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Evidence for Optimism

Policies to Limit Batterers' Access to Guns

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In 2010, at least 1,082 women and 267 men were killed by their intimate partners. Fifty-four percent of these victims were killed with guns (United States Department of Justice 2012). For at least the past twenty-five years, more intimate partner homicides (IPHs) have been committed with guns than with all other weapons combined (Fox and Zawitz 2009). Furthermore, women are more likely to be killed by an intimate partner than by any other offender group (Fox and Zawitz 2009; Moracco, Runyan, and Butts 1998). The evidence is clear: when a woman is killed, it is most likely to be at the hands of an intimate partner with a gun.

In this essay, we focus on policies to limit batterers' access to guns, the evidence that supports these policies, and evidence for improvement in their implementation and expansion. We begin with an overview of the evidence about gun usage in domestic violence and how batterers become known to

the justice system. Second, we discuss existing legislation to remove guns from batterers. We then present promising evidence about policies to limit batterers' access to guns and their relationship to IPH, and we discuss implementation and enforcement of those laws. We conclude with federal gun policy recommendations to prevent IPH.

Domestic Violence and Guns: A Brief Overview

Guns are the weapons of choice for IPH perpetrators. Domestic violence involving a gun is more likely to result in homicide than domestic violence that involves a knife, other weapon, or bodily force (Saltzman et al. 1992). Indeed, the risk of homicide increases when a violent intimate has access to a gun (Bailey et al. 1997; Kellerman et al. 1993), with one study estimating a fivefold increased risk (Campbell et al. 2003). Intimate partners are more likely to use guns to kill their female victims than are non-intimate partners who kill women (Arbuckle et al. 1996; Moracco et al. 1998). Moreover, there is growing evidence documenting the role of guns in nonfatal domestic violence perpetrated by men against women (Moracco et al. 2006; Rothman et al. 2005; Sorenson and Wiebe 2004; Tjaden and Thoennes 2000). These nonfatal uses of guns may warn of future fatal violence: batterers' use of weapons to threaten has been associated with a fourfold increased risk of homicide (Campbell et al. 2003).

There is a history of male-to-female domestic violence in the relationships of most women and men killed by their intimate partners (Bailey et al. 1997; Campbell et al. 2003; McFarlane et al. 1999; Smith, Moracco, and Butts 1998), making domestic violence against the female partner the leading risk factor for IPH (Campbell et al. 2007). Stalking may also be an important risk factor for IPH (Campbell et al. 2003), with one study reporting that 76% of homicide victims and 85% of attempted homicide victims were stalked by their abusers prior to the incident (McFarlane et al. 1999). Often this abuse is known to the authorities. Roughly half of women killed by their intimate partners had contact with the justice system to report violence and stalking within the year preceding their murders. These women reported domestic violence/stalking to the police, had their assailants arrested, filed criminal charges, and obtained domestic violence restraining orders (DVROs) against their batterers (McFarlane et al. 1999; Moracco, Runyan, and Butts 1998).

When women seek assistance from the justice system, they create opportunities for intervention that may prevent future violence and homicide. If

equipped with a comprehensive set of domestic violence laws, law enforcement may be better positioned to safeguard victims and save more lives. Laws that restrict batterers' access to guns are an essential component of any comprehensive approach to address domestic violence.

Current Federal Law: Responding to the Risks

Two provisions under federal law address the dangerous combination of batterers and guns. In 1994, Congress amended the Gun Control Act to prohibit individuals who are under qualifying DVROs from purchasing or possessing guns (18 U.S.C. § 922(g)(8)). To qualify, a DVRO must be issued after a court hearing about which the respondent was notified and in which he had the opportunity to participate. This type of DVRO is often referred to as *permanent*. Eligible DVRO respondents include the petitioner's current or former spouse, someone the petitioner shares a child with, or a current or former cohabitant (18 U.S.C. § 921(a)(32)).

In 1996, Congress amended the Gun Control Act to prohibit those convicted of domestic violence misdemeanors from purchasing or possessing guns (18 U.S.C. § 922(g)(9)). This expansion is a lifetime ban and includes any misdemeanor that "has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon" and was committed by an intimate partner (18 U.S.C. § 921(a)(33)). The list of those included as intimate partners under the misdemeanor law is more expansive than the DVRO gun prohibition and includes parents or guardians as well as those "similarly situated to a spouse, parent or guardian" (18 U.S.C. § 921(a)(33)). Importantly, this law applies to law enforcement and the military and includes qualifying offenses that pre-date the law.

State-Level Domestic Violence Gun Legislation

Many states have laws limiting DVRO respondents' access to guns. State laws are often more inclusive than federal laws and some, for example, expand the definition of qualifying DVROs to include temporary DVROs. Courts usually consider and grant temporary DVROs before respondents have been notified of petitioners' requests for protection from abuse. This decision in the absence of the respondent is unusual in the U.S. justice system, but it is a direct response to the danger that DVRO petitioners face. Respondents to

DVROs have high rates of criminal justice system involvement (Klein 1996; Moracco et al. 2010; Vittes and Sorenson 2006) and often have committed severe domestic violence (Holt et al. 2003; Logan, Shannon, and Walker 2005; Sorenson and Shen 2005). Furthermore, women who seek DVROs often do so in the context of separation from their batterer (Logan et al. 2008), a time of heightened homicide risk (Campbell et al. 2007; Wilson and Daly 1993). Temporary DVROs allow victims to gain the protection a DVRO provides without requiring them to wait for a hearing.

Some states limit domestic violence misdemeanants' access to guns. These laws may also be more expansive than the federal legislation. One way in which both state DVRO and domestic violence misdemeanor gun restrictions increase coverage is by expanding the categories of intimate partners covered by the law, for example by including current or former dating partners. Current dating partners were responsible for 35 percent of IPHs committed between 1976 and 2005, but the share of IPHs committed annually by current dating partners has been increasing (Fox and Zawitz 2009). Additionally, one study found that more than half of DVRO applications were against current or former dating partners or fiancés and that applications against this group were more likely to mention guns than applications against current and former spouses combined (Vittes and Sorenson 2006).

There is great variation in state DVRO and domestic violence misdemeanor gun laws, including whether purchase of a gun is prohibited or only possession is prohibited. Not all states provide more coverage than the federal legislation, and many do not have these types of gun prohibitions. Because some states have only the federal law to rely on and because federal restrictions may be stronger than state restrictions, federal law is crucial.

Evidence

Federal legislative strategies to address the risks associated with armed batterers rely on the existing system of identifying and prosecuting violent intimates through the criminal justice system and the DVRO system in place in courts in all fifty states. This approach is consistent with the evidence: past abuse in a relationship is the best predictor of future abuse and is the leading risk factor associated with IPH. It is also consistent with our current approach to regulating access to guns. Prohibitions on purchase and possession are largely based on disqualifying behaviors, with criminal

nondomestic violence convictions constituting the largest category of prohibited purchasers denied through background checks (Federal Bureau of Investigation 2011).

Evaluating Impacts

Three studies have examined how state laws limiting access to guns for DVRO respondents and domestic violence misdemeanants affect IPH (Vigdor and Mercy 2003, 2006; Zeoli and Webster 2010). Vigdor and Mercy examined the effects of state DVRO and domestic violence misdemeanor gun restrictions on state-level IPH from 1982 to 1998 (2003), and again from 1982 to 2002 (2006). In both studies, DVRO laws were significantly associated with reductions in IPH risk, both for IPHs committed with guns and total IPHs. Further investigation uncovered that these reductions rested on the capacity of states to support background checks on would-be gun purchasers (Vigdor and Mercy 2003, 2006). This finding highlights the importance of ensuring that systems for implementing these laws are in place and supported: the prohibition against purchasing a gun can be effective only if background checks yield current, comprehensive, and accurate disqualifying information.

There was also a measurable difference in the effect of laws prohibiting gun purchases compared to laws prohibiting possession only (Vigdor and Mercy 2006). In states prohibiting purchase, total and gun IPH had an associated reduction of 10% to 12%; there was no measurable impact of possession-only laws. Purchase may be the more effective prohibited action because the restriction on possession relies on respondents to voluntarily surrender their guns or law enforcement to collect guns from newly prohibited respondents (Vigdor and Mercy 2006).

A later analysis of state domestic violence gun laws and IPH in 46 U.S. cities from 1979 to 2003 provides further evidence of the state DVRO laws' impact (Zeoli and Webster 2010). The 46 cities were in 27 states, 15 of which have DVRO gun prohibitions and 9 of which have domestic violence misdemeanor gun prohibitions. Cities in states with DVRO gun restrictions had 19% fewer IPHs and 25% fewer IPHs committed with guns compared to cities without those state laws (Zeoli and Webster 2010).

Taken together, these three studies provide compelling evidence that DVRO gun restrictions reduce IPH. Importantly, the results of all three studies show that those reductions are not limited to IPHs committed with guns, suggesting that there is no discernible substitution effect. Would-be killers do not replace

guns with other weapons to affect the same number of killings. Or, put another way, the evidence suggests that state DVRO gun prohibitions save lives.

Unlike the beneficial effects associated with DVRO laws, the three studies found no measurable impact on IPH of state laws restricting domestic violence misdemeanants' access to guns. This may be for a number of reasons. Misdemeanor convictions for domestic violence may be too few for researchers to detect an associated reduction in homicide (Vigdor and Mercy 2006). In addition, the statute under which a batterer is charged also may determine whether he is identified through a background check as prohibited or not, and many states do not have a specific domestic violence misdemeanor crime to charge (Vigdor and Mercy 2006). Finally, a lack of implementation and enforcement of the law may impact its effectiveness.

Implementation and Enforcement

With the evidence concerning laws that address the risks associated with guns and violent intimates came attention to the implementation and enforcement of these laws. DVRO policies have been a focus of this research, which offers empirical insight into why DVRO laws prohibiting purchase fare better than policies that only prohibit possession and provides strategies for strengthening the possession prohibition. We are unaware of any research examining how domestic violence misdemeanor prohibitions are implemented and enforced. However, we suspect there are similarities in the processes involved because both laws require that information about the prohibiting offense be included in the background check system and that processes for retrieving guns from newly disqualified individuals be in place.

One evaluation of North Carolina's DVRO gun law found no measurable reduction in intimate partner gun violence among petitioners post-law but also documented no change in DVROs requiring respondents to surrender their guns or cases where guns were recovered from respondents (Moracco et al. 2006). The conclusion from this study is not that the law is flawed but rather that the implementation of the law did not allow for a real test of its merits. The implementation failure is likely not unique to North Carolina. Indeed, several reports offer anecdotal evidence of neglected implementation (Attorney General's Task Force on Local Criminal Justice Response to Domestic Violence 2005; Frattaroli and Teret 2006; Gwinn 2006; Webster et al. 2010).

Behind the failures to implement the gun possession prohibition are opportunities to better ensure the prohibition is realized (Frattaroli and Teret

2006; Wintemute et al. 2012). It is essential to know whether a respondent possesses guns and, if so, how many. Such information can be obtained from state registries and gun sale databases (where they exist), DVRO petitions, and petitioners. One evaluation of an initiative to implement the California DVRO law concluded that while each source provides some unique data about respondents' guns, the information is still incomplete (Wintemute et al. 2012). Facilitating disclosure of information about guns by petitioners through the DVRO application and hearing processes is critical (Frattaroli and Teret 2006; Webster et al. 2010; Wintemute et al. 2012), and the value of complete registry or record-of-sales databases that capture all gun transactions (long guns and handguns; private sales and dealer sales) cannot be overstated for any effort to fully enforce DVRO possession prohibitions (Wintemute et al. 2012). Knowledge of which respondents may have firearms allows law enforcement to better prepare for interacting with the respondent safely, and it may increase the likelihood that guns are recovered (Wintemute et al. 2012).

Even with information about the presence of guns, that information does not always translate into DVROs issued with instructions to surrender guns (Frattaroli and Teret 2006; Sorenson and Shen 2005; Webster et al. 2010). Still, there is evidence that oversight may reduce underuse of the DVRO gun law. Following an examination of the state's DVRO database, the California Department of Justice sent letters to relevant local agencies that called attention to the low utilization of the gun prohibition on DVROs in the database (Seave 2006). A review of the data following this exchange revealed a reduction in the percentage of orders without a gun prohibition (Seave 2006).

Service of issued DVROs is also a major barrier to realizing a DVRO gun prohibition. For those orders that are served by law enforcement, the act of service offers a chance for officers to facilitate removal of guns to ensure compliance with the DVRO. The value of law enforcement access to record-of-sale databases and to information provided by the petitioner to the recovery of guns has been documented, as has the importance of trained officers tasked with handling these exchanges (Wintemute et al. 2012).

Given the findings from the above studies, we hypothesize that the documented effects associated with DVRO gun restrictions likely reflect an effect of the purchase prohibitions and not the possession prohibitions. While the implementation of this law is complex and involves participation from different agencies, these barriers are not insurmountable, as the California initiative demonstrates (Wintemute et al. 2012). Additionally, a recent report suggests

that a small number of localities are engaging in innovative strategies to ensure that DVRO laws are being used to improve public safety (Klein 2006). Between the emerging initiatives at the local level and the literature that is developing on this topic, the time is right for federal action to organize and encourage the efforts needed to reduce the documented risks that result when violent intimates have access to guns.

Policy Implications

There are many ways to strengthen federal law to reduce the violence documented at the start of this essay. Following is a list of recommendations that are evidence-informed and actionable—although not exhaustive.

Goal: Prevent DVRO respondents and DV misdemeanants from purchasing or possessing guns.

Policy: Require all gun purchasers to submit to a background check.

- Rationale: Under federal law, background checks are not required for sales from private sellers, providing prohibited batterers with easy access to guns. Requiring background checks for all gun sales will eliminate an important source of guns for prohibited batterers.

Policy: Incentivize states to automate DVRO and domestic violence misdemeanor records for reporting to background check systems.

- Rationale: Background check systems must be automated and updated regularly so that disqualifying information is included in the system and immediately available to gun sellers.

Policy: Incentivize states to create gun registries or gun purchase databases.

- Rationale: A mechanism to allow law enforcement to quickly learn whether a DVRO respondent or a person convicted of a domestic violence misdemeanor owns a gun would aid efforts to enforce existing prohibitions on gun possession among this group of people known to be violent.

Goal: Expand federal law to prohibit other categories of violent intimates from purchasing and possessing guns.

Policy: Extend the DVRO prohibition to include those covered by temporary DVROs.

- Rationale: The initial period after filing for a DVRO, during which a temporary DVRO is in place, is a dangerous time for petitioners. Federal law

should recognize and reduce this danger by extending the prohibition to include temporary DVROs.

Policy: Expand the definition of intimate partners.

- Rationale: Current and former dating partners should be included in federal law so all victims of violent intimate partners receive equal protection.

Policy: Extend federal gun prohibitions to cover those convicted of misdemeanor stalking.

- Rationale: Stalking is an important risk factor for intimate partner homicide. However, because misdemeanor stalking laws often do not include “the use or attempted use of physical force, or the threatened use of a deadly weapon,” the domestic violence misdemeanor gun prohibition does not apply.

Policy: Extend federal gun prohibitions to cover persons who have violated a DVRO (permanent and temporary) because of threatened or actual violence.

- Rationale: Those who violate court-issued DVROs because of violence may be especially dangerous and should be subject to the lifetime ban on gun purchase and possession to which domestic violence misdemeanants are subject.

Goal: Provide the resources and support needed for state and local systems to implement and enforce domestic violence gun prohibitions.

Policy: Establish and fund a center that will provide the training and technical assistance needed to realize full implementation of laws that prohibit DVRO respondents and misdemeanants from possessing guns.

- Rationale: Federal law enforcement authorities, with the help of model state programs such as the California Armed and Prohibited Persons System, are well-positioned to assist state and local law enforcement in developing their infrastructures to ensure these laws are realized for the benefit of public safety.

REFERENCES

- Arbuckle, J., L. Olson, M. Howard, J. Brillman, C. Anctil, and D. Sklar. 1996. Safe at home? Domestic violence and other homicides among women in New Mexico. *Ann Emerg Med* 27: 210–15.
- Attorney General’s Task Force on Local Criminal Justice Response to Domestic Violence. 2005. Keeping the promise: Victims’ safety and batterer accountability. Sacramento, CA: California Department of Justice.
- Bailey, J., A. Kellerman, G. Somes, J. Banton, F. Rivara, and N. Rushforth. 1997. Risk factors for violent death of women in the home. *Arch Intern Med* 157: 777–82.

- Campbell, J.C., N. Glass, P.W. Sharps, K. Laughon, and T. Bloom. 2007. Intimate partner homicide: Review and implications of research and policy. *Trauma, Violence & Abuse* 8: 246–60.
- Campbell, J.C., D.W. Webster, J. Koziol-McLain, C. Block, D. Campbell, M.A. Curry, F. Gary, N. Glass, J. McFarlane, C. Sachs, P. Sharps, Y. Ulrich, S.A. Wilt, J. Manganello, X. Xu, J. Schollenberger, V. Frye, and K. Laughon. 2003. Risk factors for femicide in abusive relationships: Results from a multisite case control study. *American Journal of Public Health* 93: 1069–97.
- Federal Bureau of Investigation. 2011. National Instant Criminal Background Check System (NICS) operations. Washington, D.C.: U.S. Department of Justice.
- Fleury, R.E., C. Sullivan, and D. Bybee. 2000. When ending the relationship does not end the violence: Women's experiences of violence by former partners. *Violence Against Women* 6: 1363–83.
- Fox, J.A., and M.W. Zawitz. 2009. Homicide trends in the United States: Bureau of Justice Statistics. <http://bjs.ojp.usdoj.gov/content/homicide/homtrnd.cfm>.
- Frattaroli, S., and S.P. Teret. 2006. Understanding and informing policy implementation: A case study of the domestic violence provisions of the Maryland Gun Violence Act. *Evaluation Review* 30: 347–60.
- Gwinn, C. 2006. Domestic violence and firearms: Reflections of a prosecutor. *Evaluation Review* 30: 237–44.
- Holt, V.L., M.A. Kernic, M.E. Wolf, and F. Rivara. 2003. Do protection orders affect the likelihood of future partner violence and injury? *American Journal of Preventive Medicine* 24: 16–21.
- Kellerman, A., F. Rivara, N. Rushforth, J. Banton, D. Reay, J. Francisco, A. Locci, J. Prodzinski, B. Hackman, and G. Somes. 1993. Gun ownership as a risk factor for homicide in the home. *New England Journal of Medicine* 329: 1084–91.
- Klein, A.R. 1996. Re-abuse in a population of court-restrained male batterers: Why restraining orders don't work. In *Do arrests and restraining orders work?*, 192–213. Thousand Oaks, CA: Sage.
- . 2006. Enforcing domestic violence firearm prohibitions: A report on promising practices. Washington, D.C.: Office on Violence Against Women. http://www.bwjp.org/files/bwjp/articles/Enforcing_Firearms_Prohibitions.pdf.
- Kurz, D. 1996. Separation, divorce, and woman abuse. *Violence Against Women* 2: 63–81.
- Logan, T.K., L. Shannon, and R. Walker. 2005. Protective orders in rural and urban areas: A multiple perspective study. *Violence Against Women* 11: 876–911.
- Logan, T.K., R. Walker, L. Shannon, and J. Cole. 2008. Factors associated with separation and ongoing violence among women with civil protective orders. *Journal of Family Violence* 23: 377–85.
- McFarlane, J., J.C. Campbell, S.A. Wilt, C. Sachs, Y. Ulrich, and X. Xu. 1999. Stalking and intimate partner femicide. *Homicide Studies* 3: 300–16.
- Moracco, K.E., K. Andersen, R.M. Buchanan, C. Espersen, J.M. Bowling, and C. Duffy. 2010. Who are the defendants in domestic violence protection order cases? *Violence Against Women* 16: 1201–23.
- Moracco, K.E., K.A. Clark, C. Espersen, and J.M. Bowling. 2006. Preventing firearms violence among victims of intimate partner violence: An evaluation of a new North Carolina law: U.S. Department of Justice.

- Moracco, K.E., C.W. Runyan, and J.D. Butts. 1998. Femicide in North Carolina, 1991–1993: A statewide study of patterns and precursors. *Homicide Studies* 2: 422–46.
- Rothman, E.F., D. Hemenway, M. Miller, and D. Azrael. 2005. Batterers' use of guns to threaten intimate partners. *Journal of the American Medical Women's Association* 60: 62–68.
- Saltzman, L.E., J.A. Mercy, P. Ocarroll, M. Rosenberg, and P. Rhodes. 1992. Weapon involvement and injury outcomes in family and intimate assaults. *Journal of the American Medical Association* 267: 3043–47.
- Seave, P.L. 2006. Disarming batterers through restraining orders: The promise and the reality in California. *Evaluation Review* 30: 245–65.
- Smith, P.H., K.E. Moracco, and J.D. Butts. 1998. Partner homicide in context: A population-based perspective. *Homicide Studies* 2: 400–421.
- Sorenson, S.B., and H. Shen. 2005. Restraining orders in California: A look at state-wide data. *Violence Against Women* 11: 912–33.
- Sorenson, S.B., and D.J. Wiebe. 2004. Weapons in the lives of battered women. *American Journal of Public Health* 94: 1412–17.
- Tjaden, P., and N. Thoennes. 2000. Extent, nature, and consequences of intimate partner violence. Washington, DC: U.S. Department of Justice.
- United States Department of Justice. 2012. Uniform crime reporting program data: Supplementary homicide reports, 2010. Icpsr33527-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor].
- Vigdor, E.R., and J.A. Mercy. 2003. Disarming batterers: The impact of domestic violence firearm laws. In *Evaluating gun policy*, 157–214. Washington, DC: The Brookings Institution.
- . 2006. Do laws restricting access to firearms by domestic violence offenders prevent intimate partner homicide? *Evaluation Review* 30: 313–46.
- Vittes, K.A., and S.B. Sorenson. 2006. Are temporary restraining orders more likely to be issued when applications mention firearms? *Evaluation Review* 30: 266–82.
- Webster, D.W., S. Frattaroli, J.S. Vernick, C. O'Sullivan, J. Roehl, and J.C. Campbell. 2010. Women with protective orders report failure to remove firearms from their abusive partners: Results from an exploratory study. *Journal of Women's Health* 19: 93–98.
- Wilson, M.I., and M. Daly. 1993. Spousal homicide risk and estrangement. *Violence and Victims* 8: 3–16.
- Wintemute, G., S. Frattaroli, K.A. Vittes, B. Claire, M. Wright, and D.W. Webster. 2012. Firearms and domestic violence education and intervention project: Final report of process and outcome evaluations. Sacramento, CA: Violence Prevention Research Program, University of California, Davis.
- Zeoli, A.M., and D.W. Webster. 2010. Effects of domestic violence policies, alcohol taxes and police staffing levels on intimate partner homicide in large us cities. *Injury Prevention* 16: 90–95.

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