

Disarming Domestic Violence: The Impact of Federal Loopholes on Abuse Victims

On a warm late-summer day, Meredith Hight, a 27-year-old woman, cleaned her home, fired up the grill, and invited eight friends to enjoy a classic American pastime: watching a Sunday afternoon football game. Just hours later, the hostess and seven of her friends and family who came to enjoy the gathering lay dead after Ms. Hight's estranged husband arrived at the house and opened fire with a pistol and an AR-15, a semi-automatic rifle. The shooter was then killed by law enforcement officers. Meredith Hight had filed for divorce in July. Family members said that her husband had struggled with addiction and became increasingly violent and abusive, including one time when he allegedly slammed Meredith's face into a wall.

The eight victims were only a fraction of the over 500 gun-related domestic violence fatalities this year. At the time of this publication, domestic violence was at the center of two of the deadliest shootings since the October 1, 2017 Las Vegas massacre, including an Arizona shooting where a man with a long history of domestic violence killed his estranged wife and three of her friends.



Meredith Hight was shot and killed by her estranged husband Sept. 10, 2017.

In the United States, three women are killed by their boyfriends or husbands every day.[1] According to an analysis by the Associated Press, a woman is shot and killed by a current or former partner every sixteen hours.[2] If a gun is present in the home when a domestic violence incident takes place, the risk of homicide increases by 500 percent.[3] Women in the United States are 11 times more likely to be murdered with a gun compared to those living in other high-income nations.[4]


Abused women in the United States are



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often victims of gun violence. An analysis of callers to the National Domestic Violence Hotline found that about 1 in 6 reported that their abusers had access to a gun, and of those, two-thirds believed their abuser was capable of killing them.[5] To maintain control, abusers frequently remind their partners that they are armed. An analysis of domestic violence reports in 2016 showed that about 4.5 million American women reported that an intimate partner had threatened them with a gun.[6]

At 11:30 P.M. on Saturday, May 27, 2017



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police in rural Mississippi received a call about a man who was fighting with his estranged wife, Sheena Godbolt. The 35-year-old man had a long history of violent and criminal behavior that stretched back to his teens. That evening he'd come to his in-laws' home with a demand: that his estranged wife surrender their two children. He came armed. When the police arrived and asked him to leave, it initially seemed like he would comply. But then he started shooting. By the end of the night, eight people were dead, including his estranged mother-in-law, an 11-year-old nephew, and a deputy Sheriff.

After the shooting, details emerged that came as no surprise to many: the shooter's history included a pattern of escalating violence, including charges for felony domestic violence. In court documents, the shooter's wife recounted his abuse, including incidents where he punched her repeatedly in the stomach, choked her, and put his hands in her mouth so she couldn't scream for help. The court issued a domestic violence restraining order. Less than a year later, he killed eight people, because he still had access to a gun despite his history of abuse.

These stories represent just a small fraction of the victims who are killed with a gun each year in domestic violence incidents, but these large-scale shooting events are occurring with alarming frequency. An analysis of FBI data shows that 54 percent of mass shooting events from 2009 to 2016 were related to domestic or family violence. 422 people were killed.[7] These shootings remain under-reported in the media.

Better gun policy can reduce domestic violence gun deaths. Expanding background

checks to all gun sales, closing loopholes in domestic violence firearms laws, strengthening state and federal laws, and giving victims and families the opportunity to petition for temporary removal of firearms from a dangerous individual, will save lives.

After the attempted assassination of President Ronald Reagan where Press Secretary James Brady was shot, he and his wife Sarah lobbied Congress to pass a law that would prevent those who were a danger to themselves or society from purchasing or owning firearms. After six years and seven votes, Congress passed The Brady Handgun Violence Prevention Act (frequently known as the "Brady bill"). Signed into law in 1993 by President Bill Clinton, the Brady bill established an enforcement mechanism to prevent prohibited purchasers from buying firearms when they purchase them from federally licensed firearm dealers (FFLs). Those prohibited purchasers include individuals convicted of a felony, anyone subject to a restraining order that finds the person represents a credible threat to the physical safety of an intimate partner or child, and those who



Jim Brady looks on as President Bill Clinton signs the Brady Bill into law

have been convicted of a misdemeanor crime of domestic violence.

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Brady background checks have blocked more than 3 million attempted gun purchases by these prohibited purchasers. But our laws have not kept up with modern practices. At the time of passage of the Brady bill, the internet as we know it was still in its infancy, but today for many people shopping on the internet is nearly as common as walking down to a corner store. Yet for private sales on websites like Armslist.com, Brady background checks are still not required. Gun shows, like the Internet, are another popular source of firearm purchases that remain dangerously unregulated.

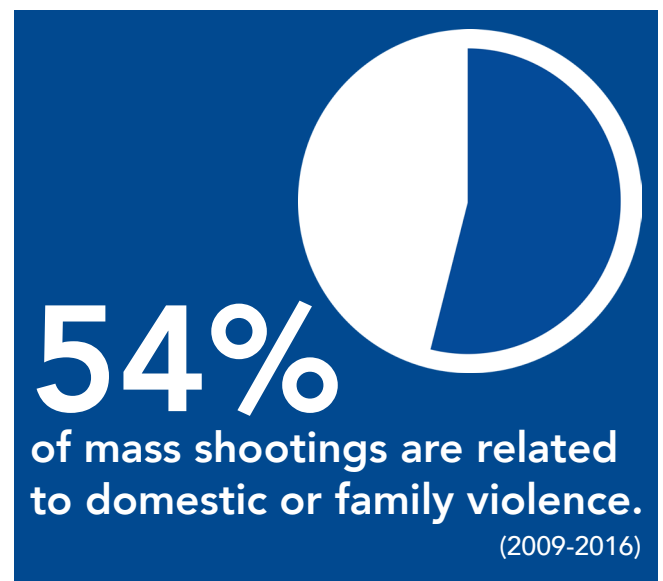
According to a new study, gun shows in Nevada contribute to an increase in hospital admissions for gunshot wounds in California for the two-week period after the show.[8] The study’s authors concluded that the weak laws governing gun shows in Nevada (including no requirement to conduct a background check for each sale) may have contributed to these injuries. Statistics show that today about one in five gun sales are completed without a Brady background check, often on-line or at a gun show because private sellers are not required by law to conduct background checks on these sales.[9]

On April 13, 2011, Jitka Vesel, a woman who was being stalked for weeks, was killed by a man barred from buying a gun under federal law. He exploited the law that allows private sellers of guns to skip performing a background check. As a result, even though her killer was a prohibited purchaser, he was able to find a seller online who completed a “no questions asked” private sale for \$200 in cash.

The shooter was angry that Jitka had broken off a short-lived romance, so he followed her to the parking lot of the museum where she volunteered and shot her eleven times. Expanding Brady background checks to every gun sale could have saved Jitka’s life, and many others like her.

In states that have expanded their background check laws to apply to all handgun sales, 47 percent fewer women are shot by intimate partners.[10] Today, 19 states and Washington, D.C. have expanded their background checks to extend beyond federal law and cover at least some private sales. However, as long as a patchwork of state laws still exists, lives will be at risk. Extending Brady background checks to the unregulated Internet marketplace for firearms would save the lives of many people in abusive relationships.

Too many loopholes remain in the current federal system and we must take action to close them. Currently, certain stalkers and abusers convicted of domestic violence misdemeanors who were not married, co-habiting or sharing a child with their victim are still not prohibited from buying or owning guns, because of what’s known as the “boyfriend loophole.” This loophole exists because federal law only bans individuals convicted of domestic violence who are married, were married, live together, or share a child, from purchasing or owning firearms. But today, a



huge percentage of women are in partnerships without being married or sharing a child, and if they are abused, our system provides no safety net to prohibit their abusers from purchasing guns. This is unacceptable given the numbers of women dying at the hands of their former partners.

In 2014, 93 percent of women who were murdered were killed by a man they knew.[11] Of those, 63 percent were intimate acquaintances of the killer. Convictions for misdemeanor crimes of domestic violence represent the third-most frequent reason for a denial of a FBI-conducted background check, just after a felony conviction or outstanding arrest warrant.[12] The system works - if we allow it. But by leaving abusers off of the federal prohibition list simply because they aren't, or weren't, married to their partner, current federal law is vastly under inclusive, frequently at the expense of many women's lives.

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A federal bipartisan bill seeks to close this dangerously outdated boyfriend loophole. The Zero Tolerance for Domestic Abusers Act, introduced by Representatives Debbie Dingell (D-MI) and Dan Donovan (R-NY), aims to eliminate this exception by changing the definition of an "intimate partner" to include a former or current dating partner.[13] This shift in language will prevent convicted domestic abusers—those we agree are too dangerous to be

trusted with the possession of a firearm—from being able to purchase or own a firearm under federal law. This proposed legislation would also prevent convicted stalkers from obtaining guns. Studies show laws like this save lives. Cities in states that restrict firearm access for those under domestic violence restraining orders see a 25 percent reduction in intimate partner gun deaths.[14] Unfortunately, this legislation hasn't yet received a vote. Instead, Congress recently prioritized an NRA-backed push to relax the restrictions on the sale of silencers. Silencers—used to alter the sound of gunfire making it harder to detect—have been heavily regulated by the National Firearms Act after violent crime during the Prohibition Era.

While federal legislation is still pending, 15 states have expanded definitions of domestic violence abuser to include dating partners[15] including Rhode Island, whose General Assembly passed "The Protect Rhode Island Families Act" in September, 2017.[16] The RI bill not only prevents gun possession by domestic abusers, it also requires that anyone subject to a prohibition be required to surrender any guns owned at the time of conviction. This final step is perhaps the most critical component of domestic violence gun prohibitions - ensuring that an abuser is not only prohibited from purchasing a new weapon, but also removing guns already in their possession. Not all states require those under "permanent" (post-hearing) restraining orders or similar prohibitions to actually surrender their guns, but research by the Boston University School of Public Health found that intimate partner firearm homicide rates were 14 percent lower in states with firearm relinquishment laws com-

In states that have expanded the scope of their background checks to all handgun sales, **47%** fewer women are shot by intimate partners.

pared to states without them.[17]

While dangerous loopholes in federal law still exist, a new state-based law modeled off domestic violence restraining orders, called “Extreme Risk Protective Orders” (ERPO) or “Gun Violence Restraining Orders” (GVRO) may be another promising avenue for preventing dangerous abusers from using guns against their partners or loved ones. These laws give family members, dating partners, and law enforcement officers an avenue to prevent a domestic violence tragedy by creating a process to temporarily remove firearms from a dangerous individual’s possession. This law is particularly helpful for those who are subject to abuse, fear for their safety, and wish to protect themselves while they navigate exiting a relationship or while under threat from a current partner.

Like domestic violence restraining orders, an ERPO is a civil, not criminal, petition filed in local court. The person bringing the petition must offer the court evidence of history or recent threats of violence, dangerous past behavior with firearms, substance abuse and/or recent firearms acquisition for the judge to consider. These factors are then carefully weighed against the individual’s Second Amendment rights. A judge can issue a temporary (usually 2-3 week long) order that gives law enforcement the authority to temporarily remove firearms from that person’s possession because they believe the situation has escalated to the point where there is an immediate risk of danger. The accused can offer evidence in their defense before a judge at a hearing to decide whether the temporary order can be terminated because the crisis has passed, or should be extended.

Evidence from Connecticut, which passed a version of an ERPO in 1999, shows that this law was associated with a reduction in suicide deaths by gun in their state: for every 10-20 “risk warrants” issued, a life was saved. More complex versions of this law have been recently enacted in California, Oregon, and Washington state that enable intimate partners to bring a petition before the court. This mechanism is another tool that domestic violence victims

and advocates can use in the future to ensure that gun access is limited or eliminated for abusers, in an effort to keep more victims safe from a threat of a firearm.

The tragic shootings of Meredith Hight and her friends, the 8 victims of the Mississippi domestic violence rampage, and Jitka Vesel characterize a troubling pattern in our nation that must stop. While advocates have succeeded in passing important legislation in certain states, stronger federal and state laws will protect victims who are stalked, harassed, intimidated, threatened, and physically or emotionally abused with a firearm, no matter their relationship with their abuser. While stalkers and abusers can still purchase and access firearms in many states just because they are not legally related to their victims, there will continue to be dangerous gaps that threaten the lives of those who suffer emotional and physical abuse.

New legal mechanisms, such as the Extreme Risk Protective Order, empower those who fear they will be threatened or injured with a gun, to have those firearms removed from dangerous individuals. There is still a lot of work to be done, and while it is too late for those like Meredith and Jitka, we have the opportunity to prevent more names from being added to the list of women and men who die each day at the hands of their abusers because of easy access to firearms.

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[3] National Coalition Against Domestic Violence, “Guns and Domestic Violence,” https://ncadv.org/assets/2497/guns_and_dv.pdf.

[4] Everytown for Gun Safety, “Guns and Violence Against Women,” <https://everytownresearch.org/reports/guns-and-violence-against-women/>.

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[7] Everytown for Gun Safety, “Mass Shootings Analysis,” <https://everytownresearch.org/reports/mass-shootings-analysis/>.

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- [11] An intimate acquaintance includes a wife, common-law wife, ex-wife, or girlfriend. Violence Policy Center, "When Men Murder Women: An Analysis of 2014 Homicide Data: Females Murdered by Males in Single Victim/Single Offender Incidents," (2016), p. 3, available at <http://www.vpc.org/studies/wmmw2016.pdf>.
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- [13] The bill, H.R. 3207, was introduced on July 12, 2017 and was referred to Judiciary Committee. Companion legislation was introduced in the United States Senate by Senator Amy Klobuchar (D-Minn) and Senator Dianne Feinstein (D-CA) as S. 1539: <https://www.congress.gov/bill/115th-congress/house-bill/3207>
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