

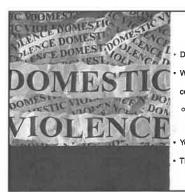
## **Learning Objectives**

After today's presentation, attendees will be able to:

- Explain why we need to address firearm possession in the context of intimate partner violence (IPV)
- Recognize the various US Codes that prohibit the possession of firearms and allow for their lawful seizure
- Describe the benefits of implementing policy and training that governs the investigation of firearm-related crimes



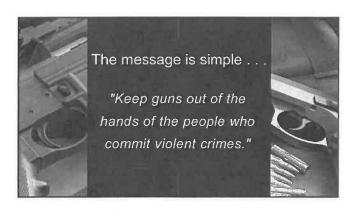
What is your biggest frustration regarding domestic violence (DV) and firearms?

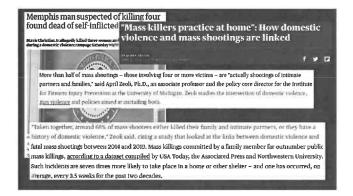


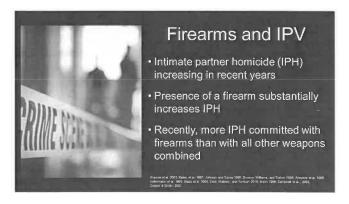
### The Good News

- DV homicides can be reduced
- Weapon seizure policy is part of the coordinated response
  - Even with a statute that has holes in it and/or inadequate resources
- · You can do this and keep your house
- The bad news....?











Domestic abusers:
dangerous for women
– and lethal for cops

In 2017, according to the National Law Enforcement Officers Memorial Fund, more officers were shot responding to domestic violence than any other type of firearm-related fatality.

- 1988 to 2016 136 officers killed while responding to domestic disturbances
- 1988 to 2016 80 officers killed during a drug-related arrest

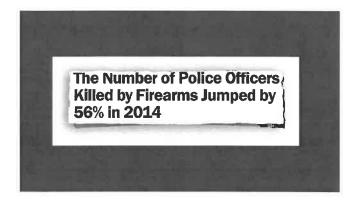
The Number of Police Officers
Killed by Firearms Jumped by
56% in 2014

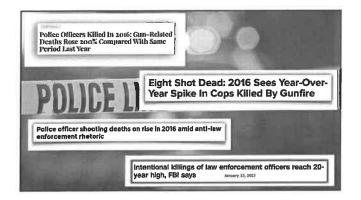
Moten Regan

Total officer deaths
also rose

The number of U.S.
law-enforcement
officers killed by
firearm-related
incidents jumped by
goto in study, an
annual report has
found.

According to the
report, released by the
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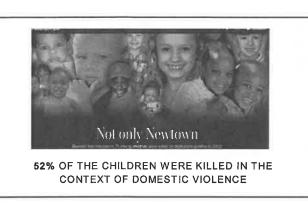




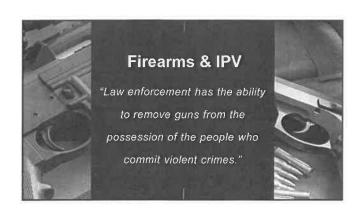
BETWEEN 2008 AND 2019, IN 54% OF SHOOTINGS WHERE FOUR OR MORE PEOPLE WERE KILLED . . .
THE PERPETRATOR KILLED THEIR INTIMATE PARTNER

EVERYTOWN FOR GUIN BAFETY RUPPORT FUND. GOISB. 2018/10/21; "TEN YEARS OF MASS SHOOTINGS IN THE UNITED STATES. 1506-2020 RETRIEVED 2020/02/22, 1926, FROM HTTPS //ICZENTOWN RESCARCH.ORG/MASS/SHOOTINGS-IN-THE UNITED STATES. 1506-2020 RETRIEVED 2020/02/22, 1926, FROM HTTPS //ICZENTOWN RESCARCH.ORG/MASS/SHOOTINGS-IN-THE UNITED STATES.





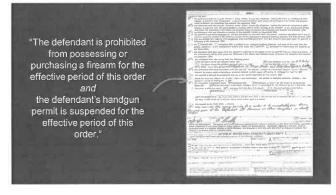
As law enforcement officers, here's what we can do!





## Ex Parte Domestic Violence Protective Orders Directed defendants not to possess or purchase a firearm for the duration of the order

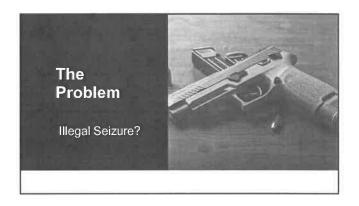




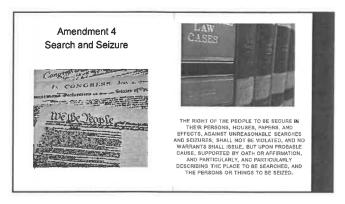
## How It All Began

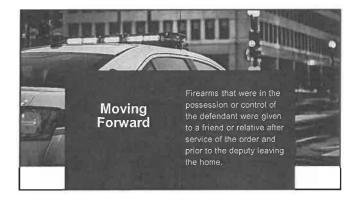
- Ex Parte DVPOs directed defendants not to possess or purchase a firearm for the duration of the order
- In some cases, firearms were seized by the deputy with no directive from the court
  - Questionable practice (w/o probable cause, consent, voluntary surrender)

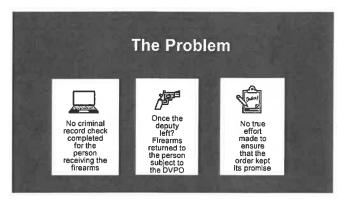












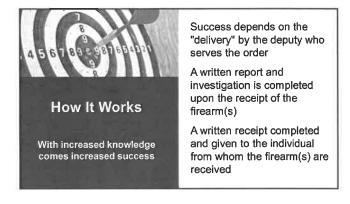
## **Change in Pitt County**

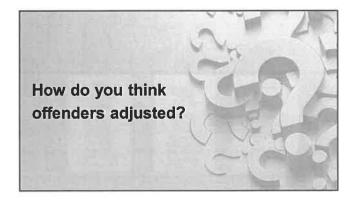
Judges began to order defendants to surrender their firearms to the deputy serving the Ex Parte DVPO Directive made by judge that issued the Ex Parte

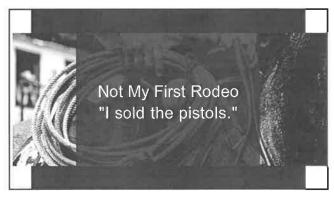
Written by hand as part of the order



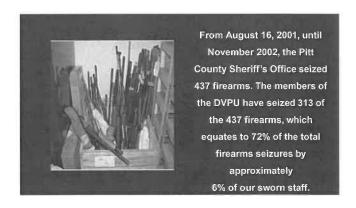
"The agency serving this order is to immediately seize from the possession of the defendant all firearms or other dangerous or deadly weapons."







## § 14-402. Sale of Certain Weapons Without Permit Forbidden • It is unlawful for any person, firm, or corporation in this State to sell, give away, or transfer, or to purchase or receive, at any place within this State from any other plate within or without the State any platel or crossbow unless: (i) a license or permit is first obtained under this Article by the purchaser or receiver from the sheriff of the county in which the purchaser or receiver resides; or (ii) a valid North Carolina concealed handgun permit is held under Article, 54B of this Chapter by the purchaser or receiver who must be a resident of the State at the time of the purchase. • Any person violating the provisions of this section is guilty of a Class 2 misdemeanor.

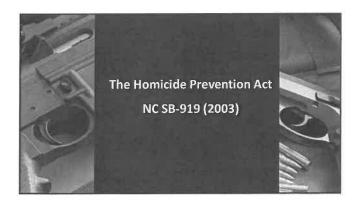




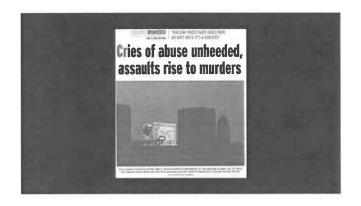


## 2004 - Pitt County The average number of firearms seized per person in 2004 is 7. The most firearms which were surrendered in 2004 from one person was 26 (along with approximately 300,000 rounds of ammunition).





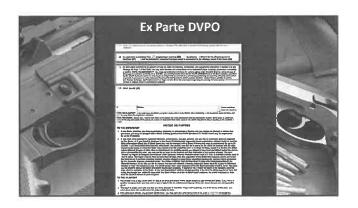


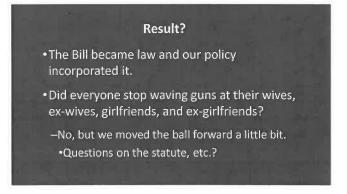


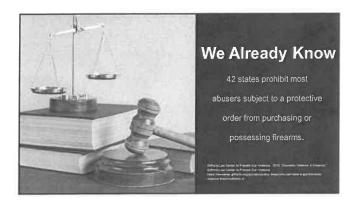




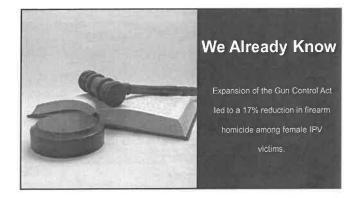








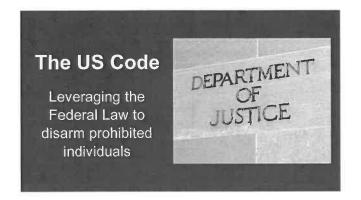




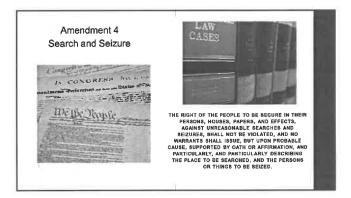


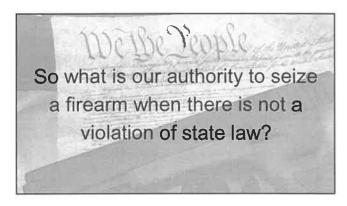


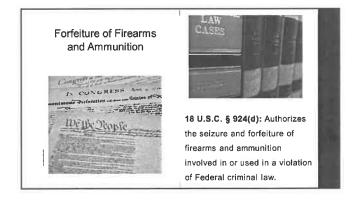


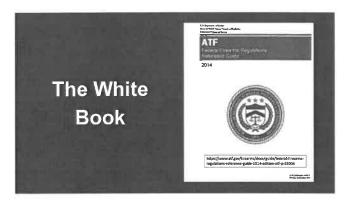














Subsections 1-9 under 18 U.S.C. 922 (g), which prohibits individuals from lawfully possessing a firearm or ammunition, are mirrored under 18 U.S.C. 922 (d), which prohibits the lawful transfer of a firearm or ammunition to any person knowing OR having reasonable cause to believe that such person is prohibited under those subsections.

## **Firearms Offenses** 18 U.S.C. 922 (g)(9)

- It is a federal crime to possess a firearm and/or ammunition after conviction of a qualifying state misdemeanor crime of domestic violence.
- · This statute applies to law enforcement.
- · Must be a "qualifying" misdemeanor.

## **Firearms Offenses** 18 U.S.C. 922 (g)(9)

- · To qualify:
  - Misdemeanor under federal or state law
  - Misdemeanor has, as an element, the use or attempted use of physical force or threatened use of a deadly weapon
  - Date of conviction must have preceded firearm possession

## **Firearms Offenses** 18 U.S.C. 922 (g)(9)

To qualify the crime must be committed by a:

- Current or former spouse
  Person who is or has cohabitated with the victim as a spouse, parent, or

- Person who shares a child with the victim
  Person similarly situated as a spouse parent or guardian
  Current or recent former dating partner (this is new and this prohibition only lasts for 5 years unless there is another misdemeanor crime of DV conviction)\*

## **Firearms Offenses** 18 U.S.C. 922 (g)(9)

The term "dating relationship" means:

A relationship between individuals who have or have recently had a continuing serious relationship of a romantic or intimate nature
 Whether a relationship constitutes a "dating relationship" shall be determined based

on consideration of:

• The length of the relationship;

• The nature of the relationship, and

- The frequency and type of interaction between the individuals involved in the

A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship."

## **Firearms Offenses** 18 U.S.C. 922 (g)(9)

- Not considered to be convicted unless:
  - Represented by counsel or waived right to counsel
  - o If entitled to jury, had a jury trial or waived right to jury trial
  - of If convicted, had conviction expunged, set aside, or civil rights have been restored (if the offense provides for loss of
  - civil rights)

## Firearms Offenses 18 U.S.C. 922 (g)(9)

In the case of a person who has been convicted of a misdemeanor crime of domestic violence against an individual in a dating relationship, a conviction would not be disabling if it has been expunged or set aside or is an offense for which the person has been pardoned or has had firearms rights restored unless the expungement, pardon, or restoration of rights expressly provides that the person may not ship, transport, possess, or receive firearms.

## Firearms Offenses 18 U.S.C. 922 (g)(9)

If the person has no more than one such conviction and is not otherwise prohibited, the person shall not be disqualified from shipping, transport, possession, receipt, or purchase of a firearm if 5 years have elapsed from the date of the judgment of conviction or the completion of the person's custodial or supervisory sentence, if any, and the person has not subsequently been convicted of another such offense, a misdemeanor under Federal, State, Tribal, or local law which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, or any other offense that would disqualify the person.

## Firearms Offenses 18 U.S.C. 922 (g)(9)

- · NICS shall be updated to reflect the status of the person.
- Restoration after 5 years, as described above, is not available for a
  current or former spouse, parent, or guardian of the victim, a
  person with whom the victim shares a child in common, a person
  who is cohabiting with or has cohabited with the victim as a
  spouse, parent, or guardian, or a person similarly situated to a
  spouse, parent, or guardian of the victim.

# United States v. Vinson (No. 14-4078 (4th circuit 2015) \*\*PRINCE CONTROL AND ADDRESS OF ADDRESS OF

## 18 U.S.C. S12 (pl(5) pepties to arrests and convictions in NC eccurring on or after 12/01/2023

### Misdemeanor Crime of Domestic Violence NCGS:14-32.5

- A current or former spouse, parent, or guardian of the victim.
- A person with whom the victim shares a child in common.
- A person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian.
- A person similarly situated to a spouse, parent,
- A person who has a current or recent former dating relationship with the victim.

## Possession of a Firearm

While Subject to a Protection Order

18 U.S.C. §922(g)(8)

It is illegal for a person to possess a firearm while subject to a court order restraining such person from harassing, stalking, or threatening an intimate partner or the child of an intimate partner or from angaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.



### A qualifying order must have all of these factors:

1. Issued after a hearing where the respondent received actual notice of the hearing and had an opportunity to participate in the hearing. The respondent does not need to actually attend the hearing for the ban to apply. The respondent just needs to receive actual notice of the scheduled hearing and be given the opportunity to participate. The respondent cannot avoid the firearm ban simply but not attending the hearing.

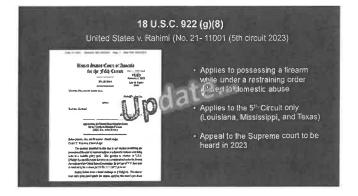
### A qualifying order must have all of these factors:

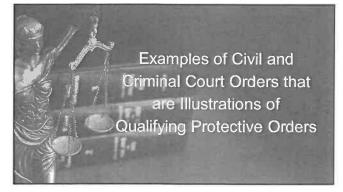
- Restrains the respondent (defendant) from harassing, stalking, or threatening an intimate partner of the respondent or child of the intimate partner or child of the respondent, or engaging in other conduct that would place the respondent's intimate partner in reasonable fear of bodily injury to the partner or the child.
- Intimate partners include spouses, former spouses, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

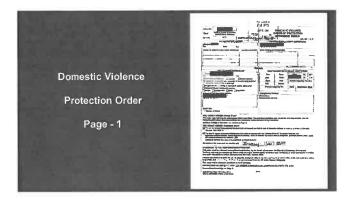
## A qualifying order must have all of these factors:

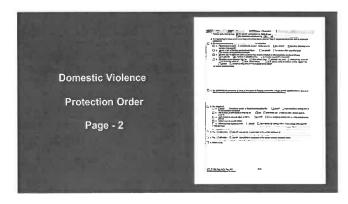
Includes a finding that the respondent represents
a credible threat to the physical safety of the
intimate partner or child; OR, by its terms,
explicitly prohibits the use, attempted use, or
threatened use of physical force against the
intimate partner or child that would reasonably
be expected to cause bodily injury.

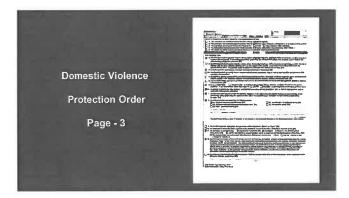
## Possession of a Firearm What types of orders apply? • Any criminal or civil order • Probation judgment • PTR conditions • 508 & 500 orders • Rule 55 (restraining orders) • Divorce decree

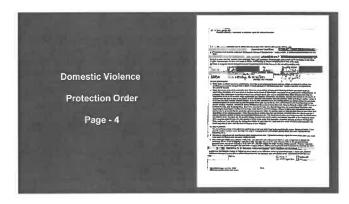


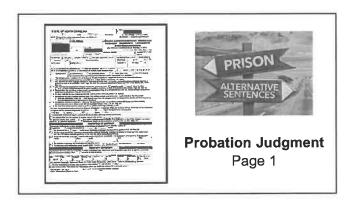


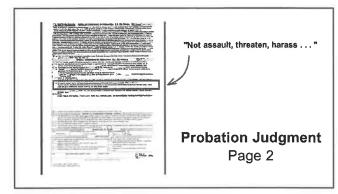


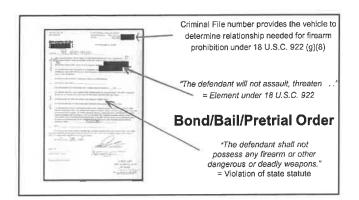


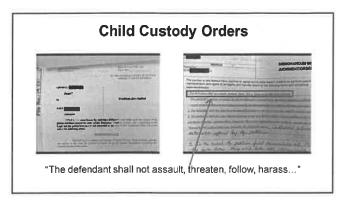


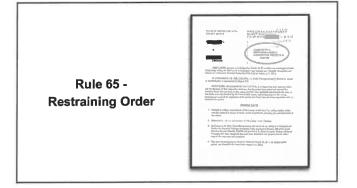


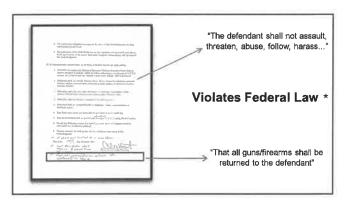


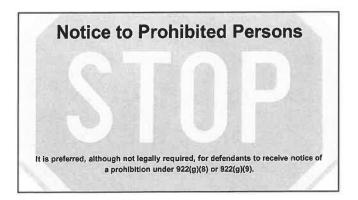


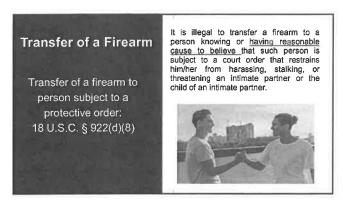












## Transfer of Firearm

Transfer of a firearm to person convicted of a misdemeanor crime of domestic violence:

18 U.S.C. § 922(d)(9)

It is illegal to transfer a firearm to a person knowing or having reasonable cause to believe that such person has been convicted in any court of a misdemeanor crime of domestic violence. Proof concerning knowledge on the part of the supplier may be difficult to establish unless the purchaser acknowledges in the firearm application that he/she is a prohibited person.



## Notice to Third Party Receiving Firearms Pursuant to DVPO

- State and federal disqualifications explained
- Permit to Purchase must be obtained for each handgun received



## **Felons With Guns**

18 U.S.C. §922(d)(1)

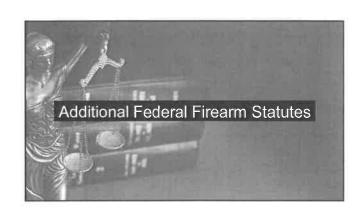
## **Felons With Guns**

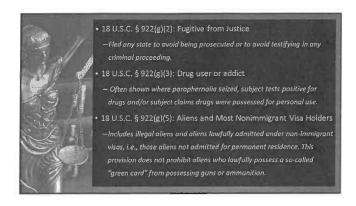
18 U.S.C. §922(d)(1)

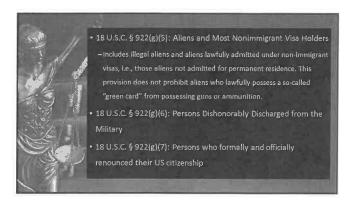
- Prohibits possession of firearms or ammunition by any person who is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year.
- This statute applies to a person who is in possession of a firearm within their home.

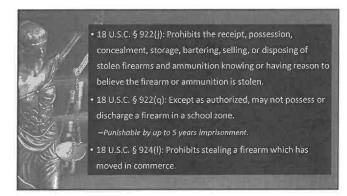
## **Penalties**

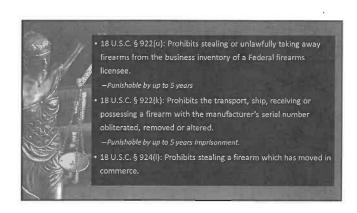
Section 922(g)
Offense 10-year maximum sentence
Up to 250,000.00 fine

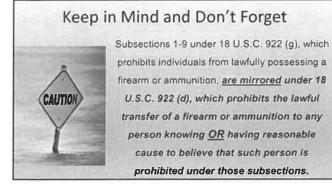




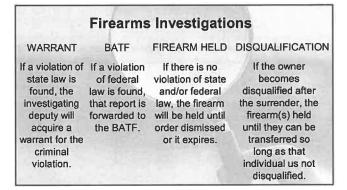


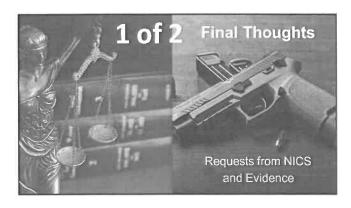


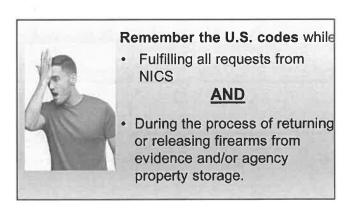


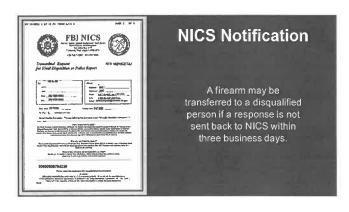


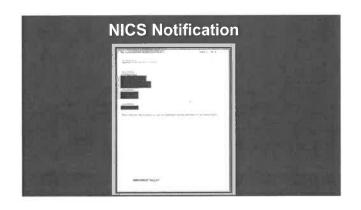


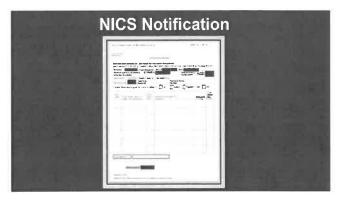


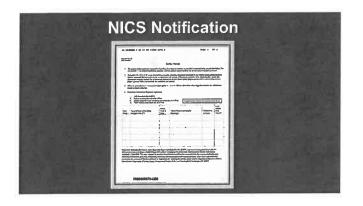


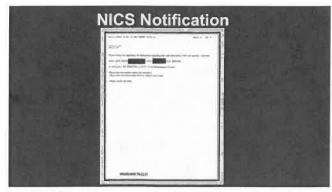


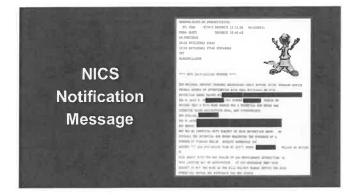


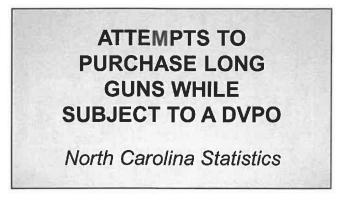


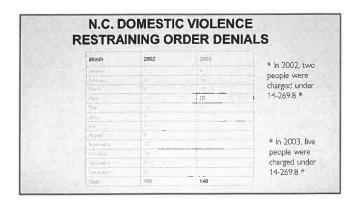














Real-world examples that
U.S. law enforcement
officers see every day
highlighting the fact that
knowing US codes related
to firearm prohibitions is
critical.

