



## **The intersection between domestic violence and firearms:**

- Firearms are used to control, coerce, terrorize and intimidate victims and survivors of domestic violence:
  - Approximately 4.5 million American women alive today have been threatened by intimate partners with firearms. One million have actually been shot or shot at by their abusers.<sup>1</sup>
  - A survey of contacts by the National Domestic Violence Hotline found, of respondents' whose abusers had access to firearms:
    - 10% said their abusers had fired a gun during an argument;
    - 67% believed their abusers were capable of killing them.<sup>2</sup>
- Firearms are the weapon of choice for domestic violence homicides:
  - In 2015, 928 women were killed by male intimate partners. Most of these women were killed by abusers with firearms.<sup>3</sup>
  - 1 in 3 female murder victims and 1 in 20 male murder victims are killed by intimate partners.<sup>4</sup>
  - 35% of all women killed by men are killed by intimate partners with guns.<sup>5</sup>
  - An abuser's access to a firearm increases the risk of femicide by at least 400%.<sup>6</sup>
  - Domestic violence incidents involving firearms are twelve times more likely to result in death than incidents involving other weapons or bodily force.<sup>7</sup>
  - 44% of mass shootings between 2008 and 2013 involved intimate partners.<sup>8</sup>
  - Women in the US are 11 times more likely to be murdered with a gun than in other high-income nations.<sup>9</sup>

## **Improving Enforcement**

### **Enforcing existing domestic violence firearms prohibitors**

Allows the use of STOP grants to develop and institute relinquishment protocols for abusers prohibited by court order or state law from possessing firearms; requires state, territorial, local, tribal governments to certify they have established and implemented such a program within three years to be eligible for grants

- State laws requiring abusers prohibited from possessing firearms to relinquish their firearms are associated with a 10% decrease in intimate partner homicide.<sup>i</sup>
- A pilot study in California found that 75% of petitioners felt safer after law enforcement had confiscated their abusers' firearms; 5/6th of those whose abusers retained their firearms felt less safe<sup>ii</sup>

### **Notifying state and local law enforcement**

Requires notification of state and local law enforcement when an abuser fails a firearms background check; requires notification of state, tribal, and local law enforcement when an abuser obtains a firearm via default proceed and is then determined to be a prohibited person:

- A plurality of default proceed transfers (when a firearm is transferred prior to the completion of a background check, because 72 hours had elapsed) to prohibited persons



in 2013 and 2014 that were subsequently referred to the ATF were to persons prohibited due to domestic violence.<sup>10</sup>

- In 2013 and 2014, 30% of denials for misdemeanor crimes of domestic violence are issued *after* the prohibited abuser has taken possession of the firearm, because the background check was unable to be completed within 72 hours.<sup>11</sup>
- Attempted purchase of a firearm by a domestic violence perpetrator is often a sign of potentially lethal escalation of violence, and local law enforcement needs to be informed in order to take the necessary steps to protect victims and survivors.

### **Deputizing Special Assistant US Attorneys and establishing points of Contact at the ATF and US Attorney' offices – recommended by the Department of Justice**

Authorizes the Attorney General to use existing authority to deputize Special Assistant US Attorneys in jurisdictions with high rates of firearm-involved intimate partner violence to enforce federal domestic violence firearms prohibitors or to assist the U.S. Attorneys' offices in prosecuting persons who have violated federal domestic violence firearms prohibitions. Authorizes ATF to deputize local law enforcement to seize illegally held firearms in coordination with ATF (*US v. Weiland*, 420F.3d 1062 (9<sup>th</sup> Cir. 2005)):

- Over half of states<sup>12</sup> do not have a final domestic violence protective order firearms prohibitor (although some allow judges to prohibit possession at their discretion).
- Eighteen states<sup>13</sup> do not have a misdemeanor crime of domestic violence firearms prohibitor, and two states<sup>14</sup> have conditional prohibitors.

### **Protecting All Victims**

#### **Posted municipal ordinances**

In response to an outlier 10th Circuit Court ruling that domestic violence convictions under local laws do not trigger the federal prohibitor, clarifies that posted municipal ordinances trigger the misdemeanor crime of domestic violence (amends 18 USC 921(a)(33)):

- The 10th Circuit ruling is in direct conflict with ATF regulations.<sup>15</sup>
- Many domestic violence misdemeanor cases, particularly in large urban areas, are prosecuted under local or state law. Very few are prosecuted under federal law.

#### **Dating violence prohibitor**

Expands the definition of 'intimate partner' in 18 USC 921(a)(32) to include dating partners:

- 48.6% of women killed by intimate partners are killed by dating partners.<sup>16</sup>
- Rates of violence are highest for intimate partners between the ages of 18 and 24.<sup>17</sup>
- 80% of intimate partner violence calls to law enforcement are for dating violence.<sup>18</sup>
- States that prohibit both domestic and dating abusers from possessing firearms have a 10% lower rate of intimate partner homicide than states that do not.<sup>19</sup>

#### **Stalking prohibitors**

Add misdemeanor stalking to the list of prohibiting factors in 18 USC 922(g) and amend the description of a qualifying protective order to include stalking protective orders:



- Americans who experience stalking are at least 200 times more likely to be murdered than Americans who are not stalked; due to many data limitations, the true magnitude of this increased risk is likely to be much higher.<sup>20</sup>
- 76% of women murdered by intimate partners and 85% of women who survived murder attempts were stalked first.<sup>21</sup>

### Ex parte prohibitor

Adds ex parte orders to the existing protective order prohibitor in 18 USC 922(g)(8):

- The most dangerous time in an abusive relationship is when the victim seeks to leave, which is also often when they seek ex parte protective orders.
- A ten-city study found 1/5 of homicide victims with temporary protective orders were murdered within two days of obtaining the order; 1/3 were murdered within the first month.<sup>22</sup>
- Prohibiting respondents to ex parte domestic violence protective orders from possessing firearms is associated with a 12% decrease in intimate partner homicide.<sup>23</sup>
- Provides for due process by requiring that notice and opportunity to be heard must be provided before an ex parte order can trigger the protection order prohibitor under 18 U.S.C. 922(g)(8).

**Contact Rachel Graber ([rgraber@ncadv.org](mailto:rgraber@ncadv.org)) or Rob Valente ([rvalente@ncadv.org](mailto:rvalente@ncadv.org)) for more information.**

1. Sorenson, S. B., & Schut, R. A. (2016). Nonfatal gun use in intimate partner violence: A systematic review of the literature. *Trauma, Violence, & Abuse*.
2. National Domestic Violence Hotline (2014). *Firearms and domestic violence*. Retrieved from <http://www.thehotline.org/resources/firearms-dv/#tab-id-2>.
3. Violence Policy Center (2017). *When men murder women: An analysis of 2015 homicide data*. Retrieved from <http://www.vpc.org/studies/wmmw2017.pdf>.
4. Bridges, F. S., Tatum, K. M., & Kunselman, J. C. (2008). Domestic violence statutes and rates of intimate partner and family homicide: A research note. *Criminal Justice Policy Review*, 19(1), 117-130.
5. Violence Policy Center (2017). *When men murder women: An analysis of 2015 homicide data*. Retrieved from <http://www.vpc.org/studies/wmmw2017.pdf>.
6. Campbell, J.C., Webster, D., Koziol-McLain, J., Block, C., Campbell, D., Curry, M. A., Gary, F., Glass, N., McFarlane, J., Sachs, C., Sharps, P., Ulrich, Y., Wilt, S., Manganello, J., Xu, X., Schollenberger, J., Frye, V., & Lauphon, K. (2003). Risk factors for femicide in abusive relationships: Results from a multisite case control study. *American Journal of Public Health*, 93(7), 1089-1097.
7. Saltzman, L. E., Mercy, J. A., O'Carroll, P. W., Rosenberg, M. L., & Rhodes, P. H. (1992). Weapon involvement and injury outcomes in family and intimate assaults. *JAMA*, 267(22), 3043-3047.
8. Everytown for Gun Safety (2014). *Guns and violence against women: America's uniquely lethal domestic violence problem*. Retrieved from <http://everytown.org/documents/2014/10/gun-laws-and-violence-against-women.pdf>.
9. Mayors Against Illegal Guns. *Guns laws and violence against women*. Retrieved from <http://3gbwir1ummda16xrhf4do9d21bsx.wpengine.netdna-cdn.com/wp-content/uploads/2014/10/Guns-and-Violence-Against-Women-Everytown-for-Gun-Safety.pdf>.
10. Karberg, J.C., Frandsen, R. J., Durso, J. M., Buskirk, T. D., & Lee, A. D. (2016). *Background checks for firearms transfers, 2013-2014 – Statistical tables*. Retrieved from <https://www.bjs.gov/content/pub/pdf/bcft1314st.pdf>.
11. Ibid.



12. AK, AZ, AR, DC, GA, ID, IN, KS, KY, MI, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, PA, SC, SD, VT, WY
13. AK, AR, FL, GA, ID, KS, KY, MI, MO, MS, NH, NM, NY, NC, ND, OH, OK, VA, WI, WY, TN
14. MD, ND
15. Bureau of Alcohol, Tobacco and Firearms (2017). *Are local criminal ordinances "misdemeanors under State law" for purposes of 18 U.S.C. 922(d)(9) and (g)(9)?* Retrieved from
16. Cooper, A. & Smith, E. L. (2011). *Homicide trends in the United States, 1980-2008*. Retrieved from <http://www.bjs.gov/content/pub/pdf/htus8008.pdf>.
17. Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J. & Stevens, M. (2011). *The national intimate partner and sexual violence survey: 2010 summary report*. Retrieved from [http://www.cdc.gov/violenceprevention/pdf/nisvs\\_report2010-a.pdf](http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf).
18. Susan, S. B. & Spear, D. (2018). New data on intimate partner violence and intimate relationships: Implications for gun laws and federal data collection. *Preventive Medicine, 107*, 103-108. <https://doi.org/10.1016/j.ypmed.2018.01.005>
19. Zeoli, A. M., McCourt, A., Buggs, S., Frattaroli, S., Lilley, D., & Webster, D. W (2017). Analysis of the strength of legal firearms restrictions for perpetrators of domestic violence and their association with intimate partner homicide. *American Journal of Epidemiology*. doi: 10.1093/aje/kwx362
20. Meloy, J. R. (1999). Stalking: An old behavior, a new crime. *Forensic Psychiatry, 22*(1), 85-99.
21. McFarlane, J. M., Campbell, J. C., Wilt, S., Sachs, C. J., Ulrich, Y. & Xu, X. (1999). Stalking and intimate partner femicide. *Homicide Studies, 3*(4), 300-316.
22. Vittes, K. A. & Sorenson, S. B. (2008). Restraining orders among victims of intimate partner homicide. *Injury Prevention, 14*(1), 191-195.
23. Zeoli, A. M., McCourt, A., Buggs, S., Frattaroli, S., Lilley, D., & Webster, D. W (2017).

---

<sup>i</sup> Diez, C., Kurland, R. P., Rothman, E. F., Bair-Merritt, M., Fleegler, E., Xuan, Z., Galea, S., Ross, C. S., Balesan, B., Goss, K. A., & Siegel, M. (2017). State intimate partner violence-related firearm laws and intimate partner homicide rates in the United States, 1991 to 2015. *Annals of Internal Medicine, 167*(8), 536-543. doi:10.7326/M16-2849

<sup>ii</sup> Vittes, K. A., Webster, D. W., Frattaroli, S., Claire, B E., and Wintemute, G. J. (2013). Removing guns from batterers: Findings from a pilot survey of domestic violence restraining order recipients in California. *Violence Against Women, 20*(10), 1-15. doi: 10.1177/1077801213490561