

Inver Grove Heights Police Policy Manual		Subject: Prohibited Possession of Firearms for Domestic Violence and Restraining Orders		
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**I. POLICY:**

The Inver Grove Heights Police Department's shall except all firearms from those parties required by the courts surrender their firearms. This is done to protect the victim and shall communicate the philosophy that domestic abuse is criminal behavior.

**II. DEFINITIONS:**

**Authorized Recipients of the Firearms:** Defendants may choose to whom they surrender their firearms. The statute allows the transfer to a local law enforcement agency, a federally licensed authorized dealer, or a third party who does not reside with the abusing party/defendant.

**Domestic Abuse Convictions and Firearms:** When persons are convicted of Domestic Assault under MN Statute 609.2242 or any other assault against a family or household member (includes Assault 1, Assault 2, Assault 3, Assault 5, Domestic Assault Strangulation) or are convicted of Stalking under MN Statute 609.748, the court must order them to transfer any firearms they possess to a federally licensed firearms dealer, a law enforcement agency or a third party who may lawfully receive them. The transfer must occur within three business days unless the court finds the defendant is an imminent risk of causing substantial bodily harm to another, in which case the court must order the local law enforcement agency to take immediate possession.

**Domestic Violence Restraining Orders:** Provisions in Minnesota statutes require the court when issuing restraining orders under MN Statute 260C.201 (Domestic Child Abuse) or MN Statute 518B.01 (Order for Protection) to order the restrained person to surrender firearms and permits to carry or purchase firearms if the court finds the restrained party represents a credible threat to the physical safety of the protected party. An order granting relief that was issued after a hearing of which the abusing party received actual notice and which the abusing party had the opportunity to participate, shall prohibit the abusing party from possessing firearms for the length the order is in

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effect. The order shall direct the abusing party to transfer any firearms that the person possesses to a federally licensed firearms dealer, a law enforcement agency or a third party who may lawfully receive them.

**Firearm:** The Federal definition of firearm is any weapon (including a starter gun) which will expel a projectile; by means of an explosive or is designed or may be readily converted to do so. MN Statute 97A.015, Subd. 19 defines a firearm as a gun that discharges shot or a projectile by means of an explosive, a gas, or compressed air. Some Minnesota courts have ruled that, under this definition, rifles, shotguns, handguns (both pistols and revolvers), muzzleloaders and BB guns are firearms. However, paintball guns are not considered firearms.

**Reasonable Storage Fee:** Actual expenses the city incurs for storage of firearms to include the cost of storage space and staff time to process related paperwork. The storage fee will not exceed the value of the firearm.

**Transfers:** Within three business days, Defendants must transfer their firearms permanently or temporarily depending on the court order. If the court determines there is an imminent risk, the Department will be ordered to take immediate possession of the firearms.

### **III. COURT ORDERED FIREARMS SURRENDERING:**

- A. Courts are required to issue orders to domestic child abusers, domestic abusers, persons convicted of domestic assault and persons convicted of stalking, to surrender their firearms to a law enforcement agency, a federally licensed firearms dealer or a third party.
- B. The authority for this policy is established by the following MN Statutes;
  - 1. 260C.201 - Domestic Child Abuse
  - 2. 518B.01 - Order for Protection
  - 3. 609.2242 - Domestic Assault
  - 4. 609.749 - Stalking
  - 5. 624.713 - Certain Persons Not to Possess Firearms

### **IV. INTAKE PROCEDURE FOR SURRENDERED FIREARMS:**

- A. A copy of the court order is required before accepting the transfer of firearms.
- B. The court ordered the party/respondent must arrange for the transfer within three business days.
- C. The Department shall accept firearms in every situation. All decisions to reject must be approved by a supervisor. Factors to consider might be;
  - 1. The proper jurisdiction for any underlying criminal prosecutions

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2. The county of residence for the petitioner and/or respondent.
- D. The Department may charge a reasonable storage fee for firearms held under the provisions of this policy, see section V “Firearms Storage Intake/Release Fees.”
- E. Surrendered firearms will be received by an officer, by appointment, during regular business hours or at other times at the discretion of the Department.
- F. The court ordered party/respondent surrendering weapons will be directed to not bring firearms into the department until they receive the following instructions on the proper procedure for the safe surrender of weapons.
  1. The firearms must be completely contained in gun cases made expressly for that purpose.
  2. The cases must be zipped, buckled, tied or otherwise fastened, with no portion of the firearm exposed.
  3. All firearms must be unloaded. This means having no shell or cartridge in the chamber of the firearm or any magazine attached to the firearms.
  4. Caps must be removed from a percussion muzzle loading firearms or have the flash pan cleaned of powder from a flint locked muzzle loading firearm.
- G. The receiving officer shall complete the Surrendered Firearms Receipt form ensuring the following information is included as required by the Court:
  1. Whether the firearms are to be temporarily or permanently transferred;
  2. The name of the court ordered party/respondent;
  3. Date of the transfer to the department;
  4. Serial number of all surrendered firearms;
  5. Make of all surrendered firearms;
  6. Model of all surrendered firearms;
  7. Brief description and condition of the firearms.
- H. Once completed, a copy of the Surrendered Firearms Receipt form is given to the court ordered party/respondent to file with the Court.
- I. The receiving officer shall prepare a report documenting the surrendering of the firearms along with the completed forms.
  1. If the surrendering of the firearms is related to a Department incident, a supplemental report shall be completed.
  2. If the surrendering of the firearms is not related to a Department incident than an incident report shall be completed.
- J. The receiving officer will verify the weapon is safe, secure and package the firearms under Evidence Intake guidelines and protocols. No ammunition will be accepted.

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- K. Property Room personnel will store the surrendered firearms under Evidence Intake guidelines and protocols.
- L. Accepting the surrendered firearms gives the department the lawful authority to possess the firearms; it does not transfer ownership or title to the department.
- M. All staff will use due care to preserve the quality and function of the transferred firearms.

**V. FIREARMS STORAGE INTAKE/RELEASE FEES:**

- A. The Department shall set a nominal fee for the storage and processing of firearms surrendered and released from police custody.
- B. The fee shall be established by resolution of the Inver Grove Heights City Council.
- C. The Department will only release the firearms after the intake /release fee have been paid.
- D. In the interest of community safety, the Chief of Police or designee shall have the authority to waive firearm surrender and release fees.

**VI. IMMEDIATE POSSESSION OF FIREARMS - IMMINENT RISK INVOLVED:**

- A. The court may order the department to take immediate possession of a court-ordered party/respondent firearms.
- B. An officer or investigator will be assigned the case and will create a case or tracking number. Only a licensed officer may accept surrendered firearms from a court-ordered party/respondent.
- C. Due to the risks of firearms being delivered to the department or seized from private residences, the assigned officer or investigator will give due consideration to the variety of safety concerns. The assigned officer or investigator should initiate contact with the court ordered party/respondent, arranging for the safest means of firearms surrender.
- D. The difficulties in knowing with certainty the full extent of the court ordered party/respondent's firearm inventory are acknowledged. The assigned officer or investigator will attempt to insure the court ordered party/respondent complies with the Order. If the court ordered party/respondent refuses to comply with the order every effort, including a consent search or possibly seeking a search warrant, will be initiated to ensure the court order is carried out.
- E. Within three business days of the court ordering the immediate transfer of the firearms, the court ordered party/respondent may request the transfer of their firearms from the department to a federally licensed firearms dealer or a third party, who may lawfully receive them.
  - 1. An officer or investigator will facilitate the transfer.

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2. Before transfer, the officer will require the federally licensed firearm dealer or third party who may lawfully receive them, to complete a Minnesota Uniform Firearm Application/Receipt Permit to Purchase/Transfer.
3. Once the application is completed, the department has two business days to file the completed application to purchase/transfer with the respective courts.

**VII. OUT OF JURISDICTION COMPLIANCE:**

- A. Notwithstanding a court order to the contrary, the Department is responsible for the enforcement of firearm surrender orders when the court ordered party/respondent resides in the Department's jurisdiction.
- B. The assigned officer or investigator tasked with enforcement of a surrender order, when learning the firearms is in another jurisdiction, will share that information with the pertinent law enforcement agency to aid in the order's enforcement.
- C. The assigned officer or investigator asked to assist another law enforcement agency with the enforcement of a firearm surrender order shall provide reasonable assistance to help aid the order's enforcement.

**VIII. RETURN, ABANDONMENT OR FORFEITURE OF FIREARMS:**

- A. Upon receipt of a court order, the department will return the surrendered firearms to the court ordered party/respondent so long as the court ordered party/respondent is not otherwise prohibited from possessing firearms under State or Federal law.
- B. The assigned officer or investigator will facilitate the release of the firearms pursuant to the court order, complying with State and Federal law and department protocol. The assigned officer or investigator shall complete the Surrendered Firearms Release Receipt form.
- C. On requests to transfer to a third party, the assigned officer or investigator will conduct a record check to ensure the third party is eligible to receive the firearms.
- D. The assigned officer or investigator will have the court ordered party/respondent inspect the firearms before returning and have the court ordered party/respondent acknowledge the firearms are in the same condition as when turned in, except for reasonable wear and tear including the deterioration of firearms that may occur during prolonged storage periods.
- E. If a temporarily transferred firearm is abandoned, the department will notify the court ordered party/respondent via certified U.S. mail before the disposal of the abandoned firearms pursuant to department protocol.
- F. If the court order indicates that the firearms transfer is permanent, the firearms will not be returned to the court ordered party/respondent and will be disposed of pursuant to forfeiture and/or department protocol.