



United States Attorney's Office
Central District of California



FEDERAL FELONY PROSECUTION OF ARMED DOMESTIC ABUSERS

It is a federal felony for a firearm or ammunition to be possessed by someone who is either subject to a domestic violence restraining order OR was previously convicted of a felony or domestic violence misdemeanor. These crimes carry a 10 or 15-year statutory maximum.

Elements:

1. Defendant knowingly possessed a firearm or ammunition;
2. Firearm/ammunition has interstate nexus (*i.e.*, manufactured outside California);
3. Defendant was previously convicted of a felony or domestic violence misdemeanor OR is subject to a domestic violence restraining order (see red boxes below); and
4. Defendant knew he/she has a prior felony conviction or domestic violence misdemeanor conviction / was subject to a DV restraining order.

18 U.S.C. § 922(g)(9)

Defendant has a prior **misdemeanor conviction** for **domestic violence** against a qualifying **victim***

Qualifying California penal code misdemeanors:

- § 273.5 – DV
- § 243(e) – DV Battery
- § 243.4 – Sexual Battery
- § 240 – Assault
- § 242 – Simple Battery
- § 245 – ADW

Call to ask if non-CA priors are eligible predicates

18 U.S.C. § 922(g)(8)

Defendant is subject to a **DV restraining order**

- ✓ *DV 130, CR 160, bail order in pending DV case*
- ✗ *But not ex parte TRO*

Call re: out-of-state orders

18 U.S.C. § 922(g)(1)

Defendant has a prior **felony conviction**

Any state or federal felony, including, but not limited to, domestic violence

*** Check old reports to confirm that the prior DV victim was one of the following:**

- ✓ Defendant's spouse or ex-spouse
- ✓ Shares child with defendant
- ✓ Defendant is victim's parent or guardian
- ✓ Deft (had) lived with victim as spouse/parent/guardian
- ✓ Deft is or was recently dating victim (NEW!)

Examples:

- DV suspect has prior 243(e) conviction for abusing ex-wife and keeps a gun by his bed.
- Driver in traffic stop has ammo in his pocket, is subject to a CR 160 restraining order.

Call the ATF or the US Attorney's Office to discuss potential federal charges

- **ATF Duty Line: (818) 265-2500**
- **VAWA and PSN Coordinator: AUSA Jennifer Chou: (213) 894-6482**

Federal Domestic Violence Laws



Jennifer Chou, Assistant United States Attorney

U.S. Attorney's Office, Central District of California

Los Angeles County Domestic Violence Council – 2/26/2025



What is the US Attorney's Office?

- Federal prosecutors for the Central District of California
- District covers 7 counties: LA, OC, Riverside, San Bernardino, Ventura, Santa Barbara, and San Luis Obispo
- LA office Criminal Division has specialized sections, including Violent & Organized Crime, Cyber, and a General Crimes section
- Criminal Division AUSAs prosecute violations of federal law

What agencies are involved in federal cases?

➤ FBI – violent crime, cybercrime

➤ ATF – gun crimes



2 categories of DV-related federal crimes

1. Possession of firearm by prohibited person with DV prior or subject to DVRO.
2. Crossing state/foreign borders to commit crime.

Domestic Violence and Guns

- **DV incidents involving a firearm are 5-6 times more likely to result in death**
- **20% of DV homicides are collateral victims**
 - **25% of collateral DV victims are children**
- **DV calls lead to more police fatalities than any other type of call**
- **THESE ARE VIOLENT OFFENDERS**

Gun/Ammo Possession by DV Offenders

18 U.S.C. § 922(g)(1): Possession of firearm / ammunition by convicted felon (ACCA enhancement)

18 U.S.C. § 922(g)(8): Possession of a firearm / ammunition **while subject to a protection order** (but not after order expires).

18 U.S.C. § 922(g)(9): Possession of a firearm / ammunition **after conviction** of a DV-related misdemeanor.

NEW! 15-year stat max

Possession by Prohibited Person: 18 U.S.C. § 922(g)

Elements

1. Knowing possession of firearm or ammo;
2. Interstate nexus for firearm / ammo;
3. Defendant was **prohibited** under federal law; and
4. Defendant knew he had the status that made him prohibited.*

* *Defendant doesn't have to know he's prohibited as a matter of law from possessing firearms/ammo.*

Defendant Subject to PO

18 U.S.C. § 922(g)(8): Possession of a firearm and/or ammunition **while subject to an eligible protection order** as to an **intimate partner**

Does not apply to military or law enforcement service weapons possessed by active personnel

“Intimate Partner”

Defendant’s spouse, former spouse, someone who is a parent of a child of the defendant, someone who cohabitates or has cohabited with defendant.

(Does not include restraining order re: elder abuse, non-cohab dating partners)

18 USC § 922(a)(32)

922(g)(8) PO Eligibility Requirements

1. Order issued **after a hearing**;
2. Defendant given **actual notice** / had **opportunity to participate**;
3. Order restrains defendant from **harassing, stalking, or threatening** victim or victim's child, or engaging in conduct that would place victim in reasonable fear of bodily injury to victim or child; and
4. Order EITHER (1) includes finding that defendant is credible threat to victim; or (2) **explicitly prohibits the "use, attempted use, or threatened use of physical force"** against victim or child that would reasonably be expected to cause bodily injury

NOTE: The federal prohibition applies even if the DVRO does not restrict defendant's firearm access

Effect on CA Protective Orders

NOT ELIGIBLE: *Ex parte* TRO (DV 110)

ELIGIBLE: Order After Hearing (DV 130 / CR 160)

- Defendant present at hearing
- Defendant given actual notice
- Court makes the appropriate findings
- Appropriate boxes are checked

ELIGIBLE: Pretrial release order in DV case

Order After Hearing – DV 130 form

To the person in ②:

The court has granted the orders checked below. Item ⑨ is also an order. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

⑥ Personal Conduct Orders

a. The person in ② must not do the following things to the protected people in ① and ③:

- Harass, attack, strike, threaten, assault (*sexually or otherwise*), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (*on the Internet, electronically or otherwise*), or block movements.
 - Contact, either directly or indirectly, by any means, including, but not limited to, by telephone, mail, e-mail, or other electronic means.
 - Take any action, directly or through others, to obtain the addresses or locations of any protected persons. (*If this item is not checked, the court has found good cause not to make this order.*)
- b. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.
- c. Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

Criminal DVRO – CR 160 [updated]

caretakers, or guardians unless good cause exists otherwise.

b. The court finds good cause not to make this order.

11. **Order to not abuse**

Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace of, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named in items 2 and 3.

- “Disturb the peace of” means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, activities, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status; and reproductive coercion, meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to related health information.

DVRO Checklist

1. Obtain copy of protection order
2. Still active?
3. Issued after hearing? Was defendant present? Served? [Must prove his knowledge of PO too]
4. Restrains assault / threats / harassment?
5. Identifies victim(s)?
6. Victim is in qualifying relationship with defendant? [May need a police report or in-court statement by victim. Sometimes it states relationship on the face of the order]

Defendant With Prior DV Misdemeanor

18 U.S.C. § 922(g)(9): Possession of a firearm and/or ammunition after conviction for domestic violence misdemeanor.

“Domestic Violence Misdemeanor”

The misdemeanor crime has *as an element* the *use or attempted use of physical force* or *threatened use of a deadly weapon*

AND

The actual crime was committed against a qualifying intimate partner as defined in 18 USC 922(a)(33)(A).

Not necessary for misdo crime to have DV as an element, as long as the victim of the crime is in a qualifying relationship with defendant.

18 USC 922(a)(33)(A)

Qualifying* CA misdemeanors

§ 273.5 – DV

§ 243(e) – Simple DV Battery

§ 243.4 – Sexual Battery

§ 240 – Assault

§ 242 – Simple Battery

§ 245 – Assault w deadly weapon or force likely to produce great bodily injury

**** If victim fits statutory definition***

THESE CA MISDOS DO NOT QUALIFY

§ 136.5 – Intent to use deadly weapon to intimidate witness (no actual threat)

§ 422 – Criminal threats (mere threatened use of force w/o deadly weapon is not enough)

§ 415 – Disturbing the peace

§ 417 – Drawing / exhibiting weapon in rude, angry, or threatening manner

§ 646.9 – Stalking

Qualifying victim relationship for DV prior

- ✓ Defendant's current or former **spouse**
- ✓ Defendant is victim's **parent or guardian**
- ✓ Defendant and victim **share child** in common
- ✓ Defendant **is cohabiting with or has cohabited** with the victim as a spouse, parent, or guardian
- ✓ Defendant is **similarly situated** to a spouse, parent, or guardian of the victim.
- ✓ **NEW:** Defendant has current or recent former dating relationship with the victim (conviction occurred after 6/25/2022).
- ✗ **But not (for now):** elder abuse victim (ie, defendant's parent).

18 U.S.C. § 921(a)(33)(A)

DV misdo against dating partner

Applies if DV conviction sustained after June 25, 2022

Prohibition ends 5 years after DV misdo conviction if:

- First dating DV offense;
- No subsequent DV or other violent crime misdemeanor convictions; and
- No other basis for federal prohibition.

Non-CA Protective Orders / DV Convictions

Contact the USAO VAWA Coordinator (Jennifer Chou) to review for eligibility.

“Qualifying Intimate Partner” DV Misdo vs. DVRO

DV Misdo – 922(g)(9), defined in 922(a)(33)

- ✓ Defendant’s current or former **spouse**
- ✓ Defendant and victim **share child** in common
- ✓ Defendant **is cohabiting with or has cohabited** with the victim as a spouse, parent, or guardian
- ✓ Defendant is victim’s **parent or guardian**
- ✓ Defendant is **similarly situated** to a spouse, parent, or guardian of the victim.
- ✓ Defendant is **dating** or recently dated victim

DVRO – 922(g)(8), defined in 921(a)(32)

- ✓ Defendant’s current or former **spouse**
- ✓ Defendant and victim **share child** in common
- ✓ Defendant **is cohabiting with or has cohabited** with the victim in any capacity

DV Misdemeanor Checklist

1. Check that statute of conviction has, as an element, the use or attempted use of force or threatened use of a deadly weapon.
2. Identify victim of DV – you'll probably need the underlying police report.
3. Victim is in qualifying relationship with defendant? (If the DV incident occurred after 6/25/2022, a dating victim makes this a qualifying predicate.)

California vs. Federal

CAL. PENAL CODE §§ 29805, 30305

- Misdemeanor – 1-year stat max
- DV conviction for 243(e) must be within 10 years of firearms/ammo possession; no time limit for 273.5 conviction
- Sentence could be suspended

18 U.S.C. §§ 922(g)(8), (g)(9)

- Felony – 15-year stat max (amended)
- No time limit on prior DV conviction
- Prohibits possession of firearms and ammunition
- 922(g) requires interstate nexus
- Deft must serve 85% of any sentence over 1 year and must serve 100% of any sentence less than 1 year: *No early release or Prop 47*
- Serve sentence in any US facility

	DV misdo + firearm	DV misdo + ammo	DVRO + firearm	DVRO + ammo
Federal Law	Felony 922(g)(9)	Felony 922(g)(9)	Felony 922(g)(8)	Felony 922(g)(8)
California State Law	Misdo PC 29805	Misdo PC 30305	Possession - Misdo Purchase/Receipt – Wobbler PC 29825	Misdo PC 30305

Interstate Criminal Conduct

Elements

1. Defendant crosses OR forces Victim to cross a state / tribal / foreign border; and
2. Defendant intends to:
 - commit DV (18 U.S.C. § 2261),
 - violate protection order (18 U.S.C. § 2262), or
 - engage in stalking (18 U.S.C. § 2261A)

Interstate Stalking

18 U.S.C. §2261A(1)

1. Defendant crossed with intent to kill, injure, harass, intimidate, or surveil any victim (no DV relationship required);
2. Defendant engaged in 2+ acts that:
 - Placed Victim/family/pet in rx **fear of death or bodily injury**; OR
 - Caused or rx would cause Victim/family **substantial emotional distress**

Penalties: max 5 years to life; 1 year min if subject to any RO

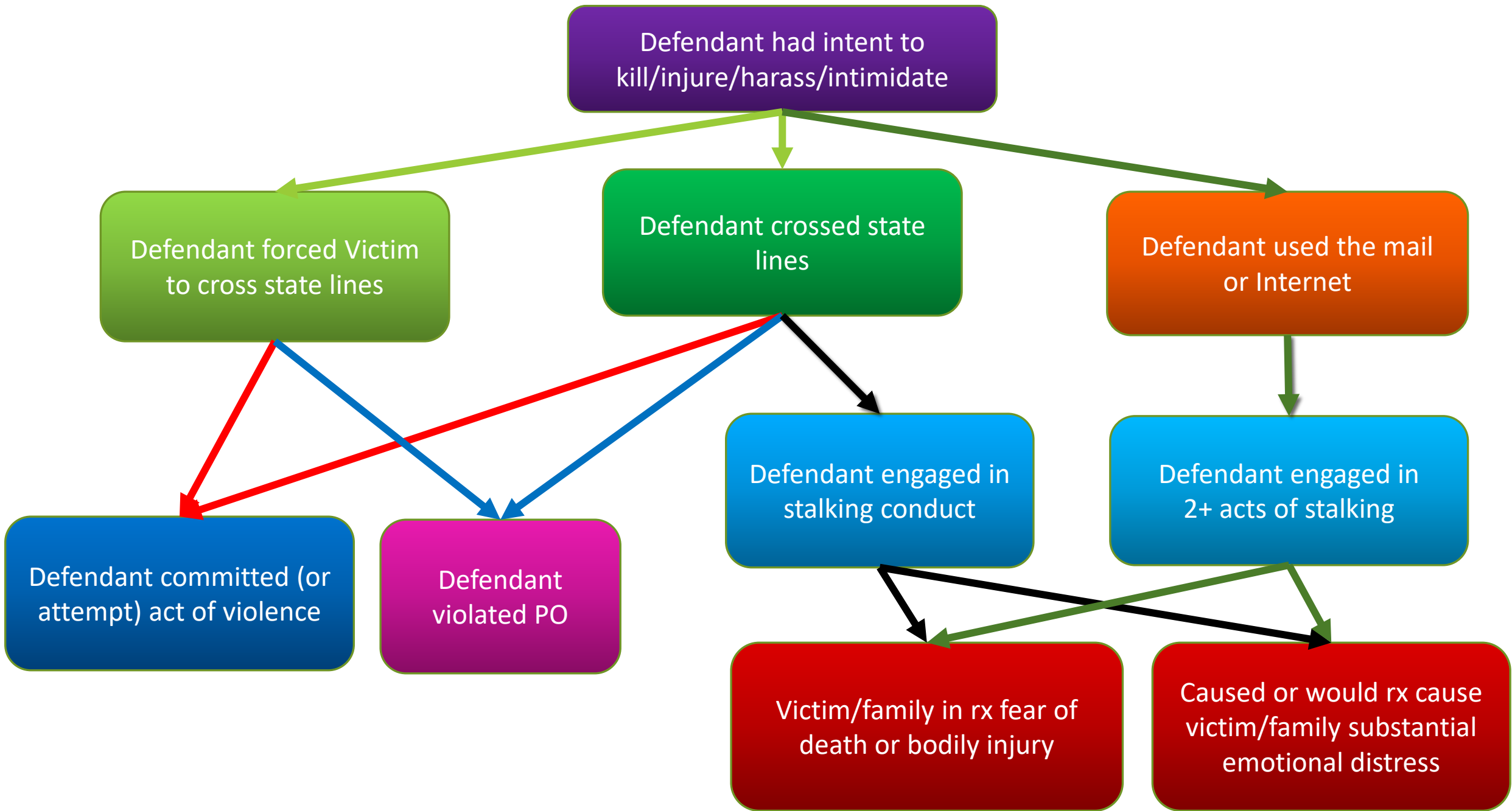
Cyberstalking

18 U.S.C. §2261A(2)

1. Defendant used **mail or Internet** with intent to kill, injure, harass, intimidate, or surveil any victim (no DV relationship required);
2. Defendant engaged in 2+ acts that:
 - Placed “a person or pet” in rx **fear of death or bodily injury**; OR
 - Caused or rx would cause Victim/family **substantial emotional distress**

Victim can be in the same state as defendant.

Penalties: max 5 years to life; 1 year min if subject to any RO



Hypothetical cases to refer

1. Police respond to DV call, **defendant has firearm/ammo and prior DV-related misdo.** DA or CA can't prosecute because victim recants.
2. Victim/witness notifies police or service provider or seeks **Gun Violence Restraining Order** re defendant's firearm(s)/ammo, which are recovered by police. Defendant has prior DV-related misdo.
3. **Victim flees from another state into CA** and is willing to cooperate with law enforcement to prosecute defendant (who is still in home state).
4. Victim is being **cyberstalked**.
5. Victim seeks protective order against defendant; **defendant either acquires a firearm/ammo or refuses to relinquish** already-owned firearm/ammo. [Court notification of law enforcement/prosecutor]



ARREST A SUSPECT WITH A GUN OR AMMO AND A DOMESTIC VIOLENCE PRIOR?



IT COULD BE A FEDERAL FELONY!

Questions?

ATF Los Angeles Field Division - 24/Hr Duty Agent
(818) 265-2500

See Next Page For More Information



United States Attorney's Office
Central District of California



FEDERAL FELONY PROSECUTION OF ARMED DOMESTIC ABUSERS

It is a federal felony for a firearm or ammunition to be possessed by someone who is either subject to a domestic violence restraining order OR was previously convicted of a felony or domestic violence misdemeanor. These crimes carry a 10 or 15-year statutory maximum.

Elements:

1. Defendant knowingly possessed a firearm or ammunition;
2. Firearm/ammunition has interstate nexus (i.e., manufactured outside California);
3. Defendant was previously convicted of a felony or domestic violence misdemeanor OR is subject to a domestic violence restraining order (see red boxes below); and
4. Defendant knew he/she has a prior felony conviction or domestic violence misdemeanor conviction / was subject to a DV restraining order.

18 U.S.C. § 922(g)(9)

Defendant has a prior misdemeanor conviction for domestic violence against a qualifying victim*

Qualifying California penal code misdemeanors:

- § 273.5 – DV
- § 243(e) – DV Battery
- § 243.4 – Sexual Battery
- § 240 – Assault
- § 242 – Simple Battery
- § 245 – ADW

Call to ask if non-CA priors are eligible predicates

18 U.S.C. § 922(g)(8)

Defendant is subject to a DV restraining order

- ✓ DV 130, CR 160, bail order in pending DV case
- * But not ex parte TRO

Call re: out-of-state orders

18 U.S.C. § 922(g)(1)

Defendant has a prior felony conviction

Any state or federal felony, including, but not limited to, domestic violence

* Check old reports to confirm that the prior DV victim was one of the following:

- ✓ Defendant's spouse or ex-spouse
- ✓ Shares child with defendant
- ✓ Defendant is victim's parent or guardian
- ✓ Deft (had) lived with victim as spouse/parent/guardian
- ✓ Deft is or was recently dating victim (NEW!)

Examples:

- DV suspect has prior 243(e) conviction for abusing ex-wife and keeps a gun by his bed.
- Driver in traffic stop has ammo in his pocket, is subject to a CR 160 restraining order.

Call the ATF or the US Attorney's Office to discuss potential federal charges

- ATF Duty Line: (818) 265-2500
- VAWA and PSN Coordinator: AUSA Jennifer Chou: (213) 894-6482

ATF Contact Information



ATF SA Tiffany Lamphere (LA)

LADVreferrals@atf.gov

Tiffany.Lamphere@atf.gov

(818) 821-9524 (cell)

ATF Duty Line: 818-265-2500

FBI Contact Information



FBI SSA Cody Burke

cdburke@fbi.gov

310-996-3426

FBI Duty Line: 310-477-6565



USAO Contact Information

Jennifer Chou, PSN/VAWA Coordinator

Jennifer.Chou@usdoj.gov

(213) 894-6482

Shawn Andrews, General Crimes Deputy
Chief (Complaints)

Shawn.Andrews@usdoj.gov

Complaints Duty Line: (213) 894-2758