE CCH WILL BE FAXED TO THE PROPERTY OFFICE AND YOU MAY PICK UP YOUR WEAPONS AT 810 E. OVERLAND EL PASO POLICE DEPARTMENT PROPERTY OFFICE BETWEEN THE HOURS OF 8 AM - 5 PM



911 N. RAYNOR • EL PASO, TX 79903 • (915) 564-7000 • WWW.EPPD.ORG

**EL PASO COUNTY SHERIFF'S OFFICE
RETURN ON FIREARMS SURRENDERED IN
DOMESTIC VIOLENCE CASES
MAGISTRATE COURT SURRENDER RECEIPT**

Court or Judge Issuing Protective Order: _____
Warrant No.: _____
Court Case NO. (Criminal or Civil): _____
Defendant's Name: _____
D.O.B.: _____
SSN: _____
Address: _____
Telephone #'s (Work and Home): _____
Expiration Date of Protective Order: _____
Person Surrendering Weapon (s): _____
Relationship to Defendant: _____
Address: _____
Telephone #: _____
Due Date of Surrender: _____
Date of Surrender: _____
Weapons Surrendered (include make, caliber, serial #):

Note: 1 copy of this document to surrendering party
1 copy retained by the El Paso County Sheriff's Office
1 copy to Jail Magistrate, regardless of magistrate issuing protective order (copy or duplicate may be sent or delivered to Jail Magistrate, 1st floor, El Paso County Detention Facility, 601 E. Overland or faxed to Judge at (915) 546-2259.

___ **Firearms have not been surrendered to the Sheriff's Office.**

Signature, Agency and Badge # of Officer
Accepting Surrender
Telephone: _____



C.3

**El Paso County Sheriff's Office – Return on Firearms Surrendered in
Domestic Violence Cases – Magistrate Court Surrender Receipt**

**EL PASO POLICE DEPARTMENT
NOTICE TO ADULT VICTIMS OF FAMILY VIOLENCE**

CASE NUMBER	REPORT DATE
REPORTING OFFICER	UNIT NO.

If you have reported to the El Paso Police Department that you have been the victim of an act of domestic violence, this card is provided to inform you of available options in order to prevent violence in your relationship. You are encouraged to contact any one of the agencies listed below which are trained to assist you. If additional police intervention is required, do not hesitate to contact the El Paso Police Department at 911 (EMERGENCY) or 354-6099 (NON-EMERGENCY).

It is a criminal offense for any person to cause you any physical injury or harm, even if that person is your spouse, former spouse, member of your household, former member of your household, or anyone related to you. Police officers are empowered to make warrantless arrests for acts of family violence, and they request your assistance.

PLEASE TELL THE INVESTIGATING POLICE OFFICER:

- If you, your child, or any other household resident has been injured or threatened;
- If you feel you are going to be in danger now or after the officer leaves.

YOU HAVE THE RIGHT TO:

Request prosecution of the abuser by advising the investigating officer or contacting the appropriate sections of the El Paso Police Regional Command Center, located at _____ telephone number _____.

Request the District Attorney, County Attorney, or City Prosecutor to file a criminal complaint against the person committing family violence.

Apply to the court for an order to protect you (consult the legal aid office, a prosecuting attorney, or a private attorney). For example, the court can enter an order that:

1. the abuser not commit further acts of violence
2. the abuser not possess, handle, or create a firearm
3. the abuser leave your household, and
4. establish temporary custody of the children and directs the abuser not to interfere with the children's visitation to any property.

Participate in the Abused Women's Act to Respond Emergency (AWARE) program. An application can be obtained at any police facility.

A VIOLATION OF CERTAIN PROVISIONS OF COURT-ORDERED PROTECTION (such as [1] and [2] above) MAY BE A FELONY.

CALL THE FOLLOWING VIOLENCE SHELTERS OR SOCIAL ORGANIZATIONS IF YOU NEED PROTECTION:

	911	NON-EMERGENCY	832-4400
CHIM Abuse & Neglect	1-800-458-7346 / 546-2126	Texas Rio Grande Legal Aid Inc.	1-800-988-2000
City Attorney's Office	541-4550	Ft. Bliss Family Advocacy	542-4078
County Attorney's Office	544-2050	River Cross Center	778-1600
Crimen Against Persons	544-7010	Shelter for Battered Women	543-7300
District Attorney's Office	546-2059	Victim's Service Team Approach	544-7445
		Wagonwheel Tours	544-7368

Taking action now may be the best change you can make for yourself and the welfare of any children involved.

EL PASO COUNTY SHERIFF'S OFFICE
VOLUNTARY SURRENDER/FIREARMS RECEIPT

As the person in care, custody and control of the below listed firearms, I have agreed to voluntarily surrender the below listed firearms for safekeeping in the El Paso County Sheriff's Office's custody. This / These Officer (s) are authorized by me to take this / these firearms and place them in a secure facility. This voluntary surrender and permission is being given by me voluntarily and without threats or promises

Last Name: _____

First Name: _____

DOB: _____

Address: _____

Weapon Make: _____

Weapon Model: _____

Serial Number: _____

Special Identifiers: _____

Case Number: _____

Deputy: _____ ID # _____

I understand that my firearm will be handled in accordance with the policy of the El Paso County Sheriff's Office which may include entering the ballistic information from each firearm into the National Integrated Ballistic Information Network. This may take up to 14 days to complete.

SIGNATURE: _____ DATE: _____

To retrieve the firearm you must contact the Criminal Investigation Bureau of the El Paso County Sheriff's Office located at 3850 Justice Road, El Paso, TX (538-2291) and request a criminal history check. You will be advised if the CCH checks "Clear". The CCH will be faxed to the evidence room and you may pick up your weapon at 3850 Justice Road, between the hours of 8 a.m. to 5 p.m. Monday thru Friday.



EL PASO COUNTY SHERIFF'S OFFICE, 3850 JUSTICE RD, EL PASO, TX 79938 (915) 538-2210

www.epcounty.com/sheriff

El Paso County Sheriff's Office Voluntary Surrender/Firearm Receipt **C.5**

**IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS
388TH DISTRICT COURT**

Petitioner _____

VS. _____

Respondent _____

§
§
§
§
§

Cause No. _____

RESPONDENT'S SWORN STATEMENT OF POSSESSION OF FIREARMS

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated are true.

I am the Respondent in this cause. My name is _____ (Please print full name) and my current address is _____ (Address) (City) (State) (Zip Code)

Please answer the following questions:

1. Do you now or have you in the past six months before today, owned or possessed any firearms. (Please initial correct statement).

_____ NO, I do not now own or possess any firearms and during the past six months I have not owned or possessed any firearms.

_____ YES, I currently, or within the past six months, have owned or possessed a firearm. If you answered yes, please continue to Question 2.

2. Please list the firearm which you currently, or within the past six months, have owned or possessed, the quantity, make or model, whether you surrendered it to local law enforcement or sold it and whether you have brought the receipt with you to court today

Firearm	Quantity	Make/Model	Surrendered/Sold (Yes or No)	Receipt (Yes or No)

The Respondent is advised that if they fail to completely and accurately complete this sworn statement they may face serious civil and criminal penalties. If a Respondent remains in possession of a firearm after a Protective Order is entered, he or she would be in violation of 18 U.S.C. § 924 (a)(2) which is punishable by a maximum of ten (10) years imprisonment or a \$250,000.00 fine.

**IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS
388TH DISTRICT COURT**

**FOR THE PROTECTION OF:
Ramon Duran
Applicant**

§
§
§
§
§
§
§
§

VS.

Cause No. 2011CM3588

**Michael Mars
Respondent**

**APPLICANT'S SWORN STATEMENT OF RESPONDENT'S POSSESSION OF
FIREARMS**

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated are true.

I am the Applicant in this cause. My name is _____
(Please print full name)

To the best of your recollection, please answer the following questions:

1. Has the Respondent in this cause now, or in the past six months before today, owned or possessed any firearms. (Please initial correct statement).

_____ NO, the Respondent does not now own or possess any firearms and during the past six months the Respondent has not owned or possessed any firearms.

_____ YES, the Respondent currently, or within the past six months, has owned or possessed a firearm. If you answered yes, please continue to Question 2.

2. To the best of your recollection, please list the firearm(s) which the Respondent currently, or within the past six months, has owned or possessed, the quantity, make or model, and whether the Respondent has brought the receipt with him/her to court today

Firearm	Quantity	Make/Model	Surrendered/Sold (Yes or No)	Receipt (Yes or No)

Respondent remains in possession of a firearm after a Protective Order is entered, he or she would be in violation of 18 U.S.C. § 924 (a)(2) which is punishable by a maximum of ten (10) years imprisonment or a 50,000.00 fine.

Signature: _____ Date: _____

E.2

Applicant's Sworn Statement of Respondent's Possession of Firearms

**Appendix F:
Multnomah County
Memorandum of Understanding**

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into by and between:

Multnomah County Circuit Court

Multnomah County District Attorney's Office

Portland Police Bureau

A. Purpose

Under Oregon law, the court may restrict anyone who is subject to a restraining order from possessing firearms, when the court deems the step necessary to protect the safety and welfare of a restraining order applicant, and any child or children in the applicant's custody.

When a Multnomah County judge issues such an order, the restrained individual is served with the order by the Multnomah County Sheriff. Individuals served with such an order, who have firearms in their possession or control at the time of service, must turn those firearms over to law enforcement immediately. Otherwise, individuals must surrender their firearms within 48 hours to law enforcement or a qualified friend or relative. If individuals are served in jail, they must turn their firearms over within 48 hours of being released. Individuals can take their firearms to three sites: Portland Police Bureau's Central Precinct (open 24 hours), the Police Bureau's Property & Evidence Warehouse or the Multnomah County Sheriff's Office. Or, they can transfer their firearms to a friend or relative who must pass an Oregon State Police background check and sign a notarized affidavit. Within three court days of the restraining order being served, the restrained person must file a firearms affidavit with the court that shows a receipt for their firearm surrender or a notarized signature of the person who now has it. If they're served while in jail, they have three court days from their release to file the affidavit.

This Memorandum of Understanding establishes procedures for enforcement against individuals who fail to comply with the firearms prohibition on their restraining order by failing to file the required affidavits with the court.

B. Roles and Responsibilities

Multnomah County Circuit court agrees to:

- Track the restraining order cases where a timely affidavit is not filed with the court.

- At least once a month, forward a list of individuals who have failed to file their firearms affidavits to the Portland Police Bureau and the Multnomah County District Attorney's Office.

Portland Police Bureau agrees to:

- Upon receipt of the court information listing individuals who did not file required firearms affidavits, the Domestic Violence Reduction Unit (DVRU) sergeant will apply the criteria listed in DVRU's SOP to determine whether or not an investigator will be assigned to any given named individual.
- Once assigned the investigator will verify that the restraining order is still in effect. If the restraining order is still in effect the investigator will do the following:
 1. Contact the petitioner to ascertain additional information regarding the location and type of firearm(s) possessed by the respondent as well as other information to include updated contact numbers and addresses.
 2. If the respondent is currently on probation or parole, contact the assigned probation or parole officer to determine if he/she is able to follow up with the respondent in retrieving the firearm(s) or otherwise bringing the respondent into compliance with the provisions of the Restraining Order (i.e., submitting an affidavit to the court stating the firearm(s) have been turned in; he/she does not have a firearm etc).
 3. Call the respondent and ascertain whether or not they surrendered their firearm(s) and/or ammunition, or have filed an affidavit.
 4. Mail the respondent a follow-up letter.
 5. If the respondent does not respond to phone contact or letter *the investigator will complete an Investigation Report documenting the violation of restraining order. The investigator will notify the DVRU sergeant and responsible Deputy District Attorney for a determination whether or not a Contempt Arrest Warrant will be issued.*
 6. If an arrest warrant for contempt is issued, the investigator will begin preparing for arrest and/or search warrant service per Portland Police Bureau protocols.

7. If the respondent complies and surrenders their firearm(s) the investigator will prepare and issue a receipt for Safekeeping and include the phrase, "R/O Gun Turn-in."
8. The investigator will complete a special report documenting the circumstances of the firearm surrender. The investigator will place the firearm(s) and/or ammunition into any satellite property room or by delivering it to the Property Evidence Division.

Multnomah County District Attorney agrees to:

- Provide legal advice to the Portland Police Bureau during their investigation of individuals who failed to file required firearm affidavits with the court.
- Review all completed investigations forwarded by the Portland Police Bureau to determine whether or not contempt charges with an accompanying arrest warrant will be filed with the court.
- Notify the Domestic Violence Reduction Unit (DVRU) sergeant if contempt charges with an accompanying arrest warrant are filed with the court.
- Provide legal advice to the Portland Police Bureau during their execution of any warrants.
- Prosecute in court any contempt charges filed.

Multnomah County Circuit Court

Maureen McKnight 9/8/14
 Hon. Maureen McKnight, Chief Family Court Judge date
The TAPP cases were not cases that in which a current firearm has been claimed.

Portland Police Bureau

Michael Reese 9/05/14
 Chief Michael Reese date

Multnomah County District Attorney's Office

Rod Underhill 9/8/14
 Rod Underhill, Multnomah County District Attorney date

**Appendix G:
Los Angeles City Attorney
Firearm Policy**

Domestic Violence Firearm Policy

In order to prevent gun violence by domestic violence abusers, the City Attorney is implementing the following mandatory procedures. The procedures shall be followed in all cases involving domestic violence¹ where the court issues a criminal protective order².

Pursuant to Code of Civil Procedure Sec. 527.9, any person who is subject to a criminal protective order, issued pursuant to Penal Code Sec. 136.2³, shall surrender to local law enforcement, lawfully transfer⁴, or sell to a licensed gun dealer, any firearm owned or subject to their immediate possession or control, within 24 hours after service of the order. A firearm is any “device, designed to be used a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.”⁵ This includes, but is not limited to: revolvers, single-shot pistols, semi-automatic handguns, rifles, shotguns, and assault weapons. The restrained person must file a receipt with the court, showing compliance with the order, within 48 hours of service. Moreover, pursuant to Penal Code Section 29825, the restrained person may not own, possess, purchase, receive, or attempt to purchase or receive, a firearm while the order is in effect.

In order to ensure compliance with the law, the following procedures are hereby implemented:

FILING

- An Automate Firearms System (AFS) printout will be provided by the LAPD at the time of filing in all domestic violence cases.⁶ If an AFS has not been provided, the filing deputy shall request a copy from the LAPD Liaison. The AFS will show all registered firearms.
- Copies of the AFS shall be included with the filing/discovery packets that are initially provided to the defense and court.
- The filing deputy shall review the police report and AFS. If it is determined that the defendant owns or possesses a firearm (even if the firearm was not

¹ Cal. Pen. Code Sec. 13700 (“Domestic violence means abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has a child or is having or has had a dating or engagement relationship.” “Abuse means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.”).

² The LASC is currently using Judicial Council Form CR-160 (“Criminal Protective Order – Domestic Violence”). Please be advised that this form could be revised, modified, or re-titled in the future. A copy of CR-160 is attached hereto.

³ In deciding whether good cause exists to issue a criminal protective order in a domestic violence case, the court may consider the underlying nature of the offense charged and the information provided to the court pursuant to PC 273.75 (domestic violence defendant’s history). (Cal. Pen. Code. Sec. 136.2(h)).

⁴ A prohibited person may transfer their firearm to a licensed firearms dealer for storage during the duration of the prohibition, if the prohibition on owning or possessing the firearm will expire on a date specified in the court order. (Cal. Pen. Code Sec. 29830).

⁵ Cal. Pen. Code Sec. 16520.

⁶ LAPD Chief of Detectives Notice 1.8 (Nov. 21, 2013) (AUTOMATED FIREARM SYSTEM INQUIRY – DOMESTIC VIOLENCE CASES). A copy of Notice 1.8 is attached hereto.

used in the course or commission of the crime), the filing deputy shall document this fact in the “Notes” section on the back of the CRF and determine whether any firearm-related charges should be filed.⁷ Any recommended offer shall include weapons conditions.⁸

ARRAIGNMENT

- The arraignment deputy shall notify the court:
 - ✓ (1) the defendant owns or possesses a firearm (based on the police report, AFS, or other evidence);⁹
 - ✓ (2) pursuant to CCP 527.9(b), the defendant is required to surrender their firearm within 24 hours of service of the protective order;
 - ✓ (3) pursuant to CCP 527.9(b), the defendant is required to provide a receipt to the court within 48 hours showing the firearm was lawfully transferred, sold, or surrendered; and
 - ✓ (4) pursuant to PC 29825(b), possession of a firearm after issuance of the protective order constitutes a criminal offense.
- Due to the increased risk of serious injury or death when a firearm is accessible to someone who perpetrates domestic violence, the arraignment deputy shall seek to have the defendant remanded and request appropriate bail in order to protect the victim (PC 1269(c), 1270(a), 1275).
- If the court grants OR over the People’s objection, the arraignment deputy shall request that the court impose search and seizure conditions as a condition of OR release.¹⁰
- The arraignment deputy shall, as mandated by California Rules of Court 4.700, request that the court order the defendant to return in two court days after issuance of the protective order for a compliance review hearing. If the defendant is in custody at the time the protective order is issued, the review hearing should take place two court days after their release.¹¹

⁷ Common firearm possession charges include: (1) loaded firearm possession (PC25850); (2) concealed firearm possession (PC25400); and (3) open carry of a firearm (PC26350). Additionally, a defendant may not possess a firearm if he/she: (1) has a prior enumerated misdemeanor conviction in the last 10 years (PC29805); (2) is currently on probation with weapons conditions (PC29815); (3) is under the age of 30 and previously committed an enumerated juvenile offense (PC29820); or (4) is under a restraining order (PC29825).

⁸ If the defendant pleads to one of the charges listed in PC 29805, including 240, 242, 243, and 273.5, make sure that the court gives the defendant notice that he/she is prohibited from having a firearm for 10 years. (PC 29810).

⁹ “At any hearing where the court issues a criminal protective order, the court must consider all credible information, including information provided on behalf of the defendant, to determine if there is good cause to believe that the defendant has a firearm within his or her immediate possession or control.” (Cal. Rules of Court, Rule 4.700(c)(1)). Make sure the AFS is part of the court file and is referenced on the record.

¹⁰ The defendant shall not be released from custody under an own recognizance until the defendant signs a release agreement which includes “the defendant’s promise to obey all reasonable conditions imposed by the court or magistrate.” (PC 1318(a)(2); *In Re York* (1995) 9 Cal.4th 1133 (OR conditions that include search and seizure are lawful when reasonable under the circumstances and related to public safety.)).

¹¹ When a court finds good cause to believe that the defendant has a firearm within his or her immediate possession or control, the court must set a review hearing to ascertain whether the defendant has complied with CCP 527.9. Unless the defendant is in custody at the time, the review hearing should occur within two court days after the issuance of the criminal protective order. If circumstances warrant, the court may

- If compliance is not made within required time frame, the deputy shall immediately notice a bail review hearing and seek to have the defendant remanded and bail set/increased.¹² The deputy should also, when appropriate and supported by the facts, give notice and seek to amend the complaint to add a charge for unlawful possession of a firearm by a prohibited person (PC 29825(b)) and/or criminal contempt (PC 166(c)(1)).¹³
- If the defendant is convicted and the court issues a criminal protective order as a condition of probation, the deputy shall request a compliance review hearing two court days after issuance of the protective order or release from custody.¹⁴ If the defendant fails to provide the required receipt, the deputy handling the case shall request that the court revoke probation, set bail, and proceed with a probation violation hearing (PC 1203.2).¹⁵

COMPLIANCE ENFORCEMENT

- The arraignment deputy or assigned prosecutor must complete the “Domestic Violence Firearm Compliance Form” at the time of the compliance review hearing.¹⁶ This form, along with a copy of the criminal protective order, must be emailed to the Gun Violence Prevention Unit (pamela.blair@lacity.org).
- If the defendant is not in compliance, the Gun Violence Prevention Coordinator will notify the LAPD Gun Unit.
- The Gun Violence Prevention Coordinator will thereafter notify the assigned deputy of the results of the LAPD investigation.

Any questions or inquiries should be made to Deputy City Attorney Greg Dorfman at (213) 978-4620.

extend the review hearing to occur within five court days. If the defendant is in custody at the time the criminal protective order is issued, the review hearing should take place two court days after release from custody. (*Note: The assigned DCA will be responsible for monitoring the defendant’s custodial status and seek a review hearing upon his release*). The court must give the defendant an opportunity to present information at the review hearing to refute the allegation that he or she owns any firearm. (Cal. Rules of Court, Rule 4.700(c)).

¹² At the review hearing, if the court finds that the defendant has a firearm in or subject to their immediate possession or control, the court must consider whether bail, as set, or defendant’s OR release is appropriate. (Cal. Rules of Court, Rule 4.700(d)(1)). If bail is set or increased, the court may order the defendant to be “committed to actual custody” until he/she can post the increased bail. (PC 1289).

¹³ If the defendant claims that the gun was lost or stolen, require proof of a report pursuant to LAMC 55.12.

¹⁴ Cal. Rules of Court, Rule 4.700(c).

¹⁵ “If the criminal protective order is issued as a condition of probation under Penal Code Section 1203.097, and the court finds at the review hearing that the defendant has a firearm in or subject to his or her immediate possession or control, the court must proceed under Penal Code Section 1203.097(a)(12).” (Cal. Rules of Court, Rule 4.700(d)(2)). PC 1203.097(a)(12) requires the court, as a priority calendar item, hold a hearing to determine whether further sentencing should proceed.

¹⁶ A copy of the “Domestic Violence Firearm Compliance Form” is attached hereto.

Rev. April 10, 2014

ENDNOTES

ENDNOTES

- ¹ Texas Council on Family Violence, Honoring Texas Victims 2 (2016), http://2mg7g749lu2112sis323nkkn.wpen-gine.netdna-cdn.com/wp-content/uploads/2016/10/2015_HTV_Report_web.pdf.
- ² U.S. Department of Justice, Federal Bureau of Investigation, USR Supplementary Homicide Reports (2010), <http://bit.ly/V1GvFe> (excludes New York due to incomplete data).
- ³ *Firearms and Domestic Violence*, National Domestic Violence Hotline, <http://www.the-hotline.org/resources/firearms-dv/> (quoting an anonymous caller to the National Domestic Violence Hotline).
- ⁴ Scott Goldstein & Tanya Eiserer, *Dallas Woman Killed at UT Southwestern Had Just Been Told Police Would Arrest Husband*, The Dallas Morning News (Jan. 9, 2013), <http://www.dallasnews.com/news/crime/2013/01/09/dallas-woman-killed-at-ut-southwestern-had-just-been-told-police-would-arrest-husband>.
- ⁵ *Id.*
- ⁶ *Id.*
- ⁷ Sarah Mervosh & Jennifer Emily, *Hollow Safeguards: Laws to Take Abusers' Guns Unenforced in Dallas*, The Dallas Morning News (2014), http://res.dallasnews.com/interactives/2014_deadlyaffection/part5/.
- ⁸ *Id.*
- ⁹ *Id.*
- ¹⁰ Tex. Penal Code Ann. § 46.04(a) (West 2017).
- ¹¹ Tex. Penal Code Ann § 22.02 (West 2017).
- ¹² Tex. Penal Code Ann. § 46.04(b) (West 2017).
- ¹³ Tex. Penal Code Ann. § 22.01(a) (West 2017).
- ¹⁴ Tex. Penal Code Ann § 46.04(c) (West 2017); Tex. Fam. Code Ann. § 83.001 (West 2017); Tex. Fam. Code Ann. § 85.026 (West 2017); Tex. Penal Code Ann. § 25.07 (West 2017).
- ¹⁵ Tex. Penal Code Ann. § 46.06 (West 2017).
- ¹⁶ Tex. Penal Code Ann. § 46.06 (West 2017).
- ¹⁷ Tex. Fam. Code Ann. § 85.022 (West 2017).
- ¹⁸ Tex. Code Crim. Proc. Ann. art. 7A.05 (West 2017).
- ¹⁹ Tex. Code Crim. Proc. Ann. art. 42.0131 (West 2017); Tex. Fam. Code Ann. § 85.026 (West 2017); Tex. Code Crim. Proc. Ann. art. 14.06 (West 2017); Tex. Code Crim. Proc. Ann. art. 27.14 (West 2017).
- ²⁰ 18 U.S.C. § 922(G)(1); 18 U.S.C. § 922(G)(8); the Wellstone Amendment exempts law enforcement from these laws.
- ²¹ 18 U.S.C. § 921(a)(32) (2017).
- ²² *Id.*
- ²³ 18 U.S.C. § 922(g)(9) (2017).
- ²⁴ 18 U.S.C. § 921(33)(A) (2017).
- ²⁵ 18 USC § 922(g)(9) (2017).
- ²⁶ 18 U.S.C. § 922(g)(1) (2017).
- ²⁷ Tex. Penal Code Ann. § 25.07 (West 2017).
- ²⁸ Smart Gun Laws, Texas Domestic Violence and Guns 1 (Oct. 2014), <http://smartgunlaws.org/wp-content/uploads/2014/10/CAP-DV-TX.pdf>.
- ²⁹ Violence Policy Center, When Men Murder Women: An Analysis of 2010 Homicide Data 1 (2012), <http://www.vpc.org/studies/wmmw2012.pdf>.
- ³⁰ Texas Council on Family Violence, Honoring Texas Victims 2 (2016), http://2mg7g749lu2112sis323nkkn.wpen-gine.netdna-cdn.com/wp-content/uploads/2016/10/2015_HTV_Report_web.pdf.
- ³¹ U.S. Department of Justice, Federal Bureau of Investigation, USR Supplementary Homicide Reports, (2010), <http://bit.ly/V1GvFe> (excludes New York due to incomplete data).
- ³² *Id.*
- ³³ *Firearms and Domestic Violence*, National Domestic Violence Hotline, <http://www.the-hotline.org/resources/firearms-dv/> (quoting an anonymous caller to the National Domestic Violence Hotline).
- ³⁴ *Hotline Focus Survey Provides Firsthand Look at Intersection of Firearms & Domestic Violence; Highlights Need for Stronger Laws and Equal Protection*, National Domestic Violence Hotline (June 18, 2014), <http://www.thehotline.org/2014/06/hotline-focus-survey-provides-firsthand-look-at-intersection-of-firearms-highlights-need-for-stronger-laws-and-equal-protection/>.
- ³⁵ Shannan Catalano, et al., Bureau of Justice Statistics, Female Victims of Violence 4

(2009), <https://www.bjs.gov/content/pub/pdf/fvv.pdf>.

- ³⁶ *About the Taskforce*, Dallas City Hall, dallascityhall.com/government/citycouncil/district13/dvtf/Pages/default.aspx.
- ³⁷ Denise Paquette Boots, et al., Dallas Domestic Violence Taskforce, Annual Summary Report 2015-2016, 3 (2016), <http://dallascityhall.com/government/citycouncil/district13/dvtf/Documents/2015-2016%20Annual%20Summary%20Report%20on%20Domestic%20Violence.pdf>. The Taskforce collected detailed information from the Dallas Police Department, the Dallas County District Attorney's Office, Dallas County Courts, the Mayor's Office, and numerous direct service providers.
- ³⁸ *Id.* at 21.
- ³⁹ *Id.* at 23. "Family violence-related murders comprise all family-involved murders, not just those committed by former or current intimate partners."
- ⁴⁰ *Id.* at 24.
- ⁴¹ *Id.* at 13. Harris County led the list with 34 intimate partner homicides; Dallas County reported 13. These numbers include crimes committed in the city of Dallas.
- ⁴² *Id.* at 25-26.
- ⁴³ *Id.* at 26.
- ⁴⁴ *Id.* at 20.
- ⁴⁵ *Id.*
- ⁴⁶ *Id.* at 16-17.
- ⁴⁷ *Id.*
- ⁴⁸ Tex. Loc. Gov't Code Ann. § 229.001 (West 2017).
- ⁴⁹ The Texas Constitution provides for both County and District courts in a given geographic area. The district courts are the trial courts of general jurisdiction of Texas. Each county is also authorized to have a single county court that can hear Class A and B misdemeanors. In addition, the legislature may create additional statutory county courts to address specific needs in a county.
- ⁵⁰ *Family Violence Division*, Dallas County District Attorney, https://www.dallascounty.org/department/da/family_violence.php. Located on the tenth floor of the Frank Crowley Courts Building, the Family Violence Division has four attorneys, one investigator, and four Victim

Advocates who devote all of their time to representing applicants in protective order hearings, free of charge. Additionally, the George Allen Civil Courts Building houses one Assistant District Attorney and one Victim Advocate who are there to help walk applicants through the protective order process.

- ⁵¹ This is important because making sure that survivors have access to the justice system is a critical feature for combating domestic violence.
- ⁵² Erik Ortiz, *Domestic Violence Offenders in Dallas Are Surrendering Guns Under New Program*, NBC News (May 30, 2015), <http://www.nbcnews.com/news/us-news/domestic-violence-offenders-dallas-are-surrendering-guns-under-new-Program-n366796>.
- ⁵³ In theory, judges could check to see if the offender had a license to carry an open or concealed weapon as a way of confirming firearms ownership. In practice, this approach is rare to non-existent.
- ⁵⁴ In theory, an offender could also surrender a weapon voluntarily, without a court order. This has yet to occur.
- ⁵⁵ As noted earlier, this report uses women's names for the survivors and men's names for the offenders. Statistically, women are more likely to identify as survivors of domestic violence and men are most frequently prosecuted as perpetrators of domestic violence. However, domestic violence does affect, and is perpetrated by, people of any gender.
- ⁵⁶ El Paso County Organizational Chart, <http://www.epcounty.com/documents/orgchart.pdf>.
- ⁵⁷ El Paso County Demographics and Statistical Data, http://www.epcounty.com/auditor/publications/budget_books/budget2006/bs2/3.pdf.
- ⁵⁸ *Id.*
- ⁵⁹ *Id.*
- ⁶⁰ Emmanuel A. Martinez, J.D., Dr. Egbert Zavala, Ph.D., & Alyssa D. Cervantes, 388th District Court Domestic Violence Firearms Surrender Protocols Project Replication Manual x (2011).
- ⁶¹ *Id.* at 24-25.
- ⁶² *Id.*
- ⁶³ *Id.* at 28-30.
- ⁶⁴ *Id.* at 28-30.

⁶⁵ *Id.* at 28-30.

⁶⁶ *Id.* at 40-43.

⁶⁷ County of Los Angeles Statistics, https://www.lacounty.gov/government/geography-statistics/statistics_

⁶⁸ Two other counties in California, Butte County and San Mateo, have also engaged in a gun surrender Program. Butte County law enforcement responded positively to the Program, especially through their use of the “W.A.R.M. Approach” for the removal and retrieval of firearms. This approach focused on making the subjects of firearm surrender feel respected and not as if law enforcement was inappropriately invading their home or territory. Detectives dressed in plain clothes and drove unmarked cars. In discussions with the defendants, these detectives focused on empathy and encouraged the offenders to speak with their defense attorneys to underscore that firearm surrender was legally mandated and resistance would only cause more problems for the offender. Butte County law enforcement reported that defendants appreciated this approach and generally responded positively. Law enforcement agents even reported that this approach was “central to their ability to obtain firearm surrenders, rather than refusals, mostly without incident.” See *infra* note xiv.

⁶⁹ Prosecutors Against Gun Violence and The Consortium for Risk-Based Firearm Policy, *Firearm Removal/Retrieval in Cases of Domestic Violence*, 9-10 (2016).

⁷⁰ *Id.*

⁷¹ About Multnomah County, https://multco.us/multnomah-county/about-multnomah-county_

⁷² Profile of General Demographic Characteristics, <https://multco.us/file/24922/download>.

⁷³ See Or. Rev. Stat. Ann. § 166.291 (West).

⁷⁴ State Law Background, Oregon, <http://smartgunlaws.org/gun-laws/state-law/oregon/>.

⁷⁵ See *supra* note xiv at 20.

⁷⁶ *Id.* at 63-66.

⁷⁷ Frequently Asked Questions: SURRENDER and RETURN OF FIREARMS In Multnomah County, http://www.courts.oregon.gov/Multnomah/docs/FamilyCourt/FirearmsInFAPAR-estrainingOrders_FirearmsFAQs.pdf.

⁷⁸ Dallas County Sheriff, Kenneth Mitchum Gun Range, http://www.dallascounty.org/department/sheriff/gun_range.php.

⁷⁹ The Supreme Court has held in multiple cases that Fourth Amendment protections for parolees and probationers are not as stringent as protections for non-offender individuals. See, e.g., *Samson v. California*, 547 U.S. 843, 848-49 (2006) (reasoning that “by virtue of their status alone, probationers do not enjoy the absolute liberty to which every citizen is entitled”).

⁸⁰ Dallas County District Attorney’s Office, Protective Order Information (2015), https://www.dallascounty.org/department/da/media/ProtectiveOrder_Brochure_2015_eng.pdf.

THE JUDGE ELMO B. HUNTER LEGAL CENTER FOR VICTIMS OF CRIMES AGAINST WOMEN

For comments and questions about this report,
contact Professor Natalie Nanasi at gunsurrenderreport@smu.edu.

OTHER RESOURCES FOR SURVIVORS

National Domestic Violence Hotline
1.800.799.SAFE (7233)

Crisis Centers

Dallas Area Rape Crisis Center
24-hour local hotline: 972.641.7273
DALLASRAPECRISIS.ORG

Parkland Rape Crisis/VIP
24-hour hotline: 214.590.0430
[PARKLANDHOSPITAL.COM/PHHS/
VIP-RAPE-CRISIS-CENTER.ASPX](http://PARKLANDHOSPITAL.COM/PHHS/VIP-RAPE-CRISIS-CENTER.ASPX)

Trauma Support Services of North Texas
972.709.4904
TSSNT.ORG

Domestic Violence Shelters

Genesis Women's Shelter and Support
24-hour hotline: 214.946.HELP
GENESSHELTER.ORG

The Family Place
24-hour crisis hotline: 214.941.1991
FAMILYPLACE.ORG/

Brighter Tomorrows
24-hour hotline: 972.262.8383
BRIGHTERTOMORROWS.NET

New Beginning Center
Crisis hotline: 972.276.0057
NEWBEGINNINGCENTER.ORG

Hope's Door
24-hour crisis hotline: 972.422.7233
HOPESDOORINC.ORG

Mosaic Family Services
24-hour crisis hotline: 214.823.4434
MOSAICSERVICES.ORG

Salvation Army - Domestic Violence Program
24-hour local hotline: 214.424.7208
SALVATIONARMYDFW.ORG

Law Enforcement / Government

**Dallas Police Department,
Domestic Violence Unit**
214.671.4304

**Dallas County District Attorney's Office,
Family Violence Unit**
214.653.3528

**Dallas County District Attorney's Office,
Protective Order Unit**
214.653.3528

Legal Resources

Legal Aid of Northwest Texas
214.748.1234
LANWT.ORG/

Legal Action Works /CitySquare
214.827.1000
[CITYSQUARE.ORG/PROGRAMS/HOPE/
LEGAL-ACTION-WORKS](http://CITYSQUARE.ORG/PROGRAMS/HOPE/LEGAL-ACTION-WORKS)

Texas Advocacy Project
Family Law hotline: 800.777.FAIR (3247)
Sexual assault legal hotline:
888.296.SAFE (7233)
TEXASADVOCACYPROJECT.ORG

Dallas Volunteer Attorney Program
214.243.2236
[DALLASVOLUNTEERATTORNEYPROGRAM.
ORG](http://DALLASVOLUNTEERATTORNEYPROGRAM.ORG)

Mosaic Family Services
214.821.5393
[MOSAICSERVICES.ORG/HOW-WE-HELP/
LEGAL-REPRESENTATION](http://MOSAICSERVICES.ORG/HOW-WE-HELP/LEGAL-REPRESENTATION)



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