

ROLL CALL TRAINING
FROM NORTH CAROLINA'S 24/7 POLICE
ATTORNEY LAW FIRM

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TOPIC:

Surrender of Firearms in Domestic Violence Cases

WHAT FIRST LINE SUPERVISORS SHOULD KNOW:

Officers have been experiencing some confusion about the recent amendment to Chapter 50B providing that certain defendants must surrender their firearms (and certain other items) when ordered by the court. We hope this brief installment of Roll Call Training will help clear up the confusion. Supervisors may wish to review the following questions and answers with their officers:

- Q: When can “surrender firearms” orders be entered against a defendant?
- A: Only when the court finds as fact that the defendant has, for example, threatened use of a firearm (including by “pattern of prior conduct”), threatened suicide, or inflicted serious injuries upon the aggrieved party or a minor child (whether by firearm or otherwise). Officers should make certain that the 50B order sets forth such finding(s). See “Conclusions” Block 8 for these necessary “checkmarks”.
- Q: What specific items belonging to the defendant can the court order to be surrendered?
- A: Firearms (and specifically including “machine guns”), ammunition, permits to purchase firearms, and permits to carry concealed firearms.
- Q: To what law enforcement agency must the firearms (etc.) be surrendered?
- A: Only to the Sheriff’s Office, per the statute. [NOTE: Technically speaking, municipal officers could also participate in the service and enforcement of such orders if directed to do so by the court. G.S. 160A-285.]
- Q: When must the firearms be surrendered?
- A: The statute provides that upon service of the order, the defendant shall immediately surrender possession of firearms (etc.) to the Sheriff. In the event the items cannot be surrendered at the time the order is served, the defendant shall surrender required items within 24 hours at a time and place specified by the Sheriff.

- Q: Will the 50B court order itself specify that surrender of firearms is required?
- A: Yes. And remember to read the order carefully! Pay particular attention to Blocks 12 and 13 (of the newest AOC Ex Parte form document, revised 12/03).
- Q: What happens if a defendant does not voluntarily surrender his (or her) firearms?
- A: In accordance with G.S. 14-269.8 (also amended), a violator shall be guilty of a Class H felony. Other penalties may apply as well, such as a misdemeanor violation of Chapter 50B itself (see 50B-4.1), and judicial contempt of court remedies.
- Q: Do the amendments to 50B authorize law enforcement officers to make forcible entry into defendant's home to seize weapons?
- A: No.
- Q: When did these changes to 50B become effective?
- A: December 1, 2003.

* Senate Bill 919, "An Act To Enhance The Safety Of Victims In Serious Domestic Violence Cases."

We hope this information is helpful! SR&S client agencies should of course contact us immediately (24/7) in the event of any uncertainty or problems relating to the service or enforcement of these orders. And please stay tuned for the next edition of Roll Call Legal Training.