

Domestic Violence

& Firearm Surrender
in Rhode Island

Everytown for Gun Safety would like to acknowledge all domestic and gun violence survivors.

Table of Contents

4

Introduction

6

Background

8

Executive Summary

11

Obtaining an Order of Protection
in Rhode Island

10

Recommendations

13

Detailed Findings and Case Studies

25

Acknowledgments

26

Appendix A: Legal Analysis
The Protect Rhode Island Families Act

31

Appendix B: Firearm Surrender
in Temporary Orders of Protection

34

Appendix C: Methodology

Introduction

In the United States, guns and domestic violence are a deadly combination. More than one in three women report experiencing abuse from a partner in their lifetime.¹ In an average month, 52 American women are shot and killed by a current or former intimate partner.² Nearly one million American women alive today have been shot or shot at by an intimate partner and survived.³ Regardless of whether they pull the trigger, domestic abusers often use guns to threaten and control their partners and family members; approximately 4.5 million American women alive today have been threatened with a gun by an intimate partner.⁴ Access to a gun in a domestic violence situation makes it five times more likely that a woman will be killed.⁵

Research shows that laws preventing domestic abusers from accessing guns save lives.⁶

In response to the unacceptable toll of gun violence on American women, Rhode Island lawmakers passed the Protect Rhode Island Families Act in 2017, intending to prevent domestic abusers from using firearms to threaten, harm, or kill their family members. One year after the law went into effect, Everytown for Gun Safety Support Fund (“Everytown”), in partnership with the Rhode Island chapter of Moms Demand Action for Gun Sense in America (“Moms Demand Action”), the grassroots volunteer network of Everytown for Gun Safety Action Fund, conducted research into its implementation in the Family Court. The results of this research—discussed in detail below—reveal potentially deadly gaps in the Family Court’s implementation of the law. While the legislative change led to a significant increase in the proportion of cases where domestic abusers were ordered to surrender their firearms, judges still fail to require the defendant to surrender their firearms in the vast majority of cases. These gaps appear to be due at least in part to the Family Court’s view that the language of the new law does not require judges to order firearm surrender in every case in which an Order of Protection (whether temporary or final) is entered.

A recent tragic case illustrates the deadly consequences that too often can follow when a domestic abuser has access to firearms.

On February 4, 2019, Providence resident Ms. Berta Bogran filed a petition in Providence County Family Court seeking an Order of Protection against her estranged husband. In her petition to the court, she described an escalating pattern of stalking and abuse. She asked the court to grant her an Order of Protection and specifically checked the box asking the court to order her estranged husband to surrender all firearms in his possession. The Rhode Island Family Court granted a series of Orders of Protection for Ms. Bogran, each time finding that she was at risk of irreparable harm. However, each time, the court denied her original request to order her estranged husband to relinquish his guns. Related criminal proceedings were ongoing against the estranged husband in the District Court for violating the Order of Protection.⁷ While it is not known when Ms. Bogran’s estranged husband obtained a firearm, on August 24, 2019, Ms. Bogran was shot and killed by him.⁸

The research in this report sheds new light on how known domestic abusers have been permitted to possess firearms despite the new law requiring their surrender.

This report details those findings and provides recommendations for a path to full and faithful implementation of the law, with the hope that tragedies like Ms. Bogran’s murder can be prevented in the future.

Terms used in this report

A temporary Order of Protection refers to an Order of Protection issued before the defendant has been notified of the case or had an opportunity for a court hearing.

A final Order of Protection refers to an Order of Protection issued after the defendant has been notified of the case and had an opportunity for a hearing. Where data are cited in this report concerning final Orders of Protection, Everytown has excluded data from cases where it could not be determined whether the defendant had notice of the hearing and an opportunity to be heard.

Background

The Protect Rhode Island Families Act

In 2017, Rhode Island lawmakers passed the Protect Rhode Island Families Act. The intent of this law was clear: to prevent domestic abusers from using firearms to threaten, harm, or kill their intimate partners and family members. The act amended Rhode Island law to prohibit all domestic abusers from possessing firearms and to require all prohibited domestic abusers to comply with the prohibition by surrendering any firearms in their possession. Specifically, under the Protect Rhode Island Families Act:

- All persons subject to a final Order of Protection are **prohibited by law from owning or possessing a firearm.**¹⁰ A final order is issued after the defendant has notice and an opportunity to be heard. The penalty for violating the firearm prohibition is imprisonment for no less than two years and no more than 10 years.¹¹
- To enforce this prohibition, the new law also requires that judges order all defendants subject to a final Order of Protection to **surrender any firearms they may already have.** As the General Assembly announced, the intent of the new law was two-fold: (1) to “prohibit gun possession by domestic abusers...subject to court-issued final protective orders,” and (2) to “ensure that all those subject to the prohibition actually turn in their guns when they become prohibited from possessing them.”¹² Governor Gina Raimondo emphasized this important change in the law, informing Rhode Islanders that the new law “will require individuals with a final protective order issued against them... to physically surrender their firearms within 24 hours.”¹³ Consistent with this mandate, the new law requires the Family Court to “provide a notice on all forms requesting a protective order that a person restrained under this section shall be ordered” (emphasis added) to surrender possession of any firearms.¹⁴

- Prior to entering a final Order of Protection, the court may issue a temporary Order on an ex parte basis for up to 21 days. The text and legislative history of the Protect Rhode Island Families Act are unclear as to whether the act was intended to require judges to order firearm surrender in every such *temporary* Order of Protection, or whether instead judges retain discretion to decide in each case whether to do so at the *temporary* Order stage.¹⁵ Regardless, judges are clearly permitted to order defendants subject to a temporary Order of Protection to surrender their firearms.¹⁶
- All persons ordered to surrender their firearms—whether at the final or temporary order stage—must do so within 24 hours of receiving notice of the order.¹⁷ To ensure that defendants actually do surrender their firearms, all defendants so ordered must file a **proof of firearm surrender** with the Family Court within 72 hours of service of the order.¹⁸

Further information about Everytown’s analysis of the Protect Rhode Island Families Act can be found in the notes to this report and in Appendix A: Legal Analysis.

Methodology

To understand whether the Protect Rhode Island Families Act was being implemented effectively and consistently, Everytown, in partnership with Moms Demand Action, established a court monitoring program in the Rhode Island Family Court. Between October 2018 and May 2019, trained volunteers attended court and watched domestic violence Order of Protection cases. In total, volunteers monitored 289 hearings in domestic violence Order of Protection cases. Volunteers completed a survey for each hearing they observed. These surveys were reviewed and coded by an attorney.

In addition to the data collected from in-court observations, Everytown requested and was granted access to court files containing documents including the petitions and affidavits filed by the plaintiffs in the cases and court orders issued by the judge. These files were reviewed and coded by an attorney. In total, 165 court files were reviewed and analyzed.¹⁹

These data sets were then analyzed to draw findings. Statistical analysis was applied to determine whether findings were statistically significant. Further information about project methodology can be found in the notes to each data point cited and in Appendix C: Methodology.

Executive Summary

The Protect Rhode Island Families Act was intended to protect survivors of domestic violence by disarming domestic abusers.

The law, passed in 2017, was widely celebrated for achieving this by prohibiting all domestic abusers from possessing firearms and by requiring judges to order all defendants subject to a final Order of Protection to surrender their firearms.²⁰ To evaluate whether the law was being implemented as intended, Everytown, in partnership with Moms Demand Action, conducted research into its implementation in the Family Court.

Since the law was enacted, our research found an approximately seven-fold increase in the number of domestic abusers who were ordered to surrender their firearms.²¹ Before the law was passed, judges in Rhode Island required defendants to surrender their firearms in only 5 percent of final Orders of Protection.²²

But even under the new law, firearm surrender was required in only 34 percent of final Orders of Protection.²³ The purpose of the law was to ensure that firearm surrender would be mandatory in every final Order of Protection—yet, only approximately one-third of defendants were ordered to relinquish their firearms. This low percentage appears to be due to the view of some judges on the Family Court that the language of the new law does not require them to order firearm surrender in every case in which a final Order of Protection is issued. Everytown urges the Family Court to reconsider its interpretation of the law and order firearm surrender in every final Order of Protection, as was clearly intended and follows logically from the fact that every defendant subject to such a final order is prohibited by state law from possessing or owning a firearm.

Judge issued a final Order of Protection requiring the defendant to surrender their firearms

5%

Before the Protect RI Families Act was passed

34%

After the Protect RI Families Act was passed

Rhode Island law protects all survivors of domestic abuse from the threat of harm from firearms—not only those who specifically ask the judge to remove firearms—but judges are improperly placing the burden on survivors of domestic violence to request firearm surrender. Where the survivor of domestic violence did not specifically ask the judge to order the defendant to surrender their firearms, the judge rarely ordered the defendant to do so; only when the survivor of domestic violence specifically made that request was firearm surrender included in most final orders (and even then in only 78 percent of cases).²⁴

When judges did order the defendant to surrender their firearms, defendants complied with this order barely more than one-third of the time.²⁵ While only 36 percent of defendants complied with the order to surrender their firearms, we did observe a significant improvement over the course of the study, from only 22 percent of defendants complying with the order to surrender their firearms in cases filed in 2018, to 63 percent of defendants complying with the order in cases filed between January and May 2019.²⁶

Defendant complied with the order to surrender their firearms

36%

This improved between 2018 and 2019



22%

Compliance rate for cases filed in 2018

63%

Compliance rate for cases filed in 2019

On the basis of these findings, Everytown urges Family Court judges to faithfully apply the Protect Rhode Island Families Act by requiring all domestic abusers subject to final Orders of Protection to surrender their firearms.

Recommendations

Everytown and Moms Demand Action respectfully call on Rhode Island Family Court judges to take the following steps to implement the Protect Rhode Island Families Act and reduce firearm-related risks in Order of Protection cases:

- **Ensure that every final Order of Protection clearly notify the defendant that they are prohibited by law from possessing firearms and explicitly require the defendant to surrender all firearms in their possession (including by removing the checkbox on final order forms that erroneously suggests the judge has discretion on whether to order firearm surrender).**
- **Explain firearm restrictions pursuant to state and federal law to the parties, including by explaining when possession of a firearm by the defendant will be a crime under state law.**
- **Take steps to ensure that defendants surrender their firearms when ordered to do so, including by monitoring case files, conducting compliance review hearings, and enforcing court orders with appropriate remedies.**
- **Inquire about the presence and location of firearms.**

These recommendations are consistent with the National Council of Juvenile and Family Court Judges' best-practice guidance for judges presiding over Order of Protection cases.²⁷ As the NCJFCJ advises, court orders should be "clear and precise as to when, where, and how" firearms must be surrendered.

Obtaining an Order of Protection in Rhode Island

The current process for obtaining a domestic violence Order of Protection in the Rhode Island Family Court is explained below as a guide for those who are unfamiliar with the process.

①

The survivor of domestic violence requests an Order of Protection.

To obtain a temporary Order of Protection, a plaintiff must file a petition and sworn statement describing the abuse they have suffered.

The petition form notifies all parties that if the order is granted, the defendant will be required to surrender their firearms, and asks plaintiffs to check a box to indicate whether they are seeking a firearm surrender order.²⁸

②

The judge decides whether to issue a temporary Order of Protection and schedules a hearing.

A Family Court judge or magistrate reviews each petition and decides whether it meets the legal standard for a temporary Order of Protection. This order is typically made “ex parte” (before notice to the defendant) and without an in-person hearing, and will last for up to 21 days.²⁹

To issue a temporary Order of Protection, the judge must make a finding that it “clearly appears” that “immediate and irreparable injury, loss, or damage will be caused by the defendant to the plaintiff before a hearing is held.”³⁰ Official Family Court data show that judges issue a temporary Order of Protection in response to approximately 77 percent of petitions.³¹ The Family Court schedules a subsequent hearing for every petition for an Order of Protection.

If the judge issues a temporary Order of Protection, the judge checks a box on the order to indicate whether the defendant is required to surrender their firearms.³² For further discussion of firearm surrender in the context of temporary Orders of Protection, see Appendices A and B.

③

The judge holds a hearing and decides whether to issue a final Order of Protection.

At the hearing, both parties have the right to be present and to testify before the judge.

Once the judge has considered the evidence, they decide whether to issue a final Order of Protection.³³ Official Family Court data show that judges issue a final Order of Protection in response to approximately 40 percent of petitions.³⁴

If the judge issues a final Order of Protection, the defendant is automatically prohibited by Rhode Island law from possessing firearms; additionally, recent changes to Rhode Island law make clear that surrender is to be mandated by the court in all final orders. In practice, judges check a box on the final Order of Protection to indicate whether the defendant is required to surrender their firearms.³⁵

④

The defendant must comply with the Order of Protection, including the firearm surrender requirement.

Domestic abusers who are subject to an Order of Protection with a surrender requirement must relinquish any firearms in their possession within 24 hours of notice of the order taking effect³⁶ and must prove that they have done so by filing a sworn firearm surrender affidavit with the court within 72 hours of service of the order.³⁷

The final Order of Protection issued by the judge includes text notifying the defendant that continuing possession of firearms may lead to criminal prosecution. At the end of the time period covered by the Order of Protection, the firearm conditions are lifted and any firearms surrendered may be returned to the defendant.³⁸

If the defendant violates the Order of Protection by continuing to possess firearms or failing to file a firearm surrender affidavit, they may be found to be in contempt of court in the Family Court or they may face criminal penalties in the District Court for violation of an Order of Protection or unlawful possession of a firearm.³⁹

Detailed Findings and Case Studies

Family Court judges failed to require firearm surrender in approximately two-thirds of final Orders of Protection.

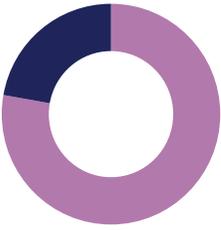
Family Court judges required firearm surrender in only 34 percent of final Orders of Protection.⁴⁰ While significant progress has been made since the passage of the Protect Rhode Island Families Act, serious gaps persist. In approximately two-thirds of cases, after ruling that a survivor of domestic violence was at risk of immediate and irreparable injury or harm from the defendant, the judge failed to require the defendant to surrender any firearms in their possession.

Our research found that despite the changes to Rhode Island law, judges continued to exercise discretion about whether to require firearm surrender in final Orders of Protection. Judges were far more likely to require firearm surrender when a survivor specifically requested this order or where there was specific evidence that the defendant had a firearm.

A plaintiff requested an Order of Protection including the firearm surrender requirement, explaining in her affidavit that the defendant had placed a concealed tracker on her car to stalk her, sent her photos of himself holding a gun, and told her that she would need “a really good hiding place.” In this case, the judge granted the temporary Order of Protection and firearm surrender order, and the defendant complied by surrendering his guns and filing a firearm surrender affidavit.

Judges were more likely to require the defendant to surrender firearms in specific circumstances

Plaintiff requested a surrender order



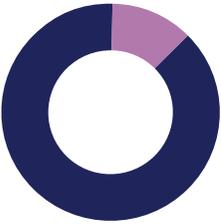
78%

Surrender order issued

22%

Surrender order not issued

Plaintiff did not request a surrender order



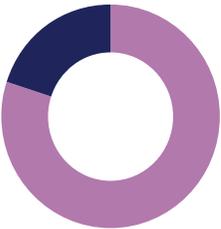
12%

Surrender order issued

88%

Surrender order not issued

Plaintiff submitted evidence about firearms



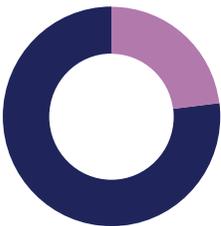
80%

Surrender order issued

20%

Surrender order not issued

Plaintiff did not submit evidence about firearms



23%

Surrender order issued

77%

Surrender order not issued

A plaintiff submitted sworn testimony that a person close to the defendant had warned her that the defendant had threatened to shoot and kill her if he lost their Family Court case. The judge issued a temporary Order of Protection that required the defendant to surrender his firearms; however, when the judge issued the final Order of Protection, the firearm surrender requirement was removed, despite the fact that the defendant had not filed proof of firearm surrender or an attestation that he was not in possession of any firearms.

To fully implement the changes to Rhode Island law made by the Protect Rhode Island Families Act, judges must issue a gun surrender order in every case where a final Order of Protection is issued. Relying on or requiring survivors to specifically request firearm surrender or to provide testimony about the defendant's access to firearms as a prerequisite for requiring firearm surrender in a final order is, in our view, a dangerous misinterpretation and misapplication of the law, particularly because under the Protect Rhode Island Families Act it is illegal for anyone subject to such a final order to possess a firearm, as discussed further in Appendix A: Legal Analysis.

Requiring survivors to seek firearm surrender as an additional requirement in an Order of Protection is bad policy that endangers survivors of domestic abuse and shifts the burden to someone who often does not know whether their abuser has access to a firearm—especially where the survivor does not live with the abuser and may never have lived with the abuser. Even where survivors do know that their abuser has a firearm, they may decide not to check the firearm surrender box on court forms for fear of retribution or because they do not have enough information to assess how much danger they face from an armed abuser.⁴³

Survivors also may not check the firearm surrender request box because the statutorily required language that appears on the Family Court's forms is unequivocally clear in stating that the firearm prohibition and surrender requirements will apply in all cases where a final Order of Protection is issued. Specifically, as required by the Protect Rhode Island Families Act,⁴⁴ the petition form that every plaintiff must complete to request an Order of Protection includes the following notification:

Notice Pursuant to G.L. 1956 § 15-15-3(c).

A person restrained under G.L. 1956 § 15-15-3(c) shall be ordered pursuant to G.L. 1956 § 11-47-5 to surrender possession of any firearms while the protective order is in effect; and shall be entitled to a hearing within fifteen (15) days of surrendering any firearms.

Recommendations

Everytown and Moms Demand Action recommend that judges ensure that every final Order of Protection explicitly prohibits the defendant from possessing firearms and requires the defendant to surrender all firearms in their possession. Further, we recommend that the Family Court revise its order forms to replace the firearm surrender checkbox on the final Order of Protection forms with a mandatory provision notifying the defendant that they are prohibited from possessing firearms and requiring the defendant to surrender all firearms in their possession. We further recommend that the checkbox on the petition form be amended to make clear that even if firearm surrender is not ordered at the temporary order stage, it is mandatory at the final order stage. For further discussion of firearm surrender at the temporary Order of Protection stage, see Appendices A and B.

These recommendations are consistent with the practice of other courts charged with protecting survivors of domestic violence. For example, the New Hampshire Circuit Court District Division has developed Domestic Violence Case Protocols requiring judges to include the firearm surrender requirement in every final Order of Protection.⁴⁵ In Tennessee, the petition for an Order of Protection form includes a pre-checked box indicating that firearm surrender is a mandatory condition of all final Orders of Protection.⁴⁶ Such examples provide models of best practices that the Rhode Island Family Court may find valuable.

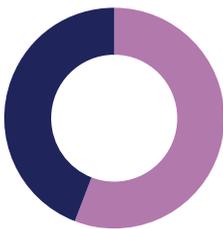
Judges rarely explained that defendants were prohibited from possessing firearms and required to surrender any firearms in their possession.

All defendants to a final Order of Protection are prohibited from possessing firearms under Rhode Island law—regardless of whether the judge has specifically ordered them to surrender their firearms. However, Family Court judges explained that the defendant was prohibited from possessing a gun for the duration of the final Order of Protection in only 18 percent of cases observed.⁴⁷

However, volunteers observed that judges were more likely to explain this condition in certain circumstances.⁴⁸

Factors associated with judges orally informing parties of firearm prohibition

Cases involving evidence that a weapon was used to threaten or harm



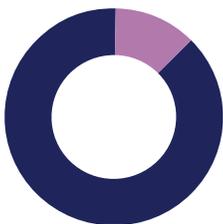
56%

Explained firearm prohibition

44%

Did not explain firearm prohibition

Cases without evidence of a weapon being used to threaten or harm



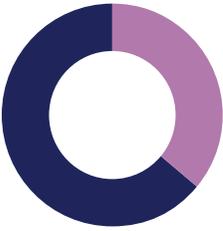
14%

Explained firearm prohibition

86%

Did not explain firearm prohibition

Cases with evidence the plaintiff had been physically harmed



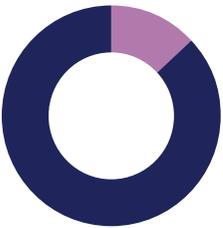
36%

Explained firearm prohibition

64%

Did not explain firearm prohibition

Cases without evidence the plaintiff had been physically harmed



13%

Explained firearm prohibition

87%

Did not explain firearm prohibition

Explaining these requirements in all final Order of Protection hearings may add a couple of minutes to the time that it takes judges to conclude each case. But this additional time is not onerous, provides the parties with critical information about their case, and is vitally important to protecting victims of abuse and disarming their abusers. An in-person, on-the-record explanation of the firearm prohibition and surrender requirements removes any question that both parties are aware that these requirements apply to every final Order of Protection. Critically, explaining the firearm prohibition and surrender requirement may deter the defendant from possessing firearms while subject to the order, and it demonstrates that the court and the community take this law seriously and will fully enforce its provisions in order to protect the plaintiff from further harm.⁵⁰

Failing to explain the firearm conditions unnecessarily places plaintiffs at additional and unnecessary risk, as they may know that the defendant continues to possess a gun but not understand that they can seek help from law enforcement or the courts to disarm their abuser while the order is in effect.⁵¹

The parties do receive a written Order of Protection from the court in all cases where an Order of Protection is issued. However, the information on this form may be confusing to many parties. For example, although all defendants to a final Order of Protection are prohibited from possessing a firearm (regardless of whether the judge specifically issues this order as a condition of an Order of Protection), the written notification is less than clear:

A person who violates this order may be guilty of a misdemeanor and may be punished by a fine of as much as one thousand dollars (\$1,000) and/or by confinement in jail for as long as one (1) year, and may be ordered to attend counseling.

Pursuant to the violence against women Act of 1994, 18 U.S.C. § 2265, as amended, this order is valid and enforceable, even without registration, by the courts of any state, the District of Columbia, the Commonwealth of Puerto Rico, any U.S. territory and on tribal lands. A person subject to this order who possesses, transports, or receives any firearms or ammunition may be subject to state and federal prosecution under 18 U.S.C. § 922(G) (8), as amended, punishable by up to ten (10) years in prison.

A plaintiff requested an Order of Protection including the firearm surrender requirement, explaining in her affidavit that the defendant had beaten her until she blacked out in front of their children. At the hearing, the judge issued an Order of Protection but did not include the firearm surrender requirement. Volunteers observed that the judge did not explain that the defendant was prohibited by state law from possessing a firearm for the duration of the order.

Another plaintiff requested an Order of Protection including the firearm surrender requirement, explaining in her affidavit that the defendant had recently been released on bail and was hiding a gun at another property. At the hearing, volunteers observed the judge explain that the defendant must surrender his guns within 24 hours or be held in contempt of court. The defendant filed the firearm surrender affidavit in compliance with the court order.

Recommendations

Everytown recommends that judges explain firearm restrictions pursuant to state and federal law to the parties, including by explaining when possession of a firearm by the defendant will be a crime under state law.

A full explanation of the firearm restrictions should include the following information:

- the defendant is prohibited from owning or possessing a firearm for the duration of any final Order of Protection;
- the defendant is required to surrender any firearms within 24 hours of such order being made;
- the defendant is required to return to court and file an affidavit within 72 hours of service of the order attesting either that they do not possess any firearms or that they surrendered their firearms;
- firearm surrender may be completed by transferring firearms to a designated set of recipients (limited to a law enforcement agency or a federally licensed firearm dealer, who may in turn transfer the firearm to a designated third party);
- failure to comply with the order to surrender firearms and file the firearm surrender affidavit is contempt of court and may constitute a violation of the Order of Protection, which is a misdemeanor punishable by a fine and/or imprisonment.

Other jurisdictions have developed useful resources to assist judges with communicating firearm prohibition and surrender requirements. For example, in Nashville, Tennessee, the Nashville Office of Family Safety has developed a bench card that prompts judges to orally explain important elements of the firearm surrender law, including the duration of the firearm prohibition and the time period for relinquishment of firearms.⁵² In Multnomah County, Oregon, defendants are provided with a “Frequently Asked Questions” document that answers questions about how, when, and where defendants must surrender their firearms.⁵³ In King County, Washington, defendants are shown a video prior to their hearing explaining the process.⁵⁴ The National Resource Center on Domestic Violence and Firearms recommends that defendants be provided with an instruction sheet describing the deadline and location to surrender firearms, surrender-process guidelines, and the type of proof required by the court.⁵⁵ Such examples provide models of best practices that the Rhode Island Family Court may find valuable.

Only a little more than one-third of defendants complied with the firearm surrender requirement.

In cases where the judge ordered the defendant to surrender their firearms, the defendant complied with this order—whether in a temporary or a final Order of Protection—by filing the required paperwork in only 36 percent of cases.⁵⁶

Defendants complying with the order to surrender their firearms



One defendant failed to surrender his firearm even though twice ordered to do so and even though the plaintiff submitted evidence that the defendant had beaten and strangled her while she was pregnant, threatened to get a gun and kill her, and was previously imprisoned for domestic violence. The judge granted a temporary Order of Protection that required the defendant to surrender his firearms, but the defendant did not comply with that order. At a subsequent hearing, volunteers observed that the defendant agreed to a final Order of Protection including the firearm surrender requirement, but the judge did not raise the fact that the defendant was in violation of the previous requirement to surrender his firearms. When we conducted a follow-up review of the court file, we learned that the defendant had never complied with the firearm surrender requirement.

Failure to monitor firearm surrender can have devastating consequences. Prior research has shown that when compliance with firearm surrender requirements is not monitored, abusers often continue to possess firearms, placing survivors at risk of serious injury or death, and that survivors of domestic violence who do not know whether their abuser has complied with the surrender order experience increased fear and uncertainty and decreased feelings of safety and well-being.⁵⁷

Judges can play a critical role in whether defendants comply with the order to surrender their firearms, promoting survivor safety.

During the study period, volunteers noticed a change in court practice, whereby court staff appeared to begin asking defendants on the day of their court appearance to file the firearm surrender affidavit. Our data show a corresponding statistically significant improvement in compliance over time. While the records for cases filed in 2018 included proof of firearm surrender 22 percent of the time, cases filed in 2019 included proof of firearm surrender 63 percent of the time.⁵⁸

We observed a promising improvement in defendants' compliance during the project, which appeared to be driven by improvements in judges' practice. In the small number of cases where the judge explained that the defendant was required to surrender their firearms, defendants were more likely to comply with the order by filing proof of firearm surrender or attesting that they did not own firearms—doing so in seven out of ten cases where the judge gave this explanation.⁵⁹

A plaintiff requested an Order of Protection without specifically requesting firearm surrender, explaining in her affidavit that the defendant had threatened to badly injure her.

At the hearing, the judge asked for more information about the threats, and the plaintiff testified that the defendant had threatened to shoot her and sent messages to her neighbor telling them not to be concerned if they heard gunshots. The judge granted the Order of Protection, including the firearm surrender requirement, and explained to the parties that the defendant must surrender his firearms. The defendant complied with the court's order.

Had the judge not asked this follow-up question, the court may not have been aware of the imminent threat from an armed abuser.

Judges can also facilitate compliance by inquiring about the presence of firearms. This practice provides judges with important information about specific risks to the plaintiff’s safety in each case.⁶⁰ However, volunteers observing cases found that only 25 percent of all cases included discussion of evidence about the defendant’s access to firearms.⁶¹ Failing to ask questions about firearms may endanger both survivors and law enforcement officers. It is critical that law enforcement officers receive as much information about the number and location of firearms in the defendant’s possession as can be obtained, so that they can properly prepare and protect themselves and the plaintiff when serving court orders and responding to any violent incidents.⁶²

Recommendations

Everytown and Moms Demand Action recommend that judges:

- take steps to ensure that defendants surrender their firearms when ordered to do so, including by monitoring case files, conducting compliance review hearings, and enforcing court orders with appropriate remedies; and
- inquire about the presence and location of firearms.

Under Rhode Island law, defendants must file proof of their compliance with the Rhode Island Family Court. This means that judges assigned to each case have information at their fingertips about whether the defendant complied with the court’s order. The court and individual judges can and should use this information to identify cases where the defendant has kept firearms in violation of the court order and require the defendant to comply with the order. For example, court clerks could ensure that Order of Protection cases are not marked as “closed” on court software if a firearm surrender affidavit is outstanding. Compliance hearings are already utilized by the Family Court in Order of Protection cases to determine compliance with other orders. They are also used in other jurisdictions to facilitate compliance with a court order to surrender firearms; for example, North Carolina’s best-practices guide for judges recommends that judges set compliance hearings where appropriate, particularly in circumstances where the defendant has not complied with a court order to surrender their firearms.⁶³

The National Council of Juvenile and Family Court Judges recommends that judges “establish a mechanism for monitoring respondents’ surrender or relinquishment of firearms and ammunition” and “conduct a compliance review hearing... [and] if the respondent fails to appear, issue a bench warrant.”⁶⁴ Similarly, courts in other jurisdictions have developed compliance monitoring processes. For example, in Multnomah County, Oregon, court administrators track cases where a timely firearm surrender affidavit is not filed with the court and forward a list of these individuals to law enforcement officers at least once per month.⁶⁵

The NCJFCJ further recommends that judges in Order of Protection cases “inquire as to the presence and location of firearms, including those possessed by family members or friends who may give the respondent direct or indirect access to firearms and ammunition.”⁶⁶ To facilitate compliance with court orders, we further recommend that the Family Court revise Order of Protection petition forms to include space for the plaintiff to describe the number, type, and location of all firearms owned or possessed by the defendant. In Nashville, Tennessee, court forms provide space for the plaintiff to include any known information about the defendant’s firearms, and the Nashville Office of Family Safety has developed a bench card that prompts judges to inquire about the presence and location of firearms.⁶⁷

Acknowledgments

Everytown for Gun Safety Support Fund and the Rhode Island chapter of Moms Demand Action for Gun Sense in America, the volunteer grassroots network of Everytown for Gun Safety Action Fund, gratefully acknowledge the assistance of the Rhode Island Family Court. The Court generously provided us with copies of court files, responded to requests for information, and allowed us the time to meet with court administrators and judges. We greatly appreciate the time and care taken by Court staff to assist us, and we hope that this report will in turn assist them in their important work to protect the safety of Rhode Islanders.

We are grateful to Ms. Denise Kronstadt and the Fund for Modern Courts for assisting us in designing and implementing this study.

Appendix A: Legal Analysis The Protect Rhode Island Families Act

For more than 20 years, federal law has generally prohibited firearm possession by people who are subject to a final court-ordered domestic violence Order of Protection.⁶⁸ But until the passage of the Protect Rhode Island Families Act, Rhode Island state law did not. Rhode Island judges were permitted to exercise discretion when deciding whether a domestic abuser subject to an Order of Protection should be prohibited from possessing firearms and required to relinquish any firearms in their possession. Judges rarely exercised this discretion: Domestic abusers who were subject to a final Order of Protection were ordered not to possess firearms in only 5 percent of cases, including only 13 percent of cases where there was written evidence of a firearm threat.⁶⁹

The Protect Rhode Island Families Act was intended to ensure that every final Order of Protection issued in Rhode Island would prohibit the defendant from possessing firearms and require the defendant to surrender any firearms in their possession for the duration of the order. Changes to the code and statements of legislative intent clearly indicate that the firearm conditions were meant to be made mandatory for all final Orders of Protection issued pursuant to chapter 15 of title 15 or chapter 8.1 of title 8.⁷⁰

When the bill was signed into law, the General Assembly published a press release celebrating the fact that the law would “prohibit gun possession by domestic abusers...subject to court-issued final protective orders, and ensure that all those subject to the prohibition actually turn in their guns when they become prohibited from possessing them.”⁷¹

Upon signing the legislation, Governor Gina Raimondo published a press release reiterating this important impact of the law, informing Rhode Islanders that the law “will require individuals with a final protective order issued against them or those convicted of a misdemeanor domestic violence offense to physically surrender their firearms within 24 hours.”⁷²

As summarized above in this report, research conducted by Everytown and the Moms Demand Action demonstrates that judges and administrators in the Rhode Island Family Court have not interpreted the law as requiring firearm surrender in every case. Judges continue to exercise discretion regarding whether they require the defendant to surrender all firearms in their possession. Judges fail to require the defendant to surrender their firearms in the majority of cases, despite unambiguous written notices on all Orders of Protection stating that all defendants to a final Order of Protection will be ordered to surrender their firearms.

Mandatory firearm prohibition pursuant to criminal law

The Protect Rhode Island Families Act amended R.I. Gen. L. § 11-47-5(b), inserting a new criminal prohibition against domestic abusers possessing firearms. The provision states: “No person shall purchase, carry, transport, or have in his or her possession any firearm if that person is subject to [an Order of Protection], which order was issued after the person restrained has received notice of the proceedings and had an opportunity to be heard.” The penalty for violating this law is imprisonment for no less than two years and no more than 10 years.⁷³

This criminal provision makes it abundantly clear that any abuser subject to an Order of Protection that was issued after they had notice and an opportunity to be heard is prohibited from possessing a firearm and will face criminal prosecution and imprisonment if they are found in possession of a gun. This provision applies to all domestic abusers subject to such an Order of Protection, regardless of what forms of relief were requested by the petitioner or whether the judge checks the firearm prohibition and surrender box on the Family Court Order of Protection form.⁷⁴ This means that if a defendant to a final Order of Protection fails to surrender their firearms, they will be subject to serious criminal penalties.

Mandatory firearm prohibition and surrender for final orders pursuant to civil law

Read together, the new notice provisions in § 15-15-3 and the above criminal prohibition (§ 11-47-5(b)) provide the clearest evidence that firearm prohibition and surrender are now mandatory features of all final Orders of Protection issued in Rhode Island Family Court.

Prior to the passage of the Protect Rhode Island Families Act, § 15-15-3(c) required the Family Court to include a notice on all forms requesting an Order of Protection informing the petitioner that “at the hearing for a protective order, the defendant *may be* ordered to surrender physical possession or control of any firearms and not to purchase or receive or attempt to purchase or receive any firearms for a period not to exceed the duration of the restraining order” (emphasis added).

The Protect Rhode Island Families Act amended this section to require the Family Court to notify petitioners that firearm surrender was now mandatory in all such cases, expressly directing that the Family Court “provide a notice on all forms requesting a protective order that a person restrained under this section *shall be* ordered pursuant to § 11-47-5 to surrender possession of any firearms while the protective order is in effect” (emphasis added).⁷⁵

Notice Pursuant to G.L. 1956 § 15-15-3(c)

A person restrained under G.L. 1956 § 15-15-3(c) shall be ordered pursuant to G.L. 1956 § 11-47-5 to surrender possession of any firearms while the protective order is in effect; and shall be entitled to a hearing within fifteen (15) days of surrendering any firearms.

This notice clearly announces to survivors of domestic violence who petition for Orders of Protection that every person restrained by an Order of Protection pursuant to § 11-47-5 will be ordered to surrender possession of their firearms while the order is in effect. As stated in the notice, surrender will be ordered in all cases pursuant to Rhode Island law and is not contingent upon any additional request or showing by petitioner.

The General Assembly made this change because it recognized the danger of the previous standard, which required petitioners to affirmatively request that firearm prohibition and surrender be included as conditions of an Order of Protection, forcing survivors to choose between the safety of firearm surrender and the potential risk of retribution for requesting additional relief.

In sum, there is no reason to think that the intended or actual effect of the Protect Rhode Island Families Act is to prohibit domestic abusers from possessing guns, impose steep penalties for those who do continue to possess guns, and notify all parties that abusers will be ordered to surrender their guns, while simultaneously permitting Family Court judges to regularly issue final Orders of Protection that trigger that prohibition but do not require the abuser to surrender their firearms. This practice serves only to place prohibited defendants in legal jeopardy and survivors of domestic abuse at risk of harm from an abuser armed with a gun.

Firearm prohibition and surrender for ex parte temporary and final Orders of Protection pursuant to civil law

While there are indications that the new law may have been intended to also require judges to order all defendants subject to a temporary Order of Protection to surrender their firearms, the text of the law is unclear as to whether this requirement applies in all temporary orders. Nonetheless, judges are clearly permitted to order defendants subject to a temporary Order of Protection to surrender their firearms. When a plaintiff files a petition for an Order of Protection, a Family Court judge may enter “any” temporary order that is “necessary” to protect the plaintiff, without notice to the defendant, provided that the judge has made a finding that “immediate and irreparable injury, loss, or damage will result to the plaintiff” before the defendant can be served.⁷⁶ It is clear that “any” order necessary to protect the plaintiff will often include a firearm surrender order.

The Protect Rhode Island Families Act made extensive changes to R.I. Gen. L. § 15-15-3, which governs the issuing of Orders of Protection by the Family Court.⁷⁷ Pursuant to § 15-15-3(a) of Rhode Island law, a survivor requesting an Order of Protection is entitled to seek an order that will “protect and support her or him from abuse.”

Under the amended law, the listed conditions of such an order may include requiring “the defendant to surrender physical possession of all firearms in his or her possession, care, custody, or control and shall further order a person restrained not to purchase or receive, or attempt to purchase or receive, any firearms while the protective order is in effect.”⁷⁸ Prior to the passage of the act, this section stated that a judge “may” order firearm surrender (i.e., may exercise discretion) when issuing an Order of Protection. The word “may” was removed, and in the next clause the word “shall” was added before the mandate to “order a person restrained not to purchase or receive...any firearms while the protective order is in effect,” suggesting that the General Assembly’s intention may have been to replace the court’s prior discretion with a new mandate.

The provision continues, “[t]he defendant shall surrender said firearms within twenty-four (24) hours of notice of the protective order to the Rhode Island state police or local police department or to a federally licensed firearm dealer.”⁷⁹ This requirement of surrender within 24 hours does not appear to be limited to defendants who have notice of a more limited class of discretionary surrender orders, but rather appears to apply to all defendants who receive notice that they are subject to an Order of Protection. While this section is not a model of precise legal drafting, this provision, too, may have been intended to require judges to include firearm surrender order in every order—temporary or final.

Further evidence supports this reading that the legislature may have intended the court to require firearm surrender at the earliest possible stage to protect survivors of domestic violence. For example, during debate on the Senate floor, Senator Stephen R. Archambault explained that under the proposed law, “if someone comes in with a restraining order, and they allege that there’s a threat, immediately there is going to be an ex parte order...[and] you have to turn the firearms in within 24 hours.”⁸⁰

At a minimum, the new law clearly anticipated that many, if not all, temporary Orders of Protection would include the firearm surrender requirement. The Protect Rhode Island Families Act introduced a new provision permitting defendants to request a hearing within 15 days of surrendering their firearms.⁸¹ This hearing would be redundant if the defendant had already appeared at a hearing regarding whether to issue an Order of Protection, which, as discussed above, must include a firearm surrender requirement. Its sole purpose appears to be to provide defendants who are required to surrender their firearms pursuant to a temporary, ex parte Order of Protection with an opportunity for a hearing before the final Order of Protection hearing takes place (which may occur up to 21 days after the temporary order is issued).

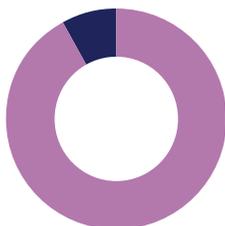
In sum, while the provisions of the Protect Rhode Island Families Act are unclear in their application to ex parte, temporary Orders of Protection, there are indications that suggest that firearm prohibition and surrender requirements may also have been intended to apply to every temporary Order of Protection issued by the Family Court.

Appendix B: Firearm Surrender in Temporary Orders of Protection

Family Court judges required firearm surrender in 41 percent of temporary Orders of Protection.⁸² Judges appeared to apply a strong presumption in favor of ordering firearm surrender only in cases where this was requested by the plaintiff or where there was evidence of a firearm threat.

Judges were more likely to require the defendant to surrender firearm in specific circumstances in temporary Orders of Protection

Plaintiff requested a surrender order



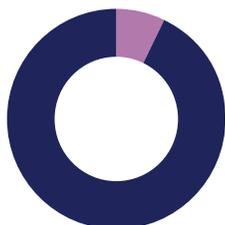
92%

Surrender order
issued

8%

Surrender order
not issued

Plaintiff did not request a surrender order



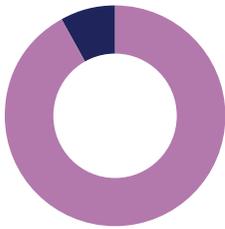
7%

Surrender order
issued

93%

Surrender order
not issued

Plaintiff submitted evidence about firearms



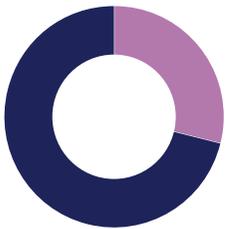
92%

Surrender order
issued

8%

Surrender order
not issued

Plaintiff did not submit evidence about firearms



29%

Surrender order
issued

71%

Surrender order
not issued

As explained above, requiring survivors of domestic violence to specifically request firearm surrender is bad policy. In addition, research demonstrates that requiring firearm surrender at the temporary Order of Protection stage saves lives. Survivors often seek domestic violence Orders of Protection during an extremely dangerous time in their lives—when leaving an abusive relationship. Research shows that when firearm prohibitions are applied at the temporary Order of Protection stage, and not solely at the final Order of Protection stage, the rate of domestic violence homicide decreases by 12 percent.⁸⁵

As the North Carolina Court of Appeals has explained, the ex parte stage of proceedings is the point at which the survivor of domestic violence “first confronts her abuser through legal means.”⁸⁶ The court explained that “given the extraordinary potential for violence in the period between entry of an ex parte order and a full hearing, especially when firearms are present,” waiting until the full hearing to issue a firearm surrender order “would prevent the State from protecting victims of domestic violence at a time when those protections are most required.”⁸⁷

There is also research suggesting that going to court to obtain an Order of Protection is a very risky time for survivors of domestic violence. In one study in California, about 20 percent of female victims of intimate partner homicides who had a domestic violence Order of Protection were killed within two days of the order being granted—demonstrating that judges who ensure that domestic abusers are disarmed at all stages of the proceedings can be critical in saving women’s lives.⁸⁸

Recommendations

To the extent that the Rhode Island Family Court continues to read the law to permit judicial discretion at the temporary order stage, at a minimum the Family Court should: (1) revise the check box on the petition form to clarify that by checking the box, the petitioner is requesting surrender for the duration of the temporary order (and if a final order is issued, surrender will become mandatory), (2) seek as much information about firearm risk as possible at the ex parte stage, (3) apply a strong presumption in favor of firearm surrender at the temporary order stage whenever there is evidence of firearm access or of risk of physical injury, and (4) follow the lead of courts in other states such as New Hampshire, which have devised a protocol and set of criteria to ensure consistency when the court is deciding whether to require firearm surrender at the temporary order stage.⁸⁹

Appendix C:

Methodology

To understand whether Rhode Island's domestic violence firearm surrender law was being implemented effectively, Everytown and Moms Demand Action established a court monitoring program in the Rhode Island Family Court. Prior to the commencement of the program, Everytown attorneys met with representatives of the Family Court to discuss implementation of the law and the court monitoring project. By invitation, Everytown attorneys attended a meeting of the Rhode Island Family Court judges to discuss the Protect Rhode Island Families Act and the court monitoring program.

Between October 15, 2018, and May 24, 2019, 22 volunteers attended the Rhode Island Family Court periodically and monitored domestic violence Order of Protection cases. Volunteers received training in Rhode Island's domestic violence laws and court practice, delivered by attorneys with expertise in Rhode Island and general family court and domestic violence law. Training was delivered in a classroom environment and in courthouses, where volunteers were accompanied by an attorney to an introductory court-monitoring shift. Volunteers then signed up for shifts at any of the four Rhode Island Family Court courthouses, located in Providence, Kent, Newport, and Washington counties.

Volunteers attended court for approximately two hours per shift and took notes for each of the hearings they observed.

Volunteers completed a survey for each case where the judge conducted a hearing (i.e., they did not complete a survey if the case was dismissed without a hearing, such as a dismissal for failure to appear, as the purpose of the research was to learn about what occurred during these hearings). At the conclusion of each shift in court, volunteers submitted their observations using an online survey tool. Every observation was reviewed and coded by an attorney.

Between October 15, 2018, and May 24, 2019, volunteers observed a total of 289 unique domestic violence Order of Protection case hearings. Additionally, with the generous and substantial assistance of the Family Court, Everytown attorneys obtained copies of the case files in 165 unique domestic violence Order of Protection cases that had at least one court hearing during the study period. Case files were reviewed and coded, and the data were analyzed. Of these 165 case files, 115 were matched with volunteer observation data for that case. This sample size was chosen to ensure that statistically significant data could be presented.

The majority of cases analyzed took place in the Providence and Kent registries of the Rhode Island Family Court. This sample of cases roughly represents the distribution of total domestic violence cases in the state.

Cases observed and files analyzed during the project, by county

	Providence	Kent	Washington	Newport	Total
Cases Observed	217	67	3	2	289
Court files reviewed	113	34	11	7	165
Matched observations and court files	87	25	1	2	115

During our study period, official data show that the Providence registry accounted for 80 percent of all domestic violence Order of Protection cases in the state, followed by Kent (15%), Washington (3%) and Newport (2%).

This study design has some limitations. The first is that there is no publicly accessible listing of domestic violence Order of Protection hearings in the Rhode Island Family Court available online. As a result, volunteers could not know how many cases would be scheduled on any given day before arriving at court and thus could not plan visits to maximize the number of cases that would be seen. While hearings occurred regularly at the Providence and Kent courthouses, volunteers who attempted to observe cases at the Newport and Washington courthouses often found that no cases were listed for the day they had chosen to observe, due to the very small numbers of hearings conducted at those courthouses. Second, on any given day, court staff print a physical list of cases that will be heard in the court that day; however, this physical list omits all cases that include a minor as a protected party in a case. Thus, even when volunteers did access a printed list of cases upon arriving at the courthouse, this list omitted an estimated 30-50 percent of the cases that were listed for a hearing that day. As a result, we were not able to match as many observations to court files.

1. Sharon G. Smith et al., "The National Intimate Partner and Sexual Violence Survey (NISVS): 2015 Data Brief—Updated Release," Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, November 2018, <https://bit.ly/2DbvSSS>.
2. Uniform Crime Reporting Program: Supplementary Homicide Reports (SHR), 2013 to 2017, Washington, DC: US Department of Justice, Federal Bureau of Investigation.
3. Susan B. Sorenson and Rebecca A. Schut, "Nonfatal Gun Use in Intimate Partner Violence: A Systematic Review of the Literature," *Trauma, Violence & Abuse* 19, no. 4 (October 2018): 431-442.
4. *Ibid.*
5. Jacquelyn C. Campbell et al., "Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study," *American Journal of Public Health* 93, no. 7 (July 2003): 1089-1097.
6. April M. Zeoli et al., "Analysis of The Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and Their Associations with Intimate Partner Homicide," *American Journal of Epidemiology* 187, no. 11 (November 2018): 2365-2371.
7. Court records are on file with the authors. The defendant was also subject to proceedings in the District Court of Rhode Island, and would have been prohibited from possessing a gun under federal law. 18 U.S.C. 922(g)(8).
8. Brooke Taylor, "Victim of Murder-Suicide Describes Fear of Estranged Husband in Restraining Order," ABC6 (Providence, Rhode Island), August 26, 2019, <https://www.abc6.com/story/40965215/victim-of-murdersuicide-describes-fear-of-estranged-husband-in-restraining-order>.
9. Accordingly, Orders of Protection issued at interim stages of a proceeding and without findings of fact or admissions were excluded from analysis of final Orders of Protection. While many such orders may meet the legal threshold for a "final Order of Protection" (i.e. an Order of Protection issued after notice to the defendant and the opportunity for a hearing), there was insufficient information to determine whether the defendant in each case had received an opportunity to be heard.
10. R.I. Gen L. § 11-47-5(b).
11. R.I. Gen L. § 11-47-5(d).
12. State of Rhode Island General Assembly, "Domestic Violence Gun Safety Legislation Signed by Governor," press release, October 30, 2017, <http://bit.ly/2MsNVBG>.
13. Office of the Governor [Rhode Island], "Raimondo Ceremonially Signs Legislation Prohibiting Domestic Abusers from Possessing Firearms" (press release, October 30, 2017), <https://www.ri.gov/press/view/31856>.
14. 15-15-3(a)(4), (c). Emphasis added.
15. See Appendix A: Legal Analysis.
16. R.I. Gen L. §§ 15-15-3, 15-15-4.
17. R.I. Gen L. § 15-15-3(4).
18. R.I. Gen L. § 15-15-3(4)(i).
19. The dataset drawn from court files was matched with the dataset drawn from in-court observations to create a third dataset of information drawn from both cases where information was available from both an in-court observation and the court file.
20. See, e.g. State of Rhode Island General Assembly, "Domestic Violence Gun Safety Legislation Signed by Governor," press release, October 30, 2017, <http://bit.ly/2MsNVBG>; Office of the Governor [Rhode Island], "Raimondo Ceremonially Signs Legislation Prohibiting Domestic Abusers from Possessing Firearms" (press release, October 30, 2017), <https://www.ri.gov/press/view/31856>.
21. Analysis of includes 79 records where a final Order of Protection was issued by the Family Court of Rhode Island. Analysis of cases prior to the passage of the Protect Rhode Island Families Act is published in *Everytown for Gun Safety, Domestic Abuse Protective Orders and Firearm Access in Rhode Island*, June 2015, <https://everytown.org/documents/2015/06/rhode-island-dv-whitepaper.pdf>. Note that cases studied prior to the Protect Rhode Island Families Act includes cases determined in both the Family Court of Rhode Island and the District Court of Rhode Island.
22. *Everytown for Gun Safety, Domestic Abuse Protective Orders and Firearm Access in Rhode Island*, June 2015, <https://everytown.org/documents/2015/06/rhode-island-dv-whitepaper.pdf>.
23. Analysis includes 79 records where a final Order of Protection was issued.
24. Analysis includes 79 records where a final Order of Protection was issued. Between-group differences are statistically significant ($p < .001$).
25. Analysis includes 73 records of cases where an Order of Protection including a firearm surrender order was issued (whether at the temporary or final stage of proceedings).
26. Analysis includes 69 records of cases where the petition was filed in 2018 or 2019 and where a surrender order was made. Between-group differences are statistically significant ($p < .05$).
27. Emilie Meyer, "Civil Protection Orders: A Guide for Improving Practice," National Council of Juvenile and Family Court Judges (2010): 20-21, https://www.ncjfcj.org/sites/default/files/cpo_guide.pdf.
28. Family Court of Rhode Island, Form FC-79, Complaint for an Order of Protection (revised April 2018). <https://www.courts.ri.gov/PublicResources/forms/Family%20Court%20Forms/Complaint%20for%20an%20Order%20of%20Protection.pdf>
29. R.I. Gen. Laws 15-15-4(a)(2).
30. R.I. Gen. Laws 15-15-4(a)(2).
31. The rate at which judges issued temporary Orders of Protection varied between the counties; for example, judges in Providence County issue temporary Orders of Protection in approximately 74 percent of cases, whereas judges in Kent County issue temporary Orders of Protection in approximately 90 percent of cases. *Everytown for Gun Safety* wrote to the Rhode Island Family Court requesting data regarding the number of cases filed during the study period and number of cases in which a temporary Order of Protection was issued. The Rhode Island Family Court provided this data via letter dated June 12, 2019. Data was provided for a snapshot in time (October 15, 2018 to May 24, 2019).
32. Family Court of Rhode Island, *Ex Parte* Temporary Order for Protection From Abuse. (form provided to *Everytown for Gun Safety* by Family Court of Rhode Island personnel, October 2018).

33. This order lasts for up to one year where the order involves a minor, and for up to three years where the order involves adults.
34. The rate at which judges issued temporary Orders of Protection varied between the counties; for example, in Kent County, judges issue a final Order of protection approximately 59 percent of cases, compared with 36 percent of cases in Providence County. Everytown for Gun Safety wrote to the Family Court of Rhode Island requesting data regarding the number of cases filed during the study period and number of cases in which a temporary Order of Protection was issued. The Family Court of Rhode Island provided this data via letter dated June 12, 2019.
35. Family Court of Rhode Island, Ex Parte Temporary Order for Protection From Abuse. (form provided to Everytown for Gun Safety by Family Court of Rhode Island personnel, October 2018)
36. R.I. Gen L. § 15-15-3(a)(4), (c).
37. R.I. Gen L. § 15-15-3(a)(4)(i).
38. R.I. Gen L. § 15-15-3(d). Firearms may not be returned to the defendant if they are otherwise prohibited from legally possessing them.
39. R.I. Gen L. § 15-15-3(m),(n); 12-29-5, 11-47-5(d).
40. Analysis includes 79 records of cases where a final Order of Protection was made.
41. Analysis includes 79 records where a final Order of Protection was issued. Between-group differences are statistically significant ($p < .001$).
42. Analysis includes 77 records of cases where an Order of Protection was made, analysis excludes cases where researchers could not determine whether the petition included evidence of firearm possession. Between-group differences are statistically significant ($p < .001$).
43. Darren Mitchell and Susan Carbon, "Firearms and Domestic Violence: A Primer for Judges," Court Review 39, no. 2 (Summer 2002): 39; Daniel W. Webster et al., "Women with Protective Orders Report Failure to Remove Firearms from Their Abusive Partners: Results from an Exploratory Study," Journal of Women's Health 19, no. 1 (January 2010): 97; Shannon Frattaroli and Stephen P. Teret, "Understanding and Informing Policy Implementation: A Case Study of the Domestic Violence Provisions of the Maryland Gun Violence Act of 1996," Evaluation Review 30, no. 3 (June 2006): 353.
44. R.I. Gen L. § 15-15-3(c).
45. Tennessee State Courts. Petition for an Order of Protection, http://www.tncourts.gov/sites/default/files/docs/final_petition_4-30-18.pdf
46. Tennessee State Courts. Petition for an Order of Protection, http://www.tncourts.gov/sites/default/files/docs/final_petition_4-30-18.pdf
47. Analysis includes 106 observed cases where a final Order of Protection was issued; analysis excludes cases where the volunteer was "unsure" about whether firearm-related testimony was presented, cases that resulted in temporary orders, and cases that were continued, vacated, withdrawn, unrelated, or where the volunteer was "unsure" of the case type.
48. Analysis includes 106 observed cases where a final Order of Protection was issued; analysis excludes cases where the volunteer was "unsure" about whether firearm-related testimony was presented, cases that resulted in temporary orders, and cases that were continued, vacated, withdrawn, unrelated, or where the volunteer was "unsure" of the case type. Between-group differences are statistically significant ($p < .05$).
49. Analysis includes 106 observed cases where a final Order of Protection was issued; analysis excludes cases where the volunteer was "unsure" about whether firearm-related testimony was presented, cases that resulted in temporary orders, and cases that were continued, vacated, withdrawn, unrelated, or where the volunteer was "unsure" of the case type. Between-group differences are statistically significant ($p < .05$).
50. Darren Mitchell and Susan Carbon, "Firearms and Domestic Violence: A Primer for Judges," Court Review 39, no. 2 (Summer 2002): 40.
51. Daniel W. Webster et al., "Women with Protective Orders Report Failure to Remove Firearms from Their Abusive Partners: Results from an Exploratory Study," Journal of Women's Health 19, no. 1 (January 2010): 97.
52. Nashville Metro Office of Family Safety, Firearms Disposition Bench Card (document provided to Everytown for Gun Safety by Office of Family Safety personnel, April 23, 2019).
53. "Surrender and Return of Firearms in Multnomah County." Available online as Appendix B to Prosecutors Against Gun Violence, Firearm Removal/Retrieval in Cases of Domestic Violence, February 2016, <http://efsgv.org/wp-content/uploads/2016/02/Removal-Report-Updated-2-11-16.pdf>.
54. King County City Government, "Surrendering Firearms in King County", April 11, 2018, https://www.youtube.com/watch?time_continue=1&v=hPduCME6qVc.
55. National Resource Center on Domestic Violence and Firearms, "Surrender and Seizure Process, Including Compliance Monitoring", <https://www.preventdgvnviolence.org/community-strategies/civil/civil-process.html?step=surrender-and-seizure-process-including-compliance-monitoring>.
56. Analysis includes 72 records of cases where a temporary or final Order of Protection including a firearm surrender order was issued.
57. Daniel W. Webster et al., "Women with Protective Orders Report Failure to Remove Firearms from Their Abusive Partners: Results from an Exploratory Study," Journal of Women's Health 19, no. 1 (January 2010): 96-98.
58. Analysis includes 69 records of cases where the petition was filed in 2018 or 2019 and where a surrender order was made. Between-group differences are statistically significant ($p < .05$).
59. Analysis includes 10 cases for which the researchers were able to match records to observations and cases in which an Order of Protection was issued or continued and the judge was observed to have explained the firearm surrender requirement in one of the hearings in the case; analysis excludes cases where the volunteer was "unsure" about whether the judge verbally informed the parties of the requirement to surrender.
60. Kathryn E. Moracco et al., "Preventing Firearm Violence among Victims of Intimate Partner Violence: An Evaluation of a New North Carolina Law," research report submitted to the US Department of Justice by Pacific Institute for Research and Evaluation, Chapel Hill, NC, (August 18, 2006): 52.

61. Analysis includes 255 observed cases; analysis excludes cases where the volunteer was "unsure" about whether firearm-related testimony was presented and excludes cases that were vacated, withdrawn, or where the volunteer was unsure of the case type. Value includes cases where the judge did not need to inquire about the presence of firearms, because this had already been addressed by an attorney or a party in the case.
62. Kathryn E. Moracco et al., "Preventing Firearm Violence among Victims of Intimate Partner Violence: An Evaluation of a New North Carolina Law," research report submitted to the US Department of Justice by Pacific Institute for Research and Evaluation, Chapel Hill, NC, (August 18, 2006): 52.
63. North Carolina Administrative Office of the Courts, "North Carolina Domestic Violence Best Practices Guide for District Court Judges," (June 2012): 56, https://www.sog.unc.edu/sites/www.sog.unc.edu/files/course_materials/DVBestPracticesGuide.pdf
64. Emilie Meyer, "Civil Protection Orders: A Guide for Improving Practice," National Council of Juvenile and Family Court Judges (2010): 20, https://www.ncjfcj.org/sites/default/files/cpo_guide.pdf.
65. "Memorandum of Understanding between the Multnomah County Circuit Court, Multnomah County District Attorney, and Portland Police Bureau," September 2014. Available online as Appendix A to Prosecutors Against Gun Violence, Firearm Removal/ Retrieval in Cases of Domestic Violence (February 2016), <http://efsgv.org/wp-content/uploads/2016/02/Removal-Report-Updated-2-11-16.pdf>.
66. Emilie Meyer, "Civil Protection Orders: A Guide for Improving Practice," National Council of Juvenile and Family Court Judges (2010): 20-21, https://www.ncjfcj.org/sites/default/files/cpo_guide.pdf. See also: Emily J. Sack, "Confronting the Issue of Gun Seizure in Domestic Violence Cases," *Journal of the Center for Families, Children & the Courts* 6 (2005): 18.
67. Nashville Metro Office of Family Safety, Firearms Disposition Bench Card (document provided to Everytown for Gun Safety by Office of Family Safety personnel, April 23, 2019).
68. 18 U.S.C. 922(g)(8), (9). Federal law does not require these abusers to relinquish their firearms when they become prohibited from having them.
69. Everytown for Gun Safety, Domestic Abuse Protective Orders and Firearm Access in Rhode Island, June 2015. <https://everytown.org/documents/2015/06/rhode-island-dv-whitepaper.pdf/>
70. While there are arguably ambiguities in the law regarding temporary, ex parte orders, the changes made to the Rhode Island code leave no doubt that these firearms conditions are mandatory for all final Orders of Protection.
71. State of Rhode Island General Assembly, "Domestic Violence Gun Safety Legislation Signed by Governor" (press release, October 30, 2017). http://www.rilin.state.ri.us/pressrelease/_layouts/RIL.PressRelease.ListStructure/Forms/DisplayForm.aspx?List=c8baae31-3c10-431c-8dcd-9dbbe21ce9&ID=13261.
72. Office of the Governor [Rhode Island], "Raimondo Ceremonially Signs Legislation Prohibiting Domestic Abusers from Possessing Firearms" (press release, October 30, 2017), <https://www.ri.gov/press/view/31856>.
73. R.I. Gen. L. § 11-47-5(d).
74. The checkboxes on the petition and Order forms are relics of the state's previous discretionary approach to firearm prohibition and surrender and should be updated to accurately reflect the recent changes to Rhode Island law.
75. 15-15-3(a)(4), (c). Emphasis added.
76. R.I. Gen. L. § 15-15-4(2).
77. Associated changes were also made to R.I. Gen. L. § 8-8-1-3.
78. R.I. Gen. L 15-15-3(a)(4).
79. R.I. Gen. L 15-15-3(a)(4). Emphasis added.
80. Capitol TV, The Senate Committee on Judiciary, aired June 30, 2017, see: Senator Stephen R. Archambault remarks, at time stamp 10:26, <http://ritv.devosvideo.com/show?video=503be2ecd803&pg=234d9d19>.
81. R.I. Gen. L. § 15-15-3(b).
82. Analysis includes 155 records of cases where a temporary Order of Protection was made.
83. Analysis includes 155 records of cases where a temporary Order of Protection was made. Between-group differences are statistically significant ($p < .001$).
84. Analysis includes 149 records of cases where an Order of Protection was made, analysis excludes cases where researchers could not determine whether the petition included evidence of firearm possession. Between-group differences are statistically significant ($p < .001$).
85. April M. Zeoli et al., "Analysis of The Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and Their Associations with Intimate Partner Homicide," *American Journal of Epidemiology* 187, no. 11 (November 2018): 2365-2371.
86. State v. Poole, 228 N.C. App. 248, 263; 745 S.E.2d 26, 2013 N.C. App. LEXIS 716, 2013 WL 3305328.
87. Id.
88. Katherine A. Vittes and Susan B. Sorenson, "Restraining Orders among Victims of Intimate Partner Homicide," *Injury Prevention* 14, no. 3 (June 2008): 191-195.
89. New Hampshire Judicial Branch, Circuit Court District Division, Domestic Violence Case Protocols (2013), "Chapter 14—Firearms and Other Deadly Weapons in Civil Protective Order Cases," <https://www.courts.state.nh.us/district/protocols/dv/>.

November
2019