

Promising Practice: Forms Inform Courts on Firearms

Judges who preside over domestic violence protection order hearings are uniquely situated in their ability to remove firearms from potentially dangerous, or even fatal, situations. Many judges have the ability to remove firearms in domestic violence situations through catchall provisions if not directly provided for in their state's domestic violence/protection order statute. Some forward thinking judges have realized this opportunity to enhance survivor safety by using forms to provide additional information and remove firearms from domestic violence perpetrators.

Judge Victor Reyes^[1] of the 10th Judicial District in Pueblo, Colorado, realized the need for firearm removal after attending judicial training on this matter. In Colorado, there were several problems. Initially, there was no way of knowing an abuser had firearms and there were neither forms to gather data on the presence of guns in the home, nor forms on removal of weapons. Judges were authorized to use the catchall provision of the protection order was used to prohibit possession of firearms when necessary. Despite use of the provision, there was still no way of knowing if firearms were present in the home.

Judge Reyes began to modify and implement a series of forms in his jurisdiction based on the Miami-Dade forms created by the late Hon. Amy Karan.^[2] These forms include, but are not limited to, the following: sworn statement of possession, affidavit on firearms, order to surrender, order to show cause and petitioner listing of weapons. To implement the forms, Judge Reyes presented them at a local judges' meeting where the Chief Judge approved them. After their approval for use, the re-vamped forms became part of the packet offered to all petitioners requesting protection orders. Judge Reyes cites this action as the catalyst for the success of the forms in his jurisdiction.

With the information provided by the new forms, judges are better able to address the presence and use of firearms, and hold offenders accountable. Both parties are required to provide information on the respondent's possession of firearms. An inquiry on firearms is also made on the record. After the judge orders the surrender of any guns detailed in the forms or mentioned on the record, the information contained in the forms is further used to monitor compliance with the firearm restrictions. Appropriate relief can include the removal of firearms from the respondent. Most importantly, guns are removed from dangerous offenders.

Positive outcomes of adopting the forms include a more informed sheriff's office, as well as an increased number of guns surrendered. Third parties willing to accept the transfer of a weapon have a better understanding of responsibilities and restrictions placed on them and the prohibited party. Putting these forms in the hands of the petitioners as part of the documents to petition for a protection order has made all the difference in both granting the relief needed and ensuring compliance with an order that prohibits possession.

The leadership of forward thinking judges can be invaluable in increasing both survivor and community safety. Judge Reyes' thoughtful approach, suggesting the adaptation and adoption of firearm related forms in his jurisdiction, has presented a way to obtain information about and removal of weapons from dangerous individuals. This change did not require significant monetary cost to the jurisdiction, but required the commitment of the judiciary. This commitment has positively affected all parties involved in the protection order process.

For more information on or copies of these forms, please contact the National Center on Protection Orders and Full Faith & Credit. ^[3]

[1] Judge Reyes is a graduate of Emory University and Georgetown University Law Center. Prior to becoming a judge, he served as a Deputy State Public Defender for the State of Colorado. Judge Reyes has served as a District Judge since 1999 in the 10th Judicial District located in Pueblo, Colorado and has presided over criminal, civil, juvenile, and domestic matters. He is a past member of the Judicial Conference Planning Committee, the Colorado Criminal Rules Committee, the Project Safe Neighborhood Conference Committee, the Colorado Court Improvement Committee, the Statewide Domestic Offender Management Board, and the Fairness and Diversity Committee. He is also involved in presenting at State and National Judicial Conferences in the area of Domestic Violence. He currently lectures on issues related to judicial review hearings, immigration and firearms consequences nationally and for the State of Colorado.

[2] The late Judge Karan's service as the Administrative Judge of the Domestic Violence Court of the Eleventh Judicial Circuit in Miami-Dade, Florida was of great distinction. Her leadership on the bench highlighted Miami Domestic Violence Court as the premier example across the nation. The forms she created on civil protection orders and court procedures are widely used and are considered the national standard. Judge Karan was honored posthumously by Vice President Joe Biden for her service involving firearms and domestic violence.

[3] If you have questions on this prohibition, the requirements which make a protection order domestic violence related firearm laws or protection orders, please contact the National Center on Protection Orders and Full Faith & Credit, (800) 903-0111, choice 2 or ncffc@bwjp.org or visit www.fullfaithandcredit.org.