


*Domestic Violence
And Firearms*

Firearms Surrender Protocols Webinar
October 30, 2015

Housekeeping Notes

- Can you hear me now? If yes, please raise your hand. 
- Technical problems (viewing, listening, etc.)?
 - Contact Global Customer Support at 1-800-263-6317 or <http://support.gotomeeting.com>
- Questions or comments during the webinar:
 - Raise your hand – click the hand icon to raise your hand
 - Use the question box to type a question/comment for the presenter
- We will email slides at end of the webinar.

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6317 or <http://support.gotomeeting.com>.


Learning Objectives

- Understand the connection between firearms and domestic violence.
- Know the legal framework for addressing firearms in domestic violence cases on both the criminal and civil sides.
- Discuss how one jurisdiction is addressing the surrendering of firearms in misdemeanor domestic violence cases.

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6317 or <http://support.gotomeeting.com>.

Why Do Firearms Matter?

Guns + DV = A Deadly Combination



If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6317 or <http://support.gotomeeting.com>.

Why Do Firearms Matter?

“All too often, the *only* difference between a battered woman and a dead woman is the presence of a gun.”

- Senator Wellstone, during the debate over 18 U.S.C. 922(g)(9)

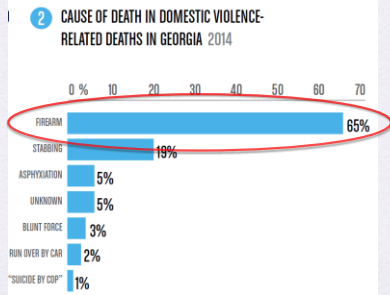
If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6317 or <http://support.gotomeeting.com>.

American women who are killed by their intimate partners are more likely to be killed with guns than by all other methods combined

— Homicide trends in the U.S Intimate homicide and Homicides by relationships and weapon type. Washington D.C.: U.S Department of Justice, Bureau of Justice Statistics; 2002.

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6317 or <http://support.gotomeeting.com>.

The View from Georgia



If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

The Homicide-Suicide Connection

- In dv-related deaths tracked in 2014 by the Georgia Fatality Project, 44% were homicide-suicides.
 - 51 lives were lost
 - 96% of the cases involved a firearm
 - 92% of the homicide-suicides were perpetrated by men

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Firearms Prohibitions

Civil Side

- While subject to a qualified protective order. 18 U.S.C. 922(g)(8).



Criminal Side

- When convicted of certain misdemeanor crimes of domestic violence. 18 U.S.C. 922(g)(9).
- When convicted of any felony. O.C.G.A. 16-11-131.
- When on probation for a felony under the First Offender Act. O.C.G.A. 16-11-131.

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Judicial notification of firearm prohibition

- Violence Against Women Act requires certification that local courts have judicial policies and practices in place to notify domestic violence offenders (civil and criminal) of federal firearm prohibitions

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

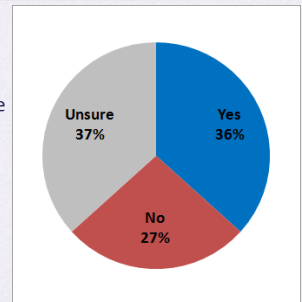
Judicial notification in Georgia

- August 2014 – survey of judicial circuits conducted by GCADV and GCFV to learn about judicial notification
- 30 of 49 circuits responded (61%)

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Judicial notification in Georgia: Criminal cases

- Do the courts in your circuit have policies and protocols in place to NOTIFY domestic violence misdemeanor defendants of the federal firearms prohibition?



If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Judicial notification in Georgia: Criminal cases

- Do judges in your circuit NOTIFY domestic violence misdemeanor defendants of the federal firearms prohibition?

Response	Percentage
Most/all judges in most/all cases	30%
Some judges in most/all cases	27%
Some judges in some cases	20%
No judges are doing this	23%

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Judicial notification in Georgia: Civil cases

- Georgia's standard Family Violence Protective Order forms currently provide written notification of the federal firearms prohibition.
- Do judges in your circuit also provide VERBAL NOTIFICATION of the federal firearms prohibition?

Response	Percentage
Most/all judges in most/all cases	60%
Some judges in some cases	13%
No judges are doing this	17%
No response	7%

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Firearms removal in Georgia: Criminal cases

- Are there protocols for REMOVAL of firearms from those convicted of qualifying DV misdemeanors in your circuit?

Response	Percentage
No, but I think this could happen in my circuit	56%
Yes, and it is being followed	17%
No, but we are working on it	10%
Yes, but it is not being followed	3%
No, and I don't think this could happen in my circuit	7%

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Firearms removal in Georgia: Civil cases

- Are there protocols for REMOVAL of firearms from those subject to family violence protective orders in your circuit?

Response	Percentage
Yes, and it is being followed	43%
No, but I think this could happen in my circuit	40%
Yes, but it is not being followed	8%
No, and I don't think this could happen in my circuit	7%
No response	7%

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Civil Side

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

The Law

- It is a federal crime to possess a firearm or ammunition while subject to a qualified protective order. 18 U.S.C. §922(g)(8)

KEEP WEAPONS FROM ABUSERS

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

What counts as “a qualified order”?

- The standard Twelve Month Family Violence Protective Order form in Georgia meets the test for a qualified protective order as long as the parties have one of the required relationships.
- Required relationship:
 - Current or former spouse
 - Parents of same child
 - Current or former cohabitants
 - Parent/Child

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

What relationship is NOT currently included?

- Dating relationships!
 - But see Gabby Giffords’ initiative to include dating relationships in the federal law.
 - www.usatoday.com/story/news/politics/2015/10/08/gabrielle-giffords-gun-control-domestic-violence/73612294/

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

If subject to a qualified protective order...

- May not possess firearms or ammunition *for the period of the protective order*.
- Violation is punishable by up to ten years in prison.
- Exemption for law enforcement officers or military personnel. Exemption covers officially issued or required firearms only, and only while on duty.
18 U.S.C. §925(a)(1)



If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Poll Question

- Does the TPO petition need to allege the use of the firearm?

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Poll Question

- If the petitioner has a qualifying family violence relationship (e.g., husband-wife) and the alleged act is stalking, what type of protective order should be sought – Family Violence or Stalking?

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Practice Tips

- Ask every survivor if addressing firearms would make her feel safer.
- When the abuser owns or has access to guns, be sure the survivor has a safety plan that includes dealing with firearms.



If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Practice Tips

- Ask judge to specifically prohibit firearms possession in the TPO.
- Ask the judge to order abuser to turn guns over to law enforcement when the TPO is served.
- Put specific language in the proposed *ex parte* or 12 month TPO orders about gun restrictions.
- Provide as much specific information as possible about location and type of weapons.
- Ensure that orders are immediately entered into TPO registry.
- Ensure that orders capture the numerical identifiers necessary for NCIC.

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

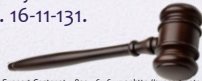
Criminal Side

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

The Law

Abusers cannot possess firearms or ammunition if:

- Convicted of certain misdemeanor crimes of domestic violence. 18 U.S.C. 922 (g)(9).
- Convicted of any felony crimes. O.C.G.A. 16-11-131
- On probation for a felony crime under the First Offender Act. O.C.G.A. 16-11-131.



If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Misdemeanors vs. Felonies

Misdemeanors

- Punishable up to 1 year in jail and a \$1000 fine
- Assault
- Family Violence Battery
- Simple Battery
- Stalking
- Interference with 911
- Criminal Damage to Property
- Cruelty to Children in the 3rd Degree

Felonies

- Punishable over 1 year in prison
- Murder
- Aggravated Battery
- Terroristic Threats
- Rape
- False Imprisonment
- Aggravated Assault
- Aggravated Stalking

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

What Misdemeanor DV Crimes Qualify?

- Must be an offense under federal, state or tribal law;
- Must have as an element the use or attempted use of physical force or the threatened use of a deadly weapon; AND
- Must be committed by:
 - a current or former spouse, parent or guardian of the victim
 - a person who currently or formerly cohabitates with the victim as spouse, parent or guardian
 - a person who shares a child with the victim
 - a person similarly situated to a spouse, parent or guardian of the victim

18 U.S.C. 921(a)(33)(A)

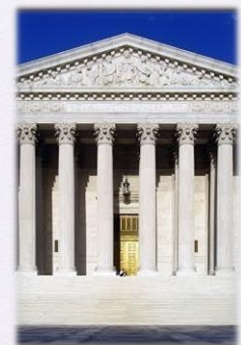
If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

What Misdemeanor DV Crimes Qualify?

The U.S. Supreme Court recently settled the debate over what qualifies as the “use of physical force” in *U.S. v. Castleman*, 134 S.Ct. 1405 (2014).

The use of physical force means offensive touching.

The element of physical force can be satisfied by “even the slightest offensive touching.”



If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

What would count as a misdemeanor crime of DV under Castleman?

- Battery
- Simple Battery
- Maybe a Disorderly Conduct

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

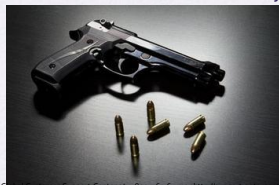
What would NOT count as a misdemeanor crime of DV under Castleman?

- **STALKING!**
- But, see again, Gabby Giffords' initiative to expand the legislation to include misdemeanor stalking

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

If subject to a qualified conviction...

- May not possess firearms or ammunition
- Lifetime ban
- No exemption for law enforcement or military personnel



If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Practice Tips

- The federal firearm prohibition is NOT triggered by:
 - Pre-trial diversion
 - Successfully completion of a sentence under the First Offender Act
 - While someone is on bond (BUT may be an appropriate bond condition)
 - When a case is on appeal

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Firearm Reduction Initiative

DeKalb County State Court

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

The Problem:

- Video

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

The Goal:

- Put the Defendant on notice!
 - Enforcement
 - Revocation Hearings
- Collect firearms/ammunition

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Creating a Protocol:

- First Attempt 2006-2007
 - The Challenges
- Second Attempt 2011-2014
 - Identifying DeKalb partners with the same goal
 - Probation Department
 - Solicitor-General's Office
 - Clerk of State Court
 - State Court Judges

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

DeKalb County State Court's Final Protocol

- Protocol
 - Forms
 - Page 1 (notice/waiver)
 - Page 2 (details for surrender)
- Storage etc.

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

DEKALB COUNTY STATE COURT PROBATION DEPARTMENT FIREARMS/AMMUNITION NOTICE

The State of Georgia CASE NO. _____

vs.

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

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

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

Please answer the following questions:

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

_____ NO, I do not currently own or possess any firearms or ammunition and have not owned any firearms or ammunition in the past six months.

_____ NO, I do not currently own or possess any firearms or ammunition but I have owned or possessed firearms and ammunition in the past six months.

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

3.) List the firearm and/or ammunition that you currently, or within the past six months, have owned or possessed.

Firearm and/or Ammunition	Quantity	Make/Model	Surrendered/Sold Yes or No	Receipt Yes or No

The Probationer is advised that if he or she fails to completely and accurately complete this sworn statement he or she may face serious civil and criminal penalties. If the Probationer remains in possession of a firearm or ammunition after a conviction of a misdemeanor crime of domestic violence, he or she would be in violation of 18 U.S.C. §922(g) (9) which is punishable by a maximum of ten (10) years imprisonment or a \$250,000 fine.

Probationer's Signature _____ Date _____
Probation Officer _____ Date _____

DEKALB COUNTY STATE COURT PROBATION INFORMATION FOR PROBATIONERS REGARDING THE SURRENDER OF FIREARMS AND AMMUNITION

FAMILY VIOLENCE CONVICTION

You have been convicted of a misdemeanor crime of domestic violence. As a result of this action you are prohibited by Georgia Law (O.C.G.A. §16-11-120) and Federal Law (18 U.S.C. §922(g) (9)) from receiving, shipping, possessing, transporting or attempting to purchase a firearm. This includes any handgun, rifle, shotgun or other weapon, which will or can be converted to expel a projectile by the action of an explosion or electrical charge.

Possession of a firearm or ammunition means that you may not have a firearm or ammunition in your actual, physical control (i.e. in your pants pocket) or within your area of access and control (i.e. glove box of your car). You may not possess a firearm or ammunition either by yourself or jointly with another person and you may not use a firearm or ammunition for hunting.

THE PENALTY FOR VIOLATING THIS SECTION MAY INCLUDE UP TO TEN (10) YEARS IMPRISONMENT AND/OR \$250,000 FINE.

INSTRUCTIONS TO SURRENDER FIREARMS AND AMMUNITION

1. Immediately call the DeKalb County State Court Probation Department at 404-371-2657 and ask to speak with the Supervisor on Duty to schedule a time to surrender all firearms, ammunition and/or concealed weapons permits in your care, custody or control. The Probation Department is located in the DeKalb County Courthouse on the 3rd Floor of the Administrative Tower.

DO NOT ATTEMPT TO BRING A FIREARM INTO THE COURTHOUSE

- Unload and separate all firearms and ammunition before leaving your residence.
- Lock all firearms in the lock boxes or gun cases and place in the trunk of the vehicle.
- When you arrive, park in the parking deck behind 556 N. McDonough St. Decatur, GA 30030
- Enter the courthouse (without firearms and ammunition) and proceed to the Probation Department and ask for the Supervisor on Duty.
- Advise the Supervisor of the quantity and location of firearms and ammunition being surrendered.
- Follow the procedures set forth by law enforcement personnel to complete the surrender.

2. Obtain a written receipt from the law enforcement agency that you surrendered the firearms, ammunition and/or concealed weapons permits.

3. If you have been in possession of firearms, ammunition and concealed weapons permit within the past six months but are not currently in possession of these items, you must file documentation of this surrender in the form of a signed, sworn and notarized bill of sale and/or law enforcement property receipt.

4. Failure to completely comply with this order may result in civil and criminal penalties.

Creating a Protocol

- Your Jurisdiction
 - Which partners need to be involved?
 - Identify one or more leader(s)
 - Start conversations about the topic
 - Frame the goal to fit YOUR jurisdiction

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Lessons Learned

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Tips

- Brainstorm with your Task Force
- Look for hidden allies
- Think of ways to reframe the issue
- Take obstacles off the table
- Use stats!
- Keep it simple
- Be persistent

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Current Progress

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Firearms Seized To Date



If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Additional Resources

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

National Progress

- **Wisconsin Project (civil)**
 - Pilot (2010-2012)
 - Mandatory Partners
 - Sheriff, Victim Service Provider, Judges, Clerk of Court
 - Legislation (2014)
 - Surrender Orders
 - Protocol
 - Penalties
- Lessons Learned

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Additional Resources

- Wisconsin Project
 - <http://www.bwjp.org/resource-center/resource-results/wisconsin-firearms-surrender-protocols.html>
 - <http://www.bwjp.org/resource-center/resource-results/surrender-storage-return-firearms-wisconsin-project.html>

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Additional Resources

- Georgia Fatality Review 11th Annual Report: www.gcfv.org (pages 42-47)
- Aequitas, The Prosecutors' Resource on Violence Against Women: www.aequitasresource.org
- National Center on Protection Orders and Full Faith & Credit: www.fullfaithandcredit.org
- National Council of Juvenile and Family Court Judges, DV Division: www.ncjfcj.org/our-work/domestic-violence

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.

Questions?

Jennifer Stolarski
Solicitor-General's Office
DeKalb County
jstolarski@dekalbcountyga.gov
404-371-2280

Jennifer Waindle
State Court Probation
DeKalb County
jlwaindle@dekalbcountyga.gov
(404) 371-3243

Special Thanks to:
Karen Geiger
Georgia Legal Services
Piedmont Office
kgeiger@glsp.org
(404) 563-7715 x 1571

If you are having technical difficulties, please contact Global Customer Support Center at 1-800-263-6337 or <http://support.gotomeeting.com>.