

STOP Purpose Area 14: Implementing Policy Change within the STOP Program



Marnie Shiels
Attorney Advisor
US Department of Justice
Office on Violence Against
Women (OVW)



Kevin Hinote
Criminal Justice Planning
Specialist
Hawaii Attorney
General's Office



**Lt. Valerie Martinez-
Jordan**
Lafourche Parish
Sheriff's Office

What does Purpose Area 14 mean?

- General provision:
- Use federal funds to collaborate with and provide information to federal, state, local, tribal and territorial public officials and agencies to develop, implement, and promote policies/ legislation or model codes.
- STOP: develop and promote state, local, or tribal legislation and policies that enhance best practices for responding to the 4 crimes

What can't you do under Purpose Area 14?

- Funds cannot be used to pay any person to influence (or attempt to influence) a federal agency, or Congress (Member, or an official or employee) about awarding or modifying a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan.

• ***Exceptions: some exist, including for tribes and tribal organizations*

What is authorized?

- **Collaborating with/providing information to** public officials and agencies to develop, implement, and promote **best practices** (VAWA general provision 34 U.S.C. 12291(b)(3))
- **Developing and promoting** legislation and policies that **enhance best practices for responding** to domestic violence, dating violence, sexual assault, and stalking (STOP purpose area 34 U.S.C. 10441(b)(14))
- **Examples**

If you're unsure or have questions...

- Contact OVW for guidance, and seek written approval from OVW before you move forward

NOTE: penalties for violation are fines of minimum \$10,000 per occurrence

Statewide Policy Change and Firearm Divestiture in Louisiana

Firearms
Surrender
Statewide

THEN A
MIRACLE
OCCURS...

ACT
367

J. Harris

"I THINK YOU SHOULD BE MORE EXPLICIT HERE IN STEP TWO."

Why Divestiture Became a Top Priority

- Implementation planning
 - “Goals and objectives for reducing domestic violence-related homicides within the state, including available statistics on the rates of domestic violence homicide within the state and challenges specific to the state and how the plan can overcome them.”

Principle Issues

- Louisiana had several laws on the books that already addressed prohibited possessors. **These laws mirrored the Federal Statutes:**
 - A qualifying conviction for misdemeanor domestic violence
 - A qualifying protective order
 - The term qualifying was important due to the language in Federal statutes
- With these laws in place there was no mechanism from statute or procedure in the state to actually enforce these laws.
 - This was a huge legal hole.

Federal DV-Related Firearm Prohibitions

18 U.S.C. § 922(g)(8)

- Qualifying Protective Orders must have relationship, intimate partner or child of intimate partner.
- Must prohibit certain acts such as harassing, stalking, or threatening placing person in reasonable fear of injury.
- Order must have been issued after hearing, person had notice and opportunity to participate
- Must find a credible threat to Qualifying person or prohibit certain acts
- *Exception for military and law enforcement*

• 18 U.S.C. § 922(g)(9)

- Conviction of a misdemeanor crime of domestic violence means an offense that need not be classified as a “*domestic*” crime as long as offense involves a :
- Is a misdemeanor under federal, state, or tribal law;
- Has an element, the use or attempted use of physical force, or the threatened use of a deadly weapon
- Was committed by a current, former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similar situated to a spouse, parent or guardian of the victim.
- *NO exception for military and law enforcement*

Louisiana DV-Related Firearm Possession Prohibitions

- **R.S. 46:2136.3** Prohibition on the possession of a firearm and Concealed Weapon by a person against whom a protective order is issued (CIVIL)
 - Qualifying Protective Orders or Permanent Injunctions
 - Defendant poses credible threat to physical safety
 - Involves specific relationship to victim, family member , household member or dating partner.
 - Defendant given notice and opportunity to participate in contradictory hearing
 - Prohibition state and federal is identified in Protective Order
 - **Includes or carrying of a concealed weapon***
- **R.S. 14:95.10** Possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner (CRIMINAL)
 - Domestic Abuse Convictions
 - Certain Dating Partner Battery Convictions

Objectives and Hoped-for Outputs and Outcomes

- Additionally and more thought out objectives:
 - Statewide plan
 - Funding!
 - Training
 - Pilot Program
 - Implementation
 - Follow up and revision
 - Statewide Legislation

The Winding Path to the Idea

- This idea gained traction at DV conference where Darren Mitchell, then-Co-Executive Director of the Legal Resource Center on Violence Against Women, spoke about firearms and domestic violence
- Dave Keck, Director of the National Resource Center on Domestic Violence and Firearms
 - Dave helped create the Wisconsin statewide plan for firearms divestiture
- Louisiana Attorney General's Office
- The Lafourche Parish Sheriff's Office



Strategies and Approaches Used

- Get permission – (appropriate buy-in)
 - Supervisor: Rutha Chatwood
 - Executive Director: Chief Jim Craft
- Establish goal:
 - Statewide implementation of a firearms surrender
- Find allies – (appropriate buy-in)
 - Victim Services
 - Law Enforcement
 - Prosecution
 - Judicial
 - Executive Branch (Governor's Office)
- Start talking and listening
- Have no fear

Partnerships that Helped Make this Initiative Successful

- Starting Small (Keeping it small)
 - Lt. Martinez-Jordan
 - Tracy Farris Dahmer
 - Expanding circle only when we had no other choice
- Locating subject matter experts (allies)
 - Using my STOP grantees
 - Lafourche Parish Sheriff's Office - Sherriff Craig Webre
 - LCADV – Executive Director Mariah Wineski
 - Director of Women's Policy for the Governor - Dr. Shanta Proctor
- Have no fear

The Partnerships Were Key to Opening Additional Opportunities

- The Governor's Commission on the Prevention of Domestic Violence
 - It was proposed that the Commission write a white paper on the current state of firearms surrender in the state
 - The Report would be part of the statutorily mandated report that the commission had to provide to the Governor, and Presidents of the House and Senate.

Data and Models Researched

- There was little to no information within Louisiana on IPH
- Most data collected from the Violence Policy Center (www.vpc.org)
 - Since 1998, Louisiana ranked in the top 10 in all but two of those years
 - On average 60% of women killed in Louisiana are killed by firearms.
- There were numerous programs in various places across the US.
 - Wisconsin pilot program
 - King County, WA
 - DeKalb County, GA
 - San Diego, CA
 - Dallas County, TX

How to Divide Up Work Among Partners

- Know your weaknesses and strengths
- Know your partner's weaknesses and strengths
- Hold each other accountable
 - Assignment of duties to each partner and routine follow-ups
- Set a flexible deadline / Set a firm deadline
- Trust your partners
- Support your partners
- Always give credit to someone else

Advantages and Disadvantages to the Partnership Approach

- Advantages
 - Small group meant maximum flexibility
 - Quick reactions and decision making
 - Easy to maintain inertia
- Disadvantages
 - Limited knowledge
 - Limited diverse points of view
 - Loss of a member is difficult to overcome

Lessons Learned

1. Have no fear
2. Make use of the people you know
3. Start small
4. Advocate for the advocates
5. Open doors
6. Facilitate
7. Find those that share the same passion

Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has.

Margaret Mead

Divestiture Implementation

Act 367:Firearm Transfer Legislation

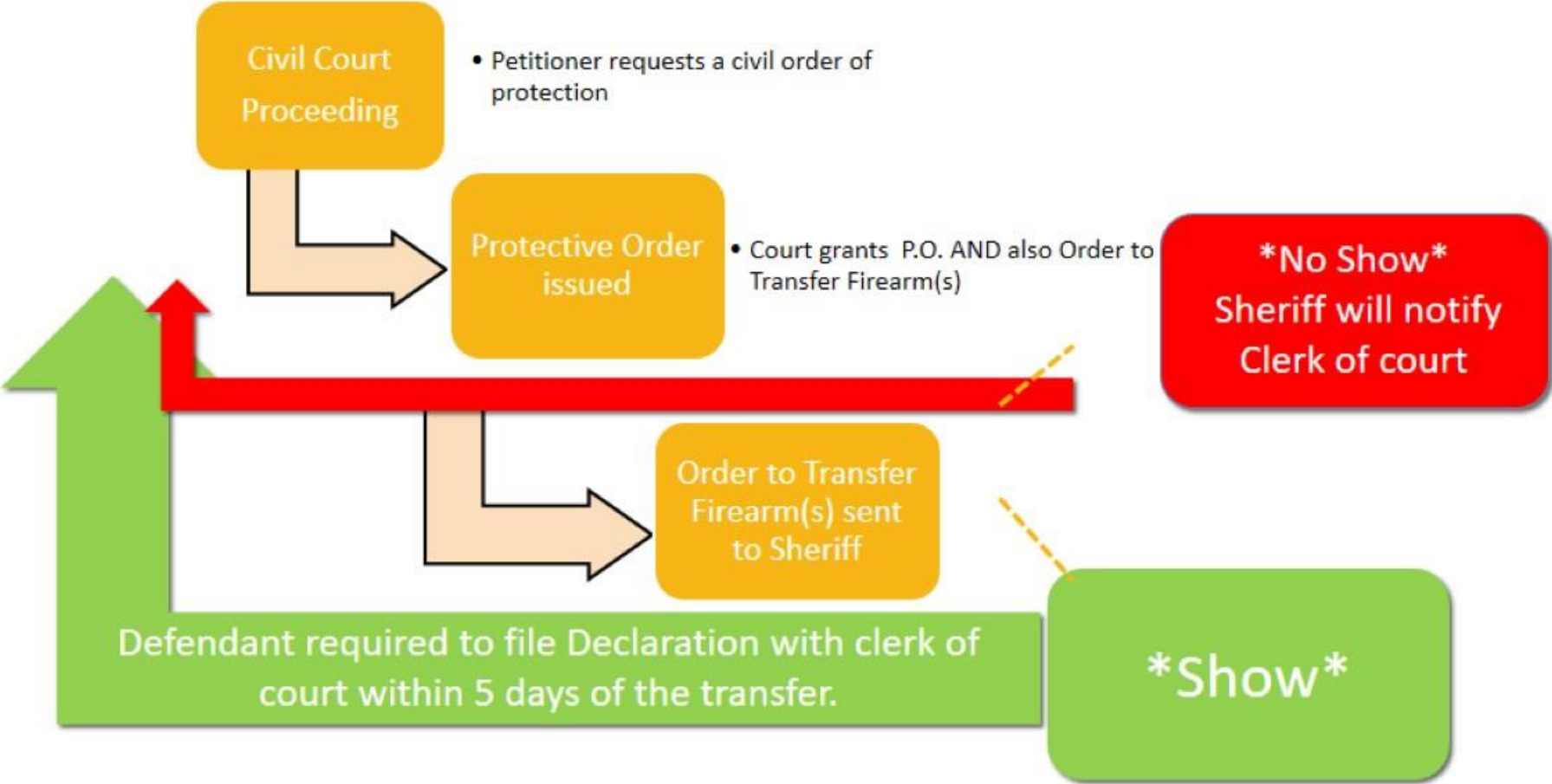
Legislation simplified into flow charts and forms

CIVIL

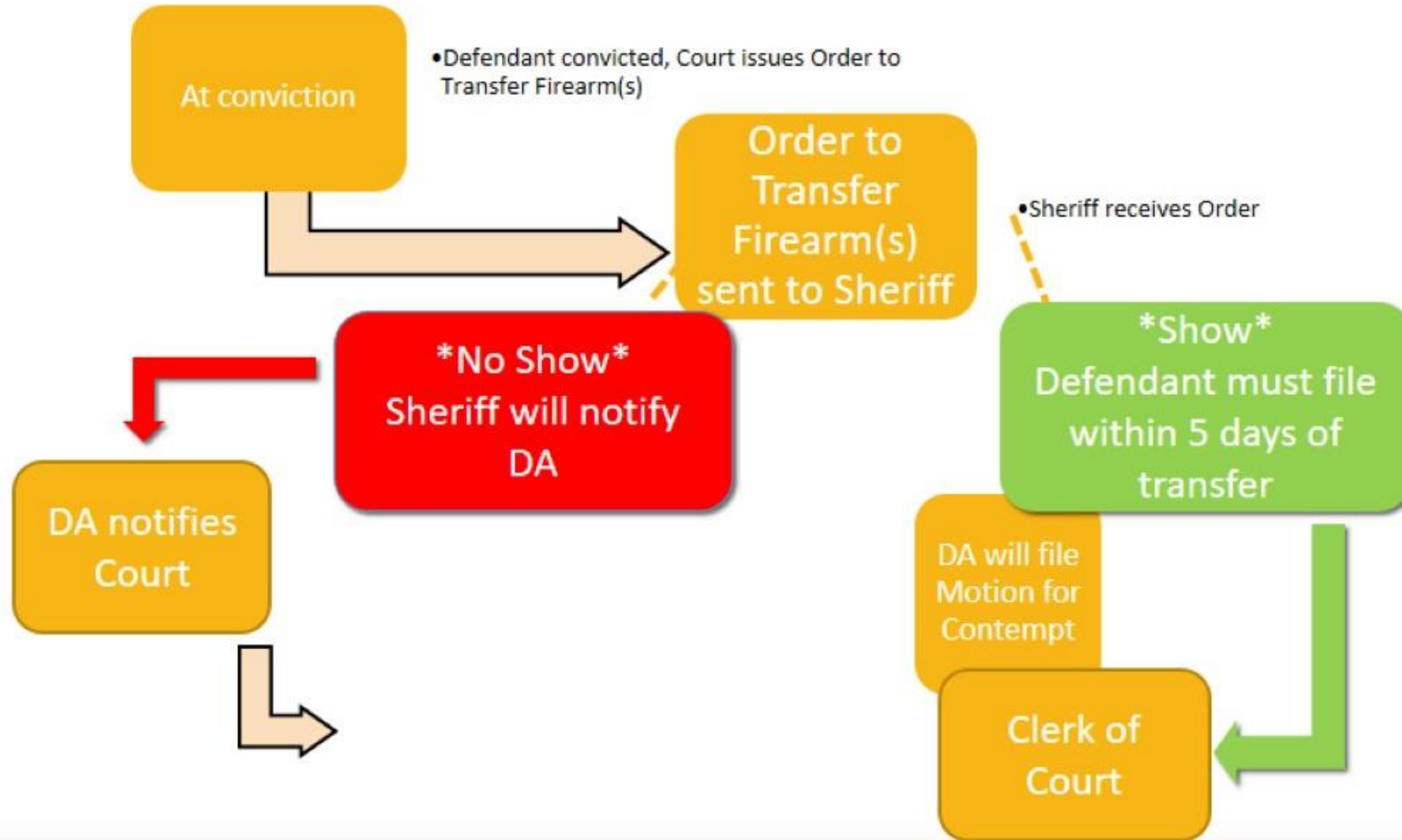
CONVICTION

ARREST

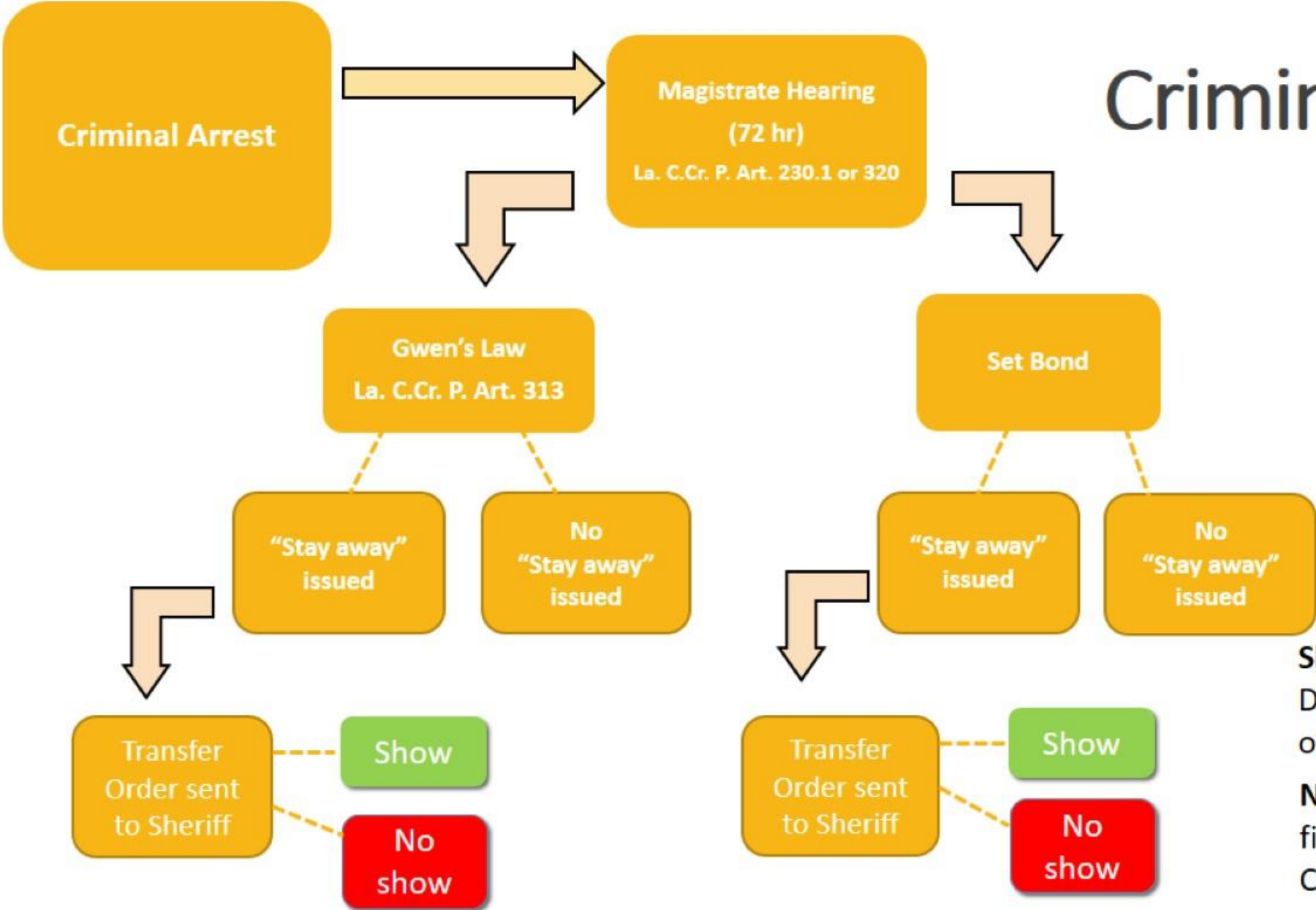
Civil



Criminal Conviction



Criminal Arrest



Show = Defendant files Declaration with issuing Clerk of Court

No show = Sheriff notifies DA, DA files Motion for Contempt with Clerk of Court

Illegal Transfer of a Firearm to a Prohibited Possessor

La. R.S. 14:95.1.4

NEW (Waffle House Law)

- Is the intentional giving, selling, donating, lending, delivering, or otherwise transferring a firearm to any person known to the offender to be a person prohibited from possessing under state and federal law.
- Penalties-
 - Fine of not more than \$2500 imprisoned for not more than 1 year, or both.

Collaboration

- Courts / Judges
- District Attorney
- Clerk of Court
- Law Enforcement

COURTS: Judicial Notification to Respondents/Defendants

- While under oath, the Court:
 - Explains the prohibition on the possession of firearms/firearm ammunition by a person against whom a permanent injunction or protective order is issued or a qualifying conviction(both state and federal laws)
 - Asks if the litigant possesses any firearms/firearm ammunition and if so, how the litigant intends to dispossess himself of the firearms/ammunition.
- The issue of disposing of any firearms/ammunition is set for review in 14 days or sooner if the information of non-compliance is received by the court.

Courts: Issuance of PO or Upon Conviction

- After the issuance of a permanent injunction or protective order, the litigant against whom said permanent injunction or protective order has been issued is required to fill out and sign a notice regarding state and federal law, disclosing whether he/she possesses any firearms and/or firearm ammunition. In addition they must complete the firearms information on the Order to Transfer Firearms and Suspend Concealed Handgun Permit. Order is transmitted to Sheriff of the parish or of the parish of the defendants residence.
- At the time of conviction, the litigant will fill out the firearms information of the Order to Transfer Firearms and Concealed Handgun Permit , disclosing whether he/she possesses any firearms and/or ammunition.
- Litigant signs a notice regarding state and federal law.

District Attorney

- Motion for Contempt
- Motion to Return Firearms
- Checklist at arrest for PO and Gwen's Law

Clerk of Court

1. Court issues Order to Transfer Firearms and Suspend a Concealed Handgun Permit
2. Clerk of Court shall then transmit a copy of the Order to Transfer Firearms and Suspend a Concealed Handgun Permit to the sheriff. (fax, email, hand deliver, warrant now, etc.)
3. **Civil/ Criminal Compliance** - Upon proof of compliance Clerk of Court will file proof, and submit case to judge to show proof.
4. **Civil: non-compliance** - Clerk of court will receive notice from sheriff of non-compliance, clerk of court should notify the judge for case review.
5. **Criminal: non-compliance** - Clerk of court will receive Motion for Contempt from district attorney, clerk of court should notify the judge for case review and issuance of bench warrant/citation/attachment.

Law Enforcement

- Receive order from Judge/Courts
 - Fax, email or hand delivery
 - Scan into data base (allows for tracking)
- Defendant calls in for a transfer or comes into one of the offices.
 - Defendant chooses their type of transfer.
- 3rd party transfer form is provided on LPSO website.
- We contract with a licensed dealer for any sales, transfers or storage (if prohibited possessor chooses not to utilize LPSO)
- Provide a list of LPSO approved Firearms dealers available on LPSO website.
- If Prohibited possessor chooses to transfer to LPSO the following takes place.

Lafourche Process

- Defendant is required to file the Proof of Transfer Form with the issuing clerk of court with in five days from date of transfer.

What if the defendant does not show?

- After 48hrs we notify either the Clerk of Court for a civil order or the District Attorney for a criminal order.
- If the order is a criminal order we prepare a case report and submit it to the D.A.

Questions?

Contact Information

Marnie Shiels

marnie.shiels@usdoj.gov

Kevin Hinote

Criminal Justice Planning Specialist

Hawaii Attorney General's Office

808-586-1153

Kevin.R.Hinote@Hawaii.gov

Lt. Valerie Martinez-Jordan

(985)449-4479

valerie-martinez@lpso.net



One mile from Kevin's house