

STOP GUNS IN DOMESTIC VIOLENCE!

South African women are at risk of becoming victims of violence. Many blame this on criminals, but a national study found that **more women (57%) were murdered by their husbands or boyfriends (called intimate femicide) than by strangers.**

Firearms played a major role in these murders, with guns used in 17% of the cases seen.

Guns are often brought out in arguments to threaten a woman into submission. But guns are light, easy to use, and kill easily. Once a gun is present, it can be used in a moment of rage or negligence, and the result can be death or serious disability. Guns can also injure or kill more than one person at a time.

Too often we hear stories of how guns - brought into a home to protect loved ones - are used against the very people they are meant to protect.

A woman must take immediate action if she lives in a home where there is a gun and the gun owner is abusive, depressed or suicidal. If any woman fears that the gun will be used against her or her loved ones she can ask the court or the police to remove it immediately.

REMOVING A GUN

The Domestic Violence Act (DVA) and the Firearms Control Act (FCA) allow the courts or the police to remove guns and other dangerous weapons in situations of abuse.

THE DOMESTIC VIOLENCE ACT (DVA)

The DVA allows LOCAL MAGISTRATE'S COURTS to grant interim and permanent protection orders. These are issued against the person using domestic violence, who is called "the respondent". In a protection order, the court orders the respondent to stop the abusive behaviour. Ignoring a protection order, or contravening it, is a criminal offence and the police must intervene if the abuse continues.

The court can also order the police to remove a gun or any other dangerous weapon from the respondent, whether the respondent owns the gun or simply has access to it. The court can make this order as part of an interim or a final protection order.

The law says the magistrate can do this if:

9 (a) The respondent has threatened or expressed the intention to kill or injure himself or herself, or any other person in the domestic relationship, whether or not this would be with the gun or other dangerous weapon.

(b) Possession of the firearm or other dangerous weapon is not in the interests of the victim or any other person in the domestic relationship because of the respondent's –

- i. state of mind or mental condition
- ii. inclination to violence
- iii. use of or dependence on intoxicating liquor or drugs

You have to apply for a protection order at the local magistrate's court. Ask to speak to the domestic violence court clerk for help in understanding and completing the application form. It is very important that the form is written in your words, including your own, full version of events and what order you are asking the court to make. As such, it's best to complete the form yourself. If this isn't possible, the court clerk can complete the form for you. But you should still ask the clerk to read what they have written to ensure that everything is correct. Always ask questions where you do not understand what the words on the form mean.

Any woman who lives in fear of a gun or other dangerous weapon in her home can ask the magistrate's court or the police to remove the gun or weapon immediately, even if she doesn't have a protection order against the person threatening her.



THE FIREARMS CONTROL ACT (FCA)

The FCA allows the POLICE to remove guns from abusive gun owners.

The police can remove any **illegal** gun, even if the owner is responsible in how he carries and stores his gun. They can also charge the person with not having a gun licence.

The police can also remove a gun from a **legal** gun owner, if they declare the gun owner "unfit to possess a firearm". They can do this if -

- A final protection order has been issued against the gun owner. A final protection order is different from an interim protection order; an interim protection order is a temporary but immediate order made to protect someone being abused or threatened until their case is heard in court, at which time the court will decide whether the interim order becomes permanent.
- The gun owner has expressed the intention to injure or kill himself or someone else using a firearm or other dangerous weapon.
- It is not in the interests of the gun owner or any other person that he keeps the gun, because of his mental condition, inclination to violence or dependence on alcohol or narcotic drugs.
- The gun owner has failed to carry or store the gun safely, as required by law.

The procedure to declare a gun owner "unfit to possess a firearm" involves a hearing at the local police station.

To get the process in motion, someone (either the person being threatened or a family member, friend or neighbour) must hand in a written complaint at the police station, detailing why the gun owner is a risk or how he has abused his gun. Once the police receive the complaint, they should remove the gun immediately and store it at the station. They should then investigate the complaint and call the gun owner to appear at a hearing. The hearing takes place at the police station and is presided over by a senior police officer. That officer can call witnesses to testify. If the officer finds the complaint is true, he can declare the gun owner "unfit to possess a firearm". This means the gun owner must hand in all of his guns and licences and he is not allowed to apply for a gun licence for five years.

All over the world, guns are a dangerous risk factor when there is domestic violence.

WE URGE WOMEN TO TAKE THIS THREAT VERY SERIOUSLY.

If you – or someone you know – is part of a relationship where there is a risk of violence, it is critical that you take immediate action and make sure the gun or other dangerous weapon is removed.



Women's Legal Centre | Phone: 011 339 1099 / 021 424 5660 | info@wlce.co.za | www.wlce.co.za
Sonke Gender Justice | Phone: 011 339 3589 / 021 423 7088 | info@genderjustice.org.za | www.genderjustice.org.za
Gun Free South Africa | Phone: 072 341 3898 | info@gfsa.org.za | www.gfsa.org.za

Box 1:

TIPS for completing protection order applications

Magistrates need specific, detailed information before they can order the police to remove a gun and/or other dangerous weapon. The application form needs to be filled in carefully, especially the following questions:

Question 5: Information regarding acts of domestic violence

Give a full, detailed history of the abuse and how it has changed over time, and describe any incidents where the gun and/or other dangerous weapon was used to threaten, intimidate, injure or kill.

Question 6: Information regarding urgency of application

Explain that the victim's life and safety are at risk and that the respondent has a firearm and/or other dangerous weapon.

Question 8b: Requests the South African Police Service to seize any gun/s and/or other dangerous weapon in the possession of the respondent:

Request that the court order the removal of any and all firearms and/or dangerous weapons in the possession of or accessible to the respondent.

(a)	A peace officer, namely, is to accompany the Complainant to assist with arrangements regarding the collection of the Complainant's personal property set out in paragraph 9, below.	
(b)	A member of the South African Police Service is to seize the following arm(s) or dangerous weapon(s) in the possession of the Respondent:	
(c)	The Respondent is to pay the following rent or mortgage payments:	

Department of Justice and Constitutional Development