

## **Plan to Disarm Domestic Violence Defendants in Whatcom County**

### *Recommendations and Promising Practices*

March 2009

The Best Practices Plan is the result of collective efforts of dedicated advocates, law enforcement officers, prosecutors, judges, probation and correction officers, attorneys and other concerned individuals dedicated to stopping domestic violence. These participants gave generously of their time and expertise, and shared their materials, experiences and advice to create this plan. The members of the Firearms Forfeiture Workgroup, a subcommittee of the Coordinated Judicial Response to Domestic Violence Committee, are listed below:

Todd Anderson	Sgt. Tim Lintz
Peter Dworkin	Kathleen Marshall
Judge Matt Elich	Sue Parrott
Amy Henderson	Eric Petersen
N.F. Jackson	Darlene Peterson
Undersheriff Carey James	Pauline Rose
Jo Justesen	Commissioner Pete Smiley
Steve Kirkelie	Jennifer Tepker
Judge Debra Lev	Commissioner Tom Verge
Judge Terry Lewis	Robert Wolle

The Firearms Forfeiture Workgroup also wishes to acknowledge and thank Mark Hanna, Firearm Forfeiture Program Manager, Domestic Violence Intervention Unit of the King County Sheriff's Office for his contributions and materials which greatly assisted this project.

# **Plan to Disarm DV Defendants in Whatcom County**

## **INITIAL ACTION/CONTACT**

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### **Step 1: 911/DISPATCH/BORDER PATROL**

- Ask about the presence (identity, quantity) and location of weapons
- Check databases for information, history on possession or prohibitions against weapons
- Check for warrants, protection orders, criminal history, previous responses to location, previous contacts with parties
- Relay info to LEA

### **Step 2: LAW ENFORCEMENT AGENCY (LEA)**

- Ask about, locate and neutralize weapons (ask all parties, including children)
- Seek and accept surrender of weapons (consent); Provide receipt (i.e. copy of evidence form) to person surrendering the weapon
- Seize weapons when warranted (violation, prohibition, instrumentality of the crime)
- Document presence, allegation of presence, and/or removal of weapons in Probable Cause Statement
- Seek search warrant where probable cause exists to believe a suspect has unlawfully possessed a weapon

### **Step 3: VICTIM ADVOCATE (any agency)**

- Ask victim about perpetrator's ownership and/or access to weapons
- Provide counsel on safety issues, planning that addresses the danger of weapons
- If available, check databases, historical files for information on possession or prohibitions against weapons
- If available, listen to 911 tape for reference to weapons
- Undergo training and maintain general understanding of weapons' prohibition laws/regulations and process for access to court records
- Advise LEA, Prosecutor, Probation and Judge of information if allowed (promptly and at any stage)

### **Step 4: PROBATION**

- If the accused is placed on pre-trial monitoring, inquiry is made by the court; regarding access to or possession of weapons. Where appropriate, the court will order the surrender of weapons. Probation will follow the weapons surrender procedure established by the District Court Probation Department to facilitate the surrender of weapons. Under no circumstance will probation physically handle surrendered weapons.
- Probation shall notify the court of any potential violations of pretrial release conditions

### **Step 5: PROSECUTOR**

- Discuss case with LEA and Victim Advocate
- Listen to 911 tape for reference to weapons
- As information becomes available, advise judge of defendant's ownership and/or access to weapons

- As information becomes available, advise judge of defendant's history with ownership, access to, and use of weapons with emphasis on history and pattern of dangerousness with known risk factors
- Request pretrial surrender of weapons at earliest opportunity when defendant's access to weapons becomes apparent
- Request forfeiture of weapons order from judge when authorized at sentencing
- Consider including surrender/forfeiture of weapons in all negotiations
- Request immediate sanctions for failure to comply with surrender and forfeiture orders

#### **Step 6: DEFENSE ATTORNEY**

- Advise client to surrender weapons when legally required
- Advise client of consequences of failure to comply with surrender and forfeiture orders
- Facilitate surrender/seizure or sale of weapons when legally required

#### **Step 7: JUDGE**

- When appropriate, inquire as to the possession of and/or access to weapons and concealed weapons permit
- When appropriate, at court hearings for arraignment, pre-trial, pleas, deferred prosecution, order the surrender of weapons and concealed weapons permit to the arresting agency within 24 hours
- When appropriate, enter Declaration of Non-Surrender
- If access to or possession of weapons, in violation of pre-trial order is suspected, when appropriate, issue bench warrant and/or search warrant(s)
- Set immediate review hearing for noncompliance with orders to surrender or forfeit weapons
- Set mandatory review hearing for compliance with orders to surrender or forfeit firearms, which can be stricken with filed proof of compliance

## POST-CONVICTION

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### **Step 8: PROBATION/Community Correction Officers**

- Ask defendant about ownership and access to weapons
- When ordered by the court, probation will follow the weapons surrender procedure established by the District Court Probation Department to facilitate the surrender of weapons. Under no circumstance will probation physically handle surrendered weapons
- Report non-compliance with weapons prohibitions to Court/Hearing Officer
- Provide information to Prosecutor, Judge and/or LEA (promptly and at any stage)

### **Step 9: TREATMENT PROVIDERS**

- Inquire about and report weapon information immediately to defendant's probation officer
- Report weapon-related threats immediately to 911
- Understand the current requirements and procedures for surrender and return of weapons

### **Step 10: JUDGE**

- When appropriate, enter Declaration of Non-Surrender
- When appropriate, order an arrest warrant and/or search warrant (when access to firearm is known) for non-compliance with orders to surrender or forfeit firearms/weapons
- When appropriate, authorize LEA to conduct search and seizure as necessary to enforce orders

## EVIDENCE SECTION

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- Accept, process and store weapon(s)
- Provide receipt (e.g. copy of evidence form, Affidavit of Surrender) to person surrendering the weapon (Defendant must file copy of receipt, evidence form, etc. with Court to show compliance with order(s))
- Release only when ordered by judge and when/to person not otherwise prohibited from possession
- Provide receiving party copies of state and federal firearms laws outlining the sanctions associated with illegal transfer or firearms. Have the receiving party sign a form acknowledging receipt of weapon and information
- Effectuate disposal of weapons according to individual law enforcement department policies

IN THE \_\_\_\_\_ COURT OF THE CITY OF \_\_\_\_\_  
IN WHATCOM COUNTY, WASHINGTON

THE CITY OF \_\_\_\_\_, )  
Plaintiff, ) No.  
vs. )  
Defendant. )  
DECLARATION OF  
NON-SURRENDER

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I declare and understand that the court has ordered me to surrender any and all firearms and dangerous weapons that I own, have in my possession, in my home, in my control or custody. I have not surrendered any firearms and dangerous weapons pursuant to that order because I do not own any firearms or dangerous weapons or have any in my possession, home, control or custody.

For the purposes of this Declaration, the term “**firearm**” means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder, including but is not limited to a pistol, rifle, shotgun, even if used for hunting purposes.

For the purposes of this Declaration, the term “**dangerous weapon**” means any weapon, device, instrument, article, or substance which is capable of being used in a manner causing death or substantial bodily harm, including but not limited to firearm, dagger, sword, other cutting or stabbing instrument, slung shot, sand club, metal knuckles, bow and arrow(s) and spring blade or butterfly knife, or any knife having a blade longer than three inches.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

\_\_\_\_\_  
DEFENDANT

\_\_\_\_\_  
DATE SIGNED

\_\_\_\_\_  
PLACE SIGNED

**IN THE \_\_\_\_\_ COURT OF THE CITY OF \_\_\_\_\_**  
**IN AND FOR THE COUNTY OF WHATCOM**

THE CITY OF \_\_\_\_\_,

**Plaintiff,**

**vs.**

**Defendant.**

NO.

**RECEIPT FOR  
 SURRENDER OF  
 WEAPON(S),  
 PERMIT(S) AND/OR  
 AMMUNITION**

\_\_\_\_\_ )

Receipt is hereby acknowledged for surrender of weapon(s), permit(s) and/or ammunition pursuant to Court Order of the following described items:

**Person surrendering must list and describe each item individually with brand, model, serial number, color, concealed pistol license number, etc. below:**

- |    |     |
|----|-----|
| 1. | 6.  |
| 2. | 7.  |
| 3. | 8.  |
| 4. | 9.  |
| 5. | 10. |

Owner's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_

\_\_\_\_\_  
 Person to whom item(s) surrendered

\_\_\_\_\_  
 Print Name  
 Date \_\_\_\_\_ Time \_\_\_\_

## INSTRUCTIONS FOR SURRENDER OF WEAPONS

1. A 3<sup>rd</sup> party adult (**not the defendant**) who can lawfully possess weapons shall deliver items to the arresting law enforcement agency during business hours.  

<input type="checkbox"/> Washington State Patrol	<input type="checkbox"/> Ferndale Police Department
<input type="checkbox"/> Whatcom County Sheriff	<input type="checkbox"/> Lynden Police Department
<input type="checkbox"/> Bellingham Police Department	<input type="checkbox"/> Everson-Nooksack Police Department
<input type="checkbox"/> Blaine Police Department	<input type="checkbox"/> Sumas Police Department
2. Complete and bring Receipt for Surrender of Weapons with you.
3. If transporting by vehicle, place unloaded weapon(s) in locked trunk/compartment.
4. Upon arrival, leave unloaded weapon(s) in vehicle and enter police station to have an officer retrieve weapon(s) from your vehicle.
5. Take signed Receipt to the probation department.

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WASHINGTON STATE PATROL  
3860 Airport Way  
Bellingham, WA 98226

EVERSON-NOOKSACK POLICE DEPT.  
109 W. Main Street  
Everson, WA 98247-0315

WHATCOM COUTNY SHERIFF'S OFFICE  
310 Prospect Street  
Bellingham, WA 98225

FERNDAL POLICE DEPARTMENT  
5640 3<sup>rd</sup> Avenue  
Ferndale, WA 98248

BELLINGHAM POLICE DEPARTMENT  
505 Grand Avenue  
Bellingham, WA 98225

LYNDEN POLICE DEPARTMENT  
203 19<sup>TH</sup> Street  
Lynden, WA 98247

BLAINE POLICE DEPARTMENT  
344 H Street  
Blaine, WA 98230

SUMAS POLICE DEPARTMENT  
433 Cherry Street  
Sumas, WA 98295-0009