



Preventing Domestic Abusers and Stalkers from Accessing Guns

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While opinions may differ as to the scope of the Second Amendment right to keep and bear arms, almost all Americans agree that criminals should not have access to guns. Congress recognized the need to keep guns out of the hands of dangerous people more than 40 years ago when it passed the Gun Control Act of 1968, which prohibited felons and other dangerous individuals from owning guns.¹ The Supreme Court has also sanctioned restrictions on gun ownership by such individuals, repeatedly holding in recent decisions that such federal and state laws to prohibit gun ownership by criminals and other dangerous individuals are well within the bounds of the Constitution.²

One group of people who are at a heightened risk of gun attacks is women who are targets of domestic violence and stalking. We know that intimate-partner violence is a pernicious crime that affects millions of women across the country. Women are more than three-and-a-half times as likely to be killed by an intimate partner than men.³ In 2005, 40 percent of female homicide victims nationwide were killed by a current or former intimate partner, and guns were used in more than half of those murders.⁴ The lethality of domestic-violence incidents—and therefore the risk to women—increases exponentially when a firearm is present in the home: Having a gun in the home increases the risk of homicide of an intimate partner by eight times compared to households without guns. This risk of homicide increases by 20 times compared to households without guns when there is a history of domestic violence in the family.⁵

Congress has previously recognized the unique dangers posed by domestic abusers with guns. In the mid-1990s it enacted legislation to ban domestic-violence misdemeanants and individuals subject to some domestic-violence restraining orders from buying or possessing guns.⁶ But the current laws do not go far enough to protect women from the dangers presented by batterers and stalkers with guns. Federal law that is currently designed to protect women from gun violence suffers from four key weaknesses:

- Background checks are not required on all gun sales, so domestic abusers prohibited from gun ownership can easily circumvent the gun-ownership ban by buying a gun from a private seller.

- The federal limits on domestic abusers are too narrow because they omit abusers in dating relationships and abusers subject to some emergency restraining orders.
- There is no federal ban on gun ownership for stalkers convicted of misdemeanor crimes and who are subject to restraining orders.
- Federal, state, and local authorities do not adequately enforce the laws already in place by disarming and prosecuting domestic abusers who violate the current laws and maintain possession of firearms.

This report examines all of these gaps in current law and law enforcement, and cites case examples of how each gap enabled domestic abusers and stalkers to obtain the guns they used to murder women. These weaknesses in federal law and law enforcement leave untold numbers of women vulnerable to gun violence committed by men who have harassed, stalked, threatened, and terrorized them, often for years. Congress must act to close these loopholes in the law and ensure that victims of stalking and domestic violence are not further victimized, looking at the end of a gun.

Current federal law prohibiting gun ownership by domestic abusers

In 1994 Congress passed the Violence Against Women Act, a groundbreaking piece of legislation designed to protect victims of domestic violence, provide them with support and services, and ensure strong penalties for perpetrators.⁷ In recognition of the dangers posed by abusers with guns, one component of this comprehensive legislation was a ban on gun ownership by certain perpetrators of domestic violence. Under this provision, individuals subject to a restraining order that was issued after a hearing to protect an “intimate partner”—defined as a spouse or former spouse, a parent of a child in common, or a current or former co-habitant⁸—are prohibited from buying or possessing firearms.⁹

In 1996 Congress acted again to protect victims of domestic violence by amending the Gun Control Act of 1968 to prohibit gun ownership for individuals who have been convicted of a “misdemeanor crime of domestic violence.”¹⁰ A misdemeanor conviction qualifies under this provision if it involved “the use or attempted use of physical force, or the threatened use of a deadly weapon” and if the perpetrator committed the crime against a current or former spouse, a parent, a person with whom the perpetrator has a child in common, a current or former co-habitant, or a person “similarly situated” to a spouse, parent, or guardian of the victim.¹¹ This legislation, known as the “Lautenberg Amendment” for its sponsor, Sen. Frank Lautenberg (D-NJ), received overwhelming bipartisan support in the Senate, passing by a vote of 97 to 2.¹²

In the years since domestic-violence offenders have been prohibited from firearm ownership, they have represented a significant portion of individuals who have sought to buy guns and been prevented from doing so after a background check. Between November 1998—when the National Instant Criminal Background Check System was created—

and March 31, 2013, domestic-violence misdemeanor convictions have accounted for more than 10 percent of gun-sale denials and were the second-most frequent reason for denial of an application to purchase a firearm by the FBI.¹³ Domestic-violence restraining orders have accounted for another 4.3 percent of denials over this period.¹⁴ Out of the 2 million denials of applications to purchase a firearm between November 1998 and March 2013, more than 146,000 applications have been denied because of the applicant's history of domestic violence.¹⁵

Four key weaknesses in federal law and law enforcement

Although Congress has acted to protect victims of domestic violence from future gun violence, there are four key weaknesses in the law that leave women vulnerable to future attacks. Individuals who are banned from buying guns because of domestic-violence convictions or restraining orders are still able to easily buy guns through private sellers, who are not legally required to conduct a criminal background check. Many perpetrators of domestic violence are also not prohibited from gun ownership because the federal law limits this protection only to certain types of intimate-partner relationships and victims who have obtained restraining orders after a full hearing. Additionally, efforts by law enforcement to ensure that guns already in the hands of domestic-violence perpetrators are confiscated once they become legally barred from gun ownership are woefully insufficient. Finally, victims of a serious related crime, stalking, are not afforded any protection from gun violence under the law.

Problem No. 1: Not all gun sales require a background check

Federal law requires federally licensed gun dealers to conduct a background check using the National Instant Criminal Background Check System, or NICS, before completing a gun sale. This ensures that criminals and other dangerous individuals who are prohibited from gun ownership under the federal law are not, in fact, able to buy guns. Since November 1998, there have been more than 167 million background checks conducted using NICS,¹⁶ and more than 2 million gun sales to individuals prohibited from gun ownership under federal and state law have been prevented.¹⁷ More than 14 percent of those denials were due to misdemeanor domestic-violence convictions or domestic-violence restraining orders.¹⁸

There is currently a loophole in the federal law, however, that permits a significant number of guns to change hands without a background check. Sales between private individuals, for example, are exempted from the background-check requirement, which means that guns may be sold by private sellers at gun shows, over the Internet, through classified ads, or through other methods without first conducting a background check to ensure that the purchaser is legally qualified to possess a gun. The best estimate is that 40 percent of

gun sales every year occur in this manner,¹⁹ which accounts for more than 6 million gun transfers with no background checks.²⁰ Additionally, data from a survey of prison inmates revealed that nearly 80 percent of those polled who had used a handgun during the commission of a crime had acquired it from someone who was not a licensed dealer.²¹

This gap in the law means that untold numbers of domestic-violence perpetrators who are banned from buying or possessing guns because of a misdemeanor conviction or restraining order can easily purchase guns through private sales. The potential harm to victims of domestic violence from this scenario is obvious, as demonstrated by the cases below.

Zina Daniel,²² Brookfield, Wisconsin, October 2012

Killed by a gun bought without a background check by a domestic abuser under a restraining order

After being married for a number of years, Zina Daniel and Radcliffe Haughton became estranged. In October 2012 Daniel obtained a restraining order against Haughton, telling the court that he had slashed her tires and had threatened to throw acid in her face and burn her and her family with gas. She told the court that his threats against her “terrorize[d] her every waking moment.”²³

Despite being prohibited from buying or possessing a gun under federal law because of this restraining order, Haughton easily purchased a gun on the Internet from a private seller, who was not required to conduct a background check.²⁴ On October 21, 2012, Haughton appeared at the salon and spa where Daniel worked, shot and killed her and two other women, and injured four others before killing himself.²⁵

Christen Naujoks, Wilmington, North Carolina, June 2004

Killed by her felon ex-boyfriend, who bought a gun without a background check

Christen Naujoks and John Peck, students at the University of North Carolina, Wilmington, dated for a time before Naujoks ended the relationship. Peck, a convicted felon for a prior sexual assault of another woman, began stalking Naujoks and in March 2004 Naujoks reported Peck to campus security and the local police and ultimately obtained a restraining order against him.²⁶

On May 14, 2004, Peck bought an SKS assault rifle from a private seller, who was not required to conduct a background check, which would have revealed Peck as barred from gun ownership because of his felony conviction.²⁷ On June 4, 2004, Peck gunned Naujoks down in front of her apartment building, fatally shooting her 11 times.²⁸ Peck committed suicide after a shootout with police three days later.²⁹

Jitka Vesel, Oak Brook, Illinois, April 2011

Killed by a prohibited purchaser, who bought a gun without a background check

Jitka Vesel and Dmitry Smirnov briefly dated in 2008 after meeting on an online-gaming website; Vesel, however, broke off the relationship.³⁰ Following the breakup, Smirnov began harassing Vesel via email and phone calls and in 2009 she filed a complaint with the local police department.³¹

In April 2011 Smirnov, a Canadian resident who was prohibited from owning a gun in the United States because of his immigration status, entered the country and bought a gun from a private seller in Washington state who had advertised the gun online.³² Smirnov then drove to Vesel’s home outside of Chicago, placed a GPS tracking device on her car, and followed her for several days.³³ On April 13, 2011, Smirnov approached Vesel in a parking lot and shot her repeatedly, killing her. He was apprehended by police shortly after the shooting, pleaded guilty to stalking and first-degree murder, and was sentenced to life in prison without parole.³⁴

Problem No. 2: The current limit on domestic abusers is too narrow

The federal law disqualifying domestic-violence misdemeanants from firearm ownership excludes a key group of domestic-violence victims from its protection: individuals in a current or former dating relationship who never lived together or had a child together or had a child with the perpetrator. Research has shown that violence is at least as prevalent in dating relationships as in the other intimate-partner relationships currently covered by the federal law. In 2008, for example, homicides committed against a dating partner accounted for nearly half of all domestic-violence homicides.³⁵ A number of states have recognized the importance of protecting women in dating relationships, and five states have enacted legislation prohibiting individuals convicted of misdemeanor domestic-violence crimes against current or former dating partners from gun ownership.³⁶

The provision of the law that prohibits individuals subject to certain domestic-violence restraining orders from possessing guns suffers from the same infirmity: Perpetrators who have a restraining order against them in the context of a dating relationship are not banned from firearm ownership. Although 19 states have already acted to ban gun possession by individuals subject to a domestic-violence restraining order against a current or former dating partner,³⁷ the examples below demonstrate that this gap in the federal law has had tragic consequences.

Anastasia Glinisty, Denver, Colorado, January 2013

Shot by a former boyfriend against whom she had a restraining order

Anastasia Glinisty and Christopher Fields dated and then broke up in June 2011. Following this breakup, Fields began harassing and stalking Glinisty and was arrested for his conduct a number of times between September 2011 and June 2012. In June 2012 while a criminal felony case against Fields was pending, a court issued an order of protection barring Fields from contacting Glinisty and ordering him to wear a GPS ankle monitor to ensure that he complied.³⁸

On January 9, 2013, Fields lay in wait on a highway-exit ramp. When Glinisty approached in her car, Fields stepped in front of the car and shot her once through the windshield. Glinisty, who was injured, survived the attack. Fields fled to New Mexico and was apprehended by police a few days later.³⁹ He has been charged with attempted first-degree murder.⁴⁰

Michelle Fischer, Joliet, Illinois, April 2010

Attacked by a gun-wielding former boyfriend against whom she had a restraining order

Michelle Fischer and Richard Petrick dated and then broke up in 2007. In 2009 Petrick called Fischer and threatened that “something very, very bad was going to happen to [her].”⁴¹ Fischer obtained an order of protection directing Petrick to stay away from her and her family, but he continued to violate this order by calling, texting, and emailing threats to her.⁴² In February 2010 Petrick began driving past Fischer’s house in violation of the protection order. She called the police, and they apprehended him a short time later parked in front of her house with a pellet gun, a 10-inch hunting knife, a Winchester rifle, a .22 caliber semiautomatic rifle, a box of ammunition, and a pair of binoculars. He was arrested, charged with violating the order and aggravated stalking, and released on bond.

On April 9, 2010, Fischer found Petrick hiding in the bushes in front of her house. She immediately called the police, but before they arrived

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Petrick shot a bullet through her sliding glass door and threatened to kill her. She and her daughter were able to escape from the house, and Petrick barricaded himself inside with a gun for a few hours before he was apprehended after a standoff with police. He was ultimately convicted and sentenced to 17 years in prison.⁴³

Teri Lee, Minneapolis, Minnesota, September 2006

Shot and killed by a former boyfriend against whom she had a temporary restraining order

Teri Lee and Steven Van Keuren had dated for three-and-a-half years when, in July 2006, Lee broke off the relationship. Following the break-up, Van Keuren broke into Lee's home later that month and threatened

her with butcher knives. He was arrested following this incident and was released on bail with a court order directing Van Keuren to stay away from Lee, her family members, and her home while the criminal case was pending.⁴⁵ In September 2006 Van Keuren violated this order by showing up at Lee's daughter's volleyball game, and although Lee reported this violation to police, Van Keuren remained free on bail.⁴⁶

Two days later, on September 22, 2006, Van Keuren broke into Lee's home and fatally shot her and her boyfriend, Tim Hawkinson. Van Keuren was convicted of two counts of first-degree murder and sentenced to two consecutive life terms in prison.⁴⁷

The federal law that prevents individuals who are subject to certain domestic-violence restraining orders from buying or possessing guns also suffers from another significant flaw: It only covers permanent orders issued after notice and an opportunity for a hearing, and does not disarm accused domestic-violence offenders when emergency temporary restraining orders are issued prior to a hearing.⁴⁴ As the case of Teri Lee described above shows, the risk to victims of escalating gun violence can begin long before the issuance of a final order of protection and may even be greater in the days and weeks immediately following the service of a temporary order of protection.

Problem No. 3: Failure to prevent stalkers from obtaining guns

The current federal law fails to protect another group of particularly vulnerable crime victims from future gun violence: victims of stalking. Stalking involves a course of harassing conduct against a person that is designed to put them in fear for their personal safety. While stalking victims are sometimes related to or are in an intimate relationship with the perpetrator, there are also many cases of stalking that involve casually related or unrelated parties. According to the Centers for Disease Control's National Intimate Partner and Sexual Violence Survey, one in six women and 1 in 19 men have been stalked during their lifetime.⁴⁸

Although stalking is often categorized by states as a misdemeanor crime, it remains a serious criminal offense that is often the first step in an escalating pattern of criminal

behavior that culminates in physical violence. One study finds that stalkers use weapons to harm or threaten victims in one out of every five cases.⁴⁹ The Office on Violence Against Women in the Department of Justice reports that 76 percent of women who were murdered by intimate partners were first stalked by their partner.⁵⁰

For more than a decade, Congress has recognized the seriousness of stalking and the dangers posed to women: In 1996 Congress created a new federal crime of stalking, which criminalizes stalking that occurs across state lines and carries a steep penalty.⁵¹

In much the same way that individuals convicted of misdemeanor domestic-violence crimes pose a unique risk to their victims and therefore should be barred from gun ownership, stalkers also pose a continuing danger to victims, even after the criminal-justice system has intervened and imposed punishment. For many victims of stalking, the danger does not end with a misdemeanor conviction or the issuance of a restraining order—a point the cases below tragically illustrate.

Stacey Sutera, Canfield, Ohio, February 2012

Shot and killed by a convicted stalker

In 2010 Robert McLaughlin began harassing and stalking Stacey Sutera, a woman he had known for a number of years but who did not share his romantic feelings. McLaughlin keyed her car and put nails in her tires, created websites and sent emails intended to tarnish Sutera's reputation, and sent business cards to various locations containing Sutera's name and contact information and stating that she was available to perform sex acts. Sutera sought help from the police, and in December 2010 McLaughlin pleaded guilty to menacing by stalking and other charges, and was sentenced to six months in jail. In November 2011 McLaughlin was convicted of additional charges relating to his stalking of Sutera, sentenced to probation, and ordered by the court to have no contact with Sutera.⁵²

On February 8, 2012, McLaughlin shot and killed Sutera as she walked to her car outside her home.⁵³ McLaughlin later killed himself.⁵⁴

Kathleen Seely, Coeur D'Alene, Idaho, September 2001

Shot and killed by a stalker

Kathleen Seely and Kenneth Sheldon met in 1997 when they worked together at a retirement home. Sheldon became obsessed with Seely, who was married, and he began stalking her, sending her love notes and even buying personalized license plates with her name on them. Seely filed a complaint against Sheldon but he was acquitted of a stalking charge in 1999. The harassment continued and Seely filed a second complaint in 2000, which was ultimately dismissed when Sheldon agreed to seek counseling and to a longer term of probation for an unrelated battery conviction against a different victim.

On September 9, 2001, Sheldon fatally shot Seely at her workplace and then killed himself.⁵⁵

Problem No. 4: Failure to adequately enforce the laws against domestic abusers

While federal law prohibits domestic-violence misdemeanants and individuals subject to certain domestic-violence restraining orders from buying or possessing guns, federal and state law-enforcement agencies have largely failed to enforce this prohibition and ensure that these individuals are relieved of any guns in their possession. Some states have enacted laws or policies to help facilitate surrender of firearms by these individuals,⁵⁶ but these laws are often poorly enforced.⁵⁷

The failure to disarm domestic abusers can have devastating consequences for victims. An investigation by *The New York Times* in March 2013 found that over the past decade in Washington state—one of the states examined in the investigation—at least five women were shot and killed less than a month after obtaining protection orders,⁵⁸ and in at least six other instances in the state, a person subject to a restraining order shot and killed a person other than the one who had taken out the restraining order.⁵⁹ Another *New York Times* investigation found that since 2011 more than 50 people in Washington state with protection orders were arrested on gun charges, and in Minnesota more than 30 people with protection orders were convicted of an assault with a dangerous weapon over the past three years.⁶⁰

Deborah Wigg, Virginia Beach, Virginia, November 2011

Shot and killed by her estranged husband after obtaining a protection order and telling police he had guns

When Deborah Wigg began the process of divorcing her husband, Robert, she sought an order of protection, telling the court that he had assaulted her by grabbing her by the hair, throwing her to the ground, and then ripping a door from its hinges and throwing it at her.⁶¹ Robert Wigg was then arrested and in April 2011 Deborah was granted a protective order. Despite telling authorities that he was a gun owner, no action was taken to confiscate his gun, even though he was prohibited from possessing it under the federal law due to the issuance of the restraining order.⁶²

On November 8, 2011, Robert broke into Deborah's home and shot her in the head, killing her. He then turned the gun on himself and committed suicide.⁶³

Laura Acevez, Eureka Springs, Arkansas, December 2012

Shot and killed by an ex-boyfriend after obtaining a restraining order and telling police he had guns

Laura Acevez and Victor Acuna-Sanchez dated for a time, but their relationship was characterized by physical violence, threats, and verbal abuse. Acevez ended the relationship, but the harassment continued, causing Acevez to file criminal complaints and in March 2012 obtain a temporary restraining order against Acuna-Sanchez.⁶⁴ Acevez and her mother advised law enforcement that Acuna-Sanchez owned guns, but no action was taken to confiscate them. He continued to harass Acevez and in early December 2012 was arrested for violating the restraining order.⁶⁵

On December 31, 2012, Acuna-Sanchez fatally shot Acevez in the head as their infant son sat unharmed nearby. Acuna-Sanchez was later apprehended by police and has been charged with murder.⁶⁶

Four proposals to strengthen the federal laws and law enforcement

The tragic shootings of these women were not inevitable, and we should not accept them as such. Congress should take four concrete steps to strengthen the laws regarding firearm possession by domestic abusers and stalkers. All of the women mentioned above sought help and protection from the justice system, and Congress should ensure that when women in similar situations do so in the future, there are strong laws in place to help prevent future gun murders of domestic-violence and stalking victims.

Solution No. 1: Require background checks for all gun sales

The federal law prohibiting certain dangerous individuals from buying or possessing guns becomes completely meaningless if every gun sale is not predicated on a criminal background check. The only way to ensure that domestic-violence offenders—a group of individuals that Congress has already determined poses a unique threat to public safety and therefore should not have guns—are unable to buy firearms is to close the loophole that allows some gun sales to occur without a background check.

A vast majority of Americans support expanding background checks. A CBS News/*New York Times* poll in January 2013 found that 92 percent of Americans support background checks for all gun sales.⁶⁷ Even gun owners themselves support universal background checks: The poll found that 93 percent of gun households and 85 percent of those who live with a member of the NRA support background checks for all gun sales.⁶⁸ This overwhelming support for expanded background checks is not surprising. It is a common-sense proposal to ensure that the intent of the federal law to keep guns out of the hands of dangerous people is given full effect.

Requiring background checks for all gun sales would help protect victims of domestic violence from future gun violence. In states that have acted to close this loophole and require background checks for all gun sales, 38 percent less women are shot to death by intimate partners.⁶⁹

On April 17, 2013, the Senate failed to advance legislation that, among other things, would close this loophole and require comprehensive background checks for most gun sales. Congress should act quickly to reconsider and pass this legislation that would help ensure that domestic-violence perpetrators such as Radcliffe Houghton and Dmitry Smirnov cannot continue to easily acquire guns from private sellers and pose a threat to their victims.

Solution No. 2: Include dating relationships and temporary restraining orders in the ban on gun ownership

The federal prohibition on gun ownership by domestic-violence perpetrators overlooks a key group of perpetrators that pose a potential risk to public safety: individuals convicted of a domestic-violence misdemeanor or subject to a restraining order because of conduct committed against a current or former dating partner. The precise nature of the relationship between a perpetrator of domestic violence and the victim should not control whether the individual is banned from gun ownership, but dating relationships are not currently included in the law. That the parties were never married, never lived together, or do not have a child together does not lessen the risk of future gun violence that Congress has already recognized is posed by perpetrators of domestic violence. The shootings of Anastasia Glinisty and Michelle Fischer by their ex-boyfriends are clear examples.

Five states have enacted legislation prohibiting individuals convicted of misdemeanor domestic-violence crimes against current or former dating partners from gun ownership.⁷⁰ Nineteen states have also banned gun possession by individuals subject to a domestic-violence restraining order against a current or former dating partner.⁷¹ Now Congress should amend the federal law to include domestic abusers in a current or former dating relationship among those prohibited from buying or possessing firearms.⁷²

Congress should also strengthen the protections for domestic-violence victims by expanding the law to prohibit individuals subject to a temporary restraining order from possessing guns. Disarming individuals subject to a domestic-violence restraining order is an effective means of protecting victims from future gun violence. Researchers at Johns Hopkins University found that state laws disqualifying individuals under restraining orders from gun possession were associated with a 19 percent reduction in the risk of intimate-partner homicides and a 25 percent reduction in the risk of intimate-partner homicides with a gun.⁷³ Currently, 17 states either prohibit people subject to a temporary domestic-violence restraining order from possessing guns or give judges discretion to order the surrender of guns from such individuals.⁷⁴

Those subject to a temporary restraining order issued by a civil or criminal court in domestic-violence proceedings are routinely deprived of numerous freedoms before there is an opportunity for a full hearing. Courts often issue temporary restraining orders on an ex parte basis that direct respondents to stay away from their own homes, to have no contact with their children, and to stay away from numerous other locations, including schools, workplaces, and other places where the victim is likely to be present. Such orders, while temporarily infringing on the freedom of a respondent before the individual has had an opportunity for a full hearing on the accusations, are necessary to protect victims of domestic violence while the court proceedings are pending. Courts already have processes in place to ensure that respondents are quickly afforded a full and fair hearing on the accusations against them.

Congress should act to ensure that a respondent in a domestic-violence proceeding is prohibited from gun ownership upon being served with a temporary restraining order. This will help prevent victims from the escalating violence that too often accompanies the service of these orders such as in the tragic murder of Teri Lee.

[Solution No. 3: Prohibit convicted misdemeanor stalkers from gun ownership](#)

Victims of stalking face many of the same dangers as victims of domestic violence. Stalkers engage in an ongoing course of harassing conduct that can escalate quickly to serious physical violence. As the tragic case of Stacey Sutura demonstrates, this behavior does not always end with a misdemeanor stalking conviction, and stalkers may continue to pose a threat to their victims.

Seven states and the District of Columbia have recognized the potential risks posed by stalkers and have banned them from firearm ownership.⁷⁵ Notably, during the period from 2001 through 2010, these states had a rate of gun homicides of women that is 28 percent lower than the national average.⁷⁶ Congress should amend the law to prohibit individuals convicted of misdemeanor stalking from being able to buy or possess guns.

[Solution No. 4: Better enforce the current laws by disarming prohibited domestic abusers](#)

The federal law is clear: A domestic-violence conviction or qualifying restraining order bars a person from purchasing any new firearms and makes any further possession of firearms a felony. Unfortunately, federal, state, and local authorities are not doing enough to ensure that these prohibited persons are, in fact, disarmed. Federal, state, and local authorities should consider the following measures to better enforce the existing laws.

Direct ATF taskforces to make disarming prohibited domestic abusers a top priority

The Bureau of Alcohol, Tobacco, Firearms and Explosives, or ATF, leads regional taskforces around the country in which ATF agents work hand-in-hand with U.S. attorneys and others in local law enforcement to reduce gun-related crime. The attorney general should direct ATF to establish protocols through these taskforces that direct law enforcement to interview, target for investigation, and disarm prohibited abusers who pose the highest risk of committing subsequent assaults.

Establish an alert system for prohibited domestic abusers who attempt to buy firearms

In 2012 more than 88,000 people were blocked by the FBI background check system from purchasing firearms because they were barred from firearm ownership.⁷⁷ Each of these attempted purchases is a crime, and for years far too few of these cases have been prioritized for prosecution.⁷⁸ In addition to prosecuting these cases, the ATF and FBI

should establish a protocol to inform relevant state and local law enforcement of all cases in which a prohibited person is blocked from buying a gun. This information can then be used by local law enforcement to prioritize targets for investigation and should be known to police who are responding to a domestic-violence call. Five hundred mayors made a similar recommendation to the Obama administration in 2009.⁷⁹

Establish state and local postconviction protocols to disarm prohibited abusers

Without a mechanism for the surrender of guns by domestic-violence perpetrators at the time of their misdemeanor conviction or issuance of their restraining order, these individuals continue to pose the same threat of possible gun violence to their victims as before they became disqualified from gun possession. Research has shown that approximately half of perpetrators subject to domestic-violence restraining orders violate them.⁸⁰

The experience of one county in California—a state that requires individuals to surrender any guns in their possession within 24 hours of being served with a temporary restraining order—highlights the effectiveness of firearm-surrender protocol in reducing gun violence in domestic-violence situations. San Mateo County has instituted detailed protocol to ensure the surrender of firearms from these individuals, and there has not been a domestic-violence gun homicide in the county in the past three years.⁸¹

Conclusion

Domestic abusers and stalkers should not have guns. It's as simple as that.

The individuals who perpetrate these crimes against women engage in a continuing course of escalating conduct that all too often culminates in tragedy. As the cases discussed in this report demonstrate, there are serious gaps in the federal law that allow too many dangerous abusers to easily obtain guns, and more can be done to enforce the laws we have.

As Congress continues to consider a wide range of legislative options to address gun violence, we urge our representatives to take steps to protect victims of domestic violence and stalking from gun violence and help ensure that countless other women don't join the ranks of those whose lives were cut short by gun-wielding abusers and stalkers.

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Endnotes

- 1 *Gun Control Act of 1968*, Public Law 90-618 (October 22, 1968).
- 2 *District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. Chicago*, 561 U.S. 3025 (2010).
- 3 Johns Hopkins Center for Gun Policy and Research, "Fact Sheet: Intimate Partner Violence and Firearms," available at http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/IPV_Guns.pdf (last accessed April 2013).
- 4 Ibid.
- 5 Ibid.
- 6 18 U.S.C. 922(d)(8), (g)(8).
- 7 *Violent Crime Control and Law Enforcement Act of 1994*, Public Law 103-322, Section 110401, Subtitle D, 103rd Cong. (September 13, 1994).
- 8 18 U.S.C. 921(32)
- 9 18 U.S.C. 922(d)(8), (g)(8).
- 10 18 U.S.C. 922(d)(9), (g)(9).
- 11 18 U.S.C. 921(33).
- 12 *The Washington Post*, "The U.S. Congress Votes Database," available at <http://projects.washingtonpost.com/congress/104/senate/2/votes/289/> (last accessed April 2013).
- 13 Federal Bureau of Investigation, "Federal Denials, November 30, 1998 – March 31, 2013," available at <http://www.fbi.gov/about-us/cjis/nics/reports/federal-denials-033113.pdf> (last accessed April 2013).
- 14 Ibid.
- 15 Ibid.
- 16 Federal Bureau of Investigation, "Total NICS Background Checks, November 30, 1998 – March 31, 2013," available at <http://www.fbi.gov/about-us/cjis/nics/reports/total-nics-background-checks-1998-2013-monthly-yearly-totals-033113.pdf> (last accessed April 2013).
- 17 Ronald J. Frandsen and others, "Background Checks for Firearm Transfers, 2010 – Statistical Tables" (Washington: Bureau of Justice Statistics, 2013), available at <http://bjs.gov/content/pub/pdf/bcft10st.pdf>.
- 18 Federal Bureau of Investigation, "Federal Denials, November 30, 1998 – March 31, 2013."
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