

Guns and Dementia: Dealing With A Loved One's Firearms

By Jeffrey Hall, CPA, JD

Having a loved one with dementia can be scary, but if you add in a firearm, it can also get dangerous. To prevent harm to both the individual with dementia and others, it is important to plan ahead for how to deal with any weapons.

[Research](#) shows that 45 percent of all adults aged 65 years or older either own a gun or live in a household with someone who does. For someone with dementia, the risk for suicide increases, and firearms are the [most common method](#) of suicide among people with dementia. In addition, a person with dementia who has a gun may put family members or caregivers at risk if the person gets confused about their identities or the possibility of intruders. A 2018 [Kaiser Health News](#) investigation that looked at news reports, court records, hospital data and public death records since 2012 and found more than 100 cases in which people with dementia used guns to kill or injure themselves or others.



The best thing to do is talk about the guns before they become an issue. When someone is first diagnosed with dementia, there should be a conversation about gun ownership similar to the conversation many health professionals have about driving and dementia. Framing the issue as a discussion about safety may help make it easier for the person with dementia to acknowledge a potential problem. A conversation about guns can also be part of a larger long-term care planning discussion with an elder law attorney, who can help families write up a gun agreement that sets forth who will determine when it is time to take the guns away and where the

guns should go. Even if the gun owner doesn't remember the agreement when the time comes to put it to use, having a plan in place can be helpful.

What to do with the guns themselves is a difficult question. One option is to lock the weapon or weapons in a safe and store the ammunition separately. Having the guns remain in the house--even if they are locked away--can be risky. Another option is to remove the weapons from the house altogether. However, in some states, there are strict rules about transferring gun ownership, so it isn't always easy to simply give the guns away. Families should talk with their Elder Law attorney and familiarize themselves with state and federal gun laws before giving away guns. The potential liability is substantial. Note that there's a "strict liability" standard when the Successor Trustee or Executor gifts a weapon to a "prohibited person" pursuant to California law, such as persons diagnosed with drug additions, alcoholic problems, sex offenders, and several other classifications which can impose liability on the negligence of an Executor. The stakes are high and be careful. For example, one California case an Executor of a Will was charged with a misdemeanor as she drove her vehicle to a beneficiary's residence to gift the gun to her adult grandchild as instructed in the Will. As fate would have it, the Executor was stopped by local police for speeding and was asked if she had any weapons in her vehicle. She replied that she did. A search was performed by the police and discovered the weapon that the Executor stated that she possessed, but didn't realize that the gun was loaded. She was then quickly arrested for transporting and possession of loaded firearm. Under current law here in California, Executor's cannot just "hand-out" grandpa's guns upon his death. The Executor would be well advised to utilize the services of a Federal Firearms Licensed (FFL) dealer who can supervision the transfer of the weapons to donees. The FFL will perform a background check on all donees to ensure whether that person is a "prohibited person" and after the 10-day waiting period, the FFL can transfer the weapon. This will likely insulate the Executor from potential liability both civil and criminal.

If you are considering gifting a weapon to a family member through either a Will or Trust, you should contact Elder Law / Estate Planning Attorney --

Jeffrey Hall at (925) 230-9002, or you may visit his website at www.HallLawGroup.com. For additional information, go to: <https://khn.org/news/worried-about-grandpas-guns-heres-what-you-can-do>.

NO LEGAL OPINION NOTICE: Information contained in this article is not a substitute for a personal consultation with an attorney. This article is not intended to provide any legal advice nor imply an attorney-client relationship and is not deemed to contain the signature of the author-attorney or any other party. The author-attorney takes no responsibility for reliance on this article by anyone without specific, actual, and not implied, independent authorization by the author-attorney.



Law Office of Jeffrey Hall, PC
Elder Law & Estate Planning
EVERYONE DESERVES AN EXCELLENT PLAN.

