



# Domestic Violence and Firearms: Research on Statutory Interventions

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## **Firearms and domestic violence: The risks**

The crimes of domestic and dating violence and stalking are pervasive in our society. When a violent intimate partner has access to a firearm, a dangerous situation becomes a potentially fatal situation (Bailey, et al., 1997; Campbell, et al., 2003; Kellerman, et al., 1993). More women are killed by their intimate partners than by any other offender group, and firearms are the weapon most often used in intimate partner homicide (Cooper & Smith, 2011; Fox & Fridel, 2017). In 2015, of cases with known offenders, roughly 51% of female homicide victims and 6% of male homicide victims were killed by their intimate partners. Overall, fifty-five percent of these homicides were committed with firearms, however firearm use varied by gender of the victim: 58% of female victims were killed with firearms, whereas 46% of male victims were (United States Department of Justice & Federal Bureau of Investigation, 2017).

There is ample evidence that firearms are used in nonfatal domestic violence, as well. This evidence comes from surveys of samples of intimate partner violence survivors and perpetrators, as well as the general population of the United States. Thirty-seven percent of women in domestic violence shelters report that their intimate partners used firearms against them (Sorenson & Wiebe, 2004). Roughly 3% of men enrolled in batterers intervention programs in reported that they threatened, intimidated, or shot at their partners with a firearm (Rothman, Hemenway, Miller, & Azrael, 2005). Finally, a nationally representative survey, the National Crime Victimization Survey, found that firearms were used in 3.4% of nonfatal incidents of intimate partner violence (Truman & Morgan, 2014).

Additionally, when a violent intimate partner has access to a firearm, nonfatal abuse may increase in severity (Zeoli, Malinski, & Turchan, 2016), even when firearms are not directly used in a violent incident. A study of partner-victimized pregnant women found that 41% of their partners owned firearms, 17% of whom kept their firearms “on” them. Using multiple different measurement scales to measure abuse severity, the researchers found consistent evidence that partner access to firearms increased abuse severity (McFarlane, et al., 1998). A study of male domestic violence offenders involved in the Canadian criminal justice system found that access to a firearm was significantly associated with the severity of intimate partner assaults despite the fact that very few of the assaults actually involved firearms (Folkes, Hilton, & Harris, 2013). In a study of women in battered women’s shelters, researchers found that offenders who used firearms against victims also used significantly more types of other weapons than those who did not use firearms (Sorenson & Wiebe, 2004). This may indicate that violent intimates who have access to firearms are particularly high-risk individuals.

## **Firearm prohibitions for those under domestic violence restraining orders: Descriptions and research results**

Victims of domestic violence often seek restraining orders in efforts to increase their safety. Due to the dangers associated with a violent intimate having access to a firearm, federal statute and the statutes of many states authorize or require that persons under certain types of

restraining orders be prohibited from firearm access. Indeed, it may be particularly important to attach firearm restrictions to restraining orders due to both the dangerousness of restraining order respondents and the timing of when women petition for restraining orders. In this section, domestic violence restraining orders are described, including key provisions regarding who they cover. Following that, the research on their estimated impacts on intimate partner homicide is discussed.

Research suggests that women who petition for restraining orders do so after severe abuse or stalking (Holt, Kernic, Wolf, & Rivara, 2003; Keilitz, Hannaford, & Efke, 1997; Logan, Shannon, & Walker, 2005; Logan & Walker, 2010; Moracco, Clark, Espersen, & Bowling, 2006; Sorenson & Shen, 2005) and often in conjunction with separating from their abusive partners (Logan, Walker, Shannon, & Cole, 2008). The time surrounding separation is a period of increased risk for homicide (Campbell, Glass, Sharps, Laughon, & Bloom, 2007; Wilson & Daly, 1993), and may therefore require more intervention to safeguard restraining order petitioners. Additionally, the partners from whom they are separating have proven themselves particularly dangerous, as evidenced by high rates of criminal justice system involvement (Klein, 1996; Moracco, et al., 2010; Vitti & Sorenson, 2006).

Under the Federal Gun Control Act, those who are currently under certain domestic violence restraining orders are prohibited from purchase and possession of firearms. In specific, the law prohibits from firearm possession:

a person subject to a court order that was issued after a hearing in which the person participated, which order restrains the person from harassing, stalking, or threatening an intimate partner or partner's child, and which order includes a finding that the person is a credible threat to such partner or partner's child, or by its terms prohibits the use, attempted use or threatened use of such force against such partner or partner's child (18 U.S.C. § 922(g)(8)).

The majority of states have now also enacted legislation prohibiting those under domestic violence restraining orders from purchasing or possessing firearms. While some state statutes simply mirror the federal statute, many states go further than the federal law regarding to whom the legislation applies. Specifically, states often have expanded categories of types of domestic violence restraining orders covered and intimate partner relationships covered. Importantly, not all state statutes require that the restraining order respondent be disqualified from purchase or possession firearms; often the judge has discretion to decide whether to apply the firearm restriction to those who meet the statutory criteria for disqualification.

There is evidence that suggests these statutes are effective in reducing intimate partner homicide rates. Four studies found a decrease in the rate of intimate partner homicides committed with firearms, and intimate partner homicide in total, when a state passes a domestic violence restraining order firearm restriction law, regardless of whether the statute mirrors or expands on federal law (Vigdor & Mercy, 2003, 2006; Zeoli et al., 2017; Zeoli & Webster, 2010). That each of these studies found a decrease in total intimate partner homicide

is significant. It suggests the absence of a “substitution effect” whereby other weapons are used to kill when firearms are not available. If those motivated to kill had simply used other weapons, we would expect that total intimate partner homicide rates would stay roughly the same. Instead, each of the studies revealed an associated decrease in total intimate partner homicide.

These studies were conducted at both the state level and city level using multiple decades of data to determine whether the passage of the statutes affected intimate partner homicide rates. The results of the studies were strikingly similar, lending credibility to the findings. It is important to note that each of these studies took into account numerous additional factors that may impact intimate partner homicide rates, including marriage and divorce rates, median income, poverty rates, police staffing levels, and other domestic violence and firearm laws, when estimating the impact of the restraining order firearm restriction.

Research that examined intimate partner homicide levels in states from 1982 through 1998 found the restraining order firearm restriction statutes to be associated with homicide reductions. In specific, it found a 9% reduction in total intimate partner homicides, a 9% reduction in intimate partner homicides committed with firearms, an 11% reduction in female intimate partner homicides, and a 12% reduction in female intimate partner homicides committed with firearms (Vigdor & Mercy, 2003). Furthermore, when states were classified by whether they had a high or low ability to check for restraining order records in a background check database, only those states with the statute and a high ability experienced significant reductions in all categories of intimate partner homicide, suggesting that implementation of the purchase prohibition was influential.

The researchers also tested the impact of restraining order firearm restrictions on crimes that logically should not be impacted by the laws, namely stranger homicides, rape, robberies, assaults, burglaries, and motor vehicle thefts. This was done to determine if broader crime trends or other factors not considered in the research were responsible for the apparent statistical association between the restraining order firearm restrictions and intimate partner homicides. If the statistical models showed that the statutes were associated with changes in these other crimes, it would suggest that factors not considered were responsible for the association. However, the models suggested no significant changes in the rates of these crimes, thus increasing confidence that the impact of firearm restrictions seen on intimate partner homicide is valid (Vigdor & Mercy, 2003).

A second state-level study, this time using data from 1982 through 2002, replicated the main findings of the first study (Vigdor & Mercy, 2006). They found that restraining order firearm restriction statutes were associated with an 8 to 10% decrease in all intimate partner homicides, firearm intimate partner homicides, female intimate partner homicides, and female intimate partner homicides committed with firearms. Again, when testing the impact of whether the state had a high or low ability to check for restraining order records in the background check system, only those states with the law and a high ability to check showed evidence of a reduction in intimate partner homicide.

This study also looked at whether the language of the statute explicitly prohibited firearm possession only or firearm purchase with or without the inclusion of a possession restriction. They found that states that had a purchase restriction experienced a significant decrease of 10 to 13% in intimate partner homicide, while there was no measurable decrease in states that only prohibited possession (Vigdor & Mercy, 2006). This again suggests that purchase prohibition is influential in reducing intimate partner homicide.

Researchers tested whether the state-level results could be replicated at the city-level. They analyzed 46 of the largest cities in the United States from 1979 to 2003 and found that the statutes were associated with a 19% decrease in total intimate partner homicide and a 25% decrease in intimate partner homicides committed with firearms (Zeoli & Webster, 2010).

More recently, researchers have tested the impact of the law at the state level from 1980 through 2013 (Zeoli et al., 2017). They found a 10% associated reduction in total intimate partner homicide and 13% associated reduction in firearm intimate partner homicide. This research also examined the impact of provisions extending the firearm restriction to dating partners, ex parte orders, and including a relinquishment order. These results are discussed below.

*Types of domestic violence restraining orders: those issued after a hearing vs. issued ex parte*

In each state, there are two main types of domestic violence restraining orders: those issued after a hearing and those issued ex parte. When a person petitions the court for a domestic violence restraining order, it may take days or weeks for the court to hold a full hearing in which the restraining order respondent has the opportunity to participate. Because the petitioner may need the protection of a restraining order before such a hearing can be held, each state has a mechanism for a restraining order to be issued before the full hearing. These are referred to as ex parte restraining orders because the restraining order respondent was not provided the opportunity to act on his or her behalf before their issuance. They are also often referred to as temporary or emergency restraining orders, and in most states these orders are in effect for up to a few weeks; however, in rare states such as Michigan, an ex parte order can be in effect for several months.

Federal firearm restrictions apply only to restraining orders issued after a hearing. Many states follow the federal restriction and also only apply the firearm restriction to restraining orders issued after a hearing. However, some states also apply firearm prohibitions to those under ex parte domestic violence restraining orders. Researchers tested whether states that applied firearm restrictions to ex parte orders experienced a decrease in their intimate partner homicide trends, and found that, compared to states without a state level domestic violence restraining order firearm restriction law, states that have the law and cover ex parte orders experienced an associated 13% decrease in intimate partner homicide and 16% decrease in firearm intimate partner homicide (Zeoli et al., 2017). When a state had the restraining order firearm restriction but did not cover ex parte orders, there was no statistically significant

difference between their intimate partner homicide rates and the rates of states without the restraining order firearm restriction. This suggests that covering ex parte orders may save lives.

Given the dangers faced by restraining order petitioners and the research results, applying firearm restrictions to ex parte restraining orders is recommended.

#### *Relationships covered under federal and state domestic violence restraining order firearm prohibitions*

To qualify for the federal firearm restriction, a domestic violence restraining order petitioner must have one of the following relationships with the respondent:

- Current or former spouse
- Have a child in common with the respondent
- Current or former cohabitant

The federal firearm restriction does not apply, therefore, to current or former dating partners who never had a child together or lived with one another. Many states explicitly cover these relationships, however.

There is evidence that dating partners are an important group to cover under these statutes. Over the past several decades, dating partners have steadily become a larger proportion of intimate partner homicide offenders. In 1980, roughly 27% of intimate partner homicides were committed by dating partners (Cooper & Smith, 2011). In 2015, this estimate was at 50%; moreover, 47% of these intimate partner homicides were committed with firearms (United States Department of Justice & Federal Bureau of Investigation, 2017). Dating partners who have never lived or had a child with petitioners, a proportion of whom have access to or used firearms in domestic violence, are among restraining order respondents (Vittes & Sorenson, 2006). Additionally, a study of over 31,000 intimate partner violence incidents that Philadelphia police responded to in 2013 found that 82% of incidents involved current or former dating partners (Sorenson & Spear, 2018). Further analysis showed that current dating partners used the most physical violence against their intimate partners. There were no statistically significant differences in the percentages of current or former dating partners who used guns against their intimate partners and those currently married (0.9% and 1.2%, respectively, versus 0.8%), suggesting that including this group under domestic violence restraining order firearm restriction statutes will safeguard many more victims of intimate partner violence.

In fact, researchers tested whether states that applied firearm restrictions to dating partners experienced a decrease in their intimate partner homicide trends, and found that, compared to states without a state level domestic violence restraining order firearm restriction law, states that have the law and cover dating partners experienced an associated 13% decrease in intimate partner homicide and 16% decrease in firearm intimate partner homicide. When a state had the restraining order firearm restriction but did not cover dating partners, there was no statistically significant difference between their intimate partner homicide rates and the

rates of states without the restraining order firearm restriction. This suggests that covering dating partners saves lives.

### *Laws specifying the implementation of domestic violence restraining order firearm possession restrictions*

A more recent legislative trend is for states to specify how these firearm possession restrictions are to be implemented. The possession restriction requires a disqualified person who already possesses firearms to relinquish them for the duration of the restraining order. Several states have enacted laws specifying how disqualified restraining order respondents are to be dispossessed of their firearms (Zeoli, Frattaroli, Roskam, & Herrera, 2017). These laws vary, like the larger restriction statutes, in whether judges have discretion to order a disqualified person to relinquish his/her firearms, or whether the statute makes firearm relinquishment mandatory. The laws vary greatly from state to state on many more features, including on whether they have any of the following provisions:

- Instructions on to whom to relinquish firearms: Most commonly, states require or allow disqualified persons to relinquish their firearms to law enforcement officers. Other groups that firearms may be relinquished to include federally licensed firearms dealers or qualified third parties. Often, if the disqualified person relinquishes the firearm to a firearms dealer or third party, proof of relinquishment must be provided to law enforcement.
- A deadline by which dispossession must occur: states often include a deadline of between 24 to 72 hours (sometimes longer) that either relinquishment to law enforcement or proof of relinquishment to another group must be provided to law enforcement.
- Authorization for law enforcement to remove firearms from prohibited persons: in a small number of states, the statutes specifies that law enforcement officers may obtain firearms from the disqualified person when they serve the restraining order. Additionally, the court may also be authorized to order a search and seizure for weapons not surrendered.

Researchers tested whether states that authorize or require judges to order a domestic violence restraining order respondent to relinquish their firearms experienced a decrease in intimate partner homicide. Compared to states without a state level domestic violence restraining order firearm restriction law, states that have the law and a relinquishment provision experienced an associated 12% decrease in intimate partner homicide and 16% decrease in firearm intimate partner homicide (Zeoli et al., 2017). When a state had the restraining order firearm restriction but did not include a relinquishment provision, there was no statistically significant difference between their intimate partner homicide rates and the rates of states without the restraining order firearm restriction. These are similar results to a second study that analyzed the relinquishment law, which found that when the restraining order firearm restriction required relinquishment of firearms there was an associated 9.7% decrease in intimate partner homicide and 14% decrease in firearm intimate partner homicide

(Diez et al., 2017). States that had the firearm restriction but did not require relinquishment did not experience a decline.

These two studies suggest that the relinquishment provision saves lives.

### *Implementation studies*

Concerted efforts are now being made in many jurisdictions to implement firearm restrictions, and evidence suggests that these efforts are promising. For example, a study of whether domestic violence restraining order respondents applied for and were allowed to purchase handguns in California found that firearm purchase applications rates were lower for those under restraining orders compared to persons before restraining orders were issued or after they expired. The majority of purchase applications made while under a restraining order were denied (Vittes & Sorenson, 2008).

Researchers studied the implementation of firearm relinquishment provisions in two counties in California that had developed protocol to aid in firearm recovery (Wintemute, Frattaroli, Claire, Vittes, & Webster, 2014). California is uncommon among states in that it has a state handgun registry, which law enforcement used, along with information from domestic violence restraining order petitions and interviews with petitioners, to identify which restraining order respondents possessed firearms. In each county, two detectives oversaw the process of identification and firearm recovery. The detectives or other law enforcement officers contacted the prohibited person and explained the firearm restriction and options for firearm relinquishment. They attempted to either recover firearms or facilitate sale to a firearms dealer. Both counties had some success in recovering firearms: roughly 23% and 51% of respondents identified as in possession of firearms relinquished them in San Mateo and Butte Counties, respectively. Reasons for non-recovery included that orders were either not served or were not served by law enforcement empowered to recover firearms, and instead were served by third parties or civil deputies. Importantly, most firearm recoveries occurred without incident (Wintemute, et al., 2014). Equally importantly, interviews with a sample of restraining order petitioners in San Mateo and Butte Counties indicated that the initiative to remove firearms from restraining order respondents made most victims feel safer (Vittes, Webster, Frattaroli, Claire, & Wintemute, 2013).

Studies that have analyzed implementation of these laws outside of specific efforts or programs to enforce them have found that there is opportunity for improvement. In general, research of restraining orders found that judges often do not impose firearm restrictions on restraining order respondents or order firearm relinquishment even when doing so is in accordance with the law (Diviney, Parekh, & Olson, 2009; Everytown for Gun Safety, 2015; Fleury-Steiner, Miller, & Carcirieri, 2017; Frattaroli & Teret, 2006; Webster, et al., 2010). One factor that may contribute to a lack of ordering restrictions or relinquishment is that some state laws allow judges to use their discretion in deciding whether to do so; mandating that judges implement the laws may increase the proportion of restraining orders that carry restrictions and relinquishment orders (Everytown for Gun Safety, 2015; Webster, et al., 2010).

One study looked at firearm relinquishment as part of domestic violence restraining orders in urban and rural counties in Kentucky, a state without domestic violence firearm restriction laws (Lynch & Logan, 2017). Across counties, lack of resources was cited as a main barrier to enforcement of firearm relinquishment protocols. Among additional barriers, officials cited the difficulty of knowing whether abusers lied about owning guns and the possibility of them obtaining guns illegally. However, in general, those in urban counties did not report as many barriers to enforcing gun relinquishment as those in rural counties. Additionally, there were differences in views about risks of intimate partner homicide and gun violence between those in urban and rural counties, with those in rural counties viewing those risks as lower. In line with this, urban judges were more likely to ask about firearm, and order and follow through on relinquishment than rural judges (Lynch & Logan, 2017).

While it is encouraging that relinquishment happened in absence of a state law, this research illustrates that cultural factors impact relinquishment and should be appropriately addressed to encourage greater implementation of relinquishment programs. Education of court personnel on the law and the importance of removing firearms from perpetrators of domestic violence may also be called for, as may specific efforts to develop or improve implementation protocols. While the implementation of firearm prohibitions may differ depending on local policies, practices, and state law, there are lessons to be learned from the research.

*Legislation that addresses implementation.* Legislators may be able to improve implementation of existing laws by specifying how those laws are to be implemented. For example, it is hypothesized that the specification in California law of how disqualifying records are to be entered into the background check system will improve entry rates (Vittes & Sorenson, 2008). Indeed, clearly specifying in the law who is responsible for each step of implementation and enforcement, how implementation and enforcement are to occur, and how court personnel and law enforcement officers are to be trained in law implementation, is highly recommended (Frattaroli & Teret, 2006; Moracco, et al., 2006). As discussed, legislators may also promote the use of firearm prohibitions by making them mandatory conditions for qualifying domestic violence restraining orders (Moracco, et al., 2006; Webster, et al., 2010).

*Addressing implementation at the local level.* Firearm restrictions may be better implemented when those who have a role in their inclusion in restraining orders or enforcement are supportive of them (Frattaroli & Teret, 2006). This is critically important as research evaluating the implementation of provisions authorizing or requiring persons disqualified from firearm possession suggests that a specific and concerted effort needs to be made on the part of jurisdictions to develop protocols to implement the restrictions. These protocols can cover the following issues:

- Identification of restraining order respondents who possess firearms. All available sources of data should be investigated, including restraining order petitions and victim interviews (Wintemute, et al., 2014). Jurisdictions can be creative about obtaining this

information. For example, in North Carolina it is state law that the court ask about firearm possession at ex parte and full hearings for domestic violence restraining orders.

- Specification of when recovery of firearms will occur. Recovery of firearms from prohibited persons should occur quickly after notification of the prohibition. For example, restraining orders should be served by law enforcement who can recover firearms at the time of service, as opposed to having restraining orders served by third parties (Wintemute, et al., 2014).
- Specification of when and how search warrants may be used. Search warrants may also be a valuable tool for firearm recovery for those respondents identified as firearm owners who deny possession (Wintemute, et al., 2014). Nevada law, for example, allows the court to issue a search warrant for the firearm if the restraining order respondent has not relinquished his or her firearms within the specified time.

### *Explicit and implicit authority*

While much of the above focuses on the explicit language of state laws, judges often have the authority to include in restraining orders stipulations not explicitly listed in the law if it necessary to ensure the safety of the petitioner. Judges may use this implicit authority to order firearm restrictions and removal or relinquishment even when not explicitly authorized in the law (Prosecutors Against Gun Violence & Consortium for Risk-Based Firearm Policy, 2016).

### **Firearm prohibitions for those convicted of misdemeanor crimes**

Under the Federal Gun Control Act, those who have been convicted of misdemeanor crimes of domestic violence are prohibited from purchase and possession of firearms (18 U.S.C. § 922(g)(9)). The federal definition of a misdemeanor crime of domestic violence requires that the misdemeanor statute one is convicted under have

as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. (18 U.S.C. § 921(a)(33)).

This statute, therefore, covers both intimate and parental relationships. Additionally, and importantly, the firearm restriction applies even when the person to be prohibited is in the military or works in law enforcement. Issues addressed in case law include the language used in misdemeanor statutes and what misdemeanor statutes may fulfill the “elements” of the law and which types of relationships are considered “similarly situated to a spouse, parent, or guardian of the victim.” Click here (hyperlink to: <http://www.bwjp.org/ncpoffc-18-usc-922g9-case-law.pdf>) for a full discussion of case law.

In addition to the federal law, numerous states have also enacted legislation prohibiting those convicted of misdemeanor crimes of domestic violence from purchasing or possessing firearms. Some states have gone further and extended firearm prohibitions to those convicted of misdemeanor crimes of violence regardless of the victim-offender relationship.

*Research on whether firearm restrictions for violent misdemeanor convictions impact future violence*

Studies on the impact of laws prohibiting those convicted of misdemeanor domestic violence crimes from accessing firearms have mixed results. Research suggests that the federal statute is associated with a reduction in intimate partner homicide (Raissian, 2016), however no measurable impact of the state-level statutes has been found (Diez et al., 2017; Vigdor & Mercy, 2003, 2006; Zeoli et al., 2017; Zeoli & Webster, 2010). However, there is suggestion in the research that the state level statute prohibiting those convicted of violent misdemeanor crimes (regardless of relationship) is associated with reductions in intimate partner homicide (Zeoli et al., 2017). These statutes operate on the same principle: those who have been convicted of misdemeanor violence against intimate partners or others are high risk for future violence, and preventing them from accessing firearms may reduce both their risk for future violence and the severity of future violence they may commit. Differences in estimated impacts from the research may be due to differences in the ways the laws are implemented.

Recent research suggests that the federal statute prohibiting those convicted of misdemeanor crimes of domestic violence from firearm purchase and possession has significantly reduced homicides of female intimate partners and male domestic children (Raissian, 2016). The researcher argued that despite it being federal legislation, the statute was implemented at different times in different states. As noted above, the lack of consensus surrounding whether the statute under which one is convicted must specify, "as an element," an assault and a relationship between the victim and offender the resulted in debate surrounding which misdemeanor statutes would qualify for the federal ban. This lack of consensus resulted in circuit courts being called upon to resolve the issue. The circuit courts ruled that the misdemeanor statute did not need to include a finding of an intimate partner relationship and a subsequent Supreme Court ruling affirmed this; therefore general assault statutes applied to domestic violence were covered under federal law (Raissian, 2016).

When taking this rolling coverage of the federal law into account, Raissian found that the law was associated with an 11% reduction in firearm intimate partner homicide (Raissian, 2016). Upon further investigation, Raissian found that the measurable reduction in firearm intimate partner homicide was only found for female victimizations, with a reduction of 17%. Additionally, the law was associated with a 31% decrease in homicides of male domestic children (Raissian, 2016).

Five studies have examined the impact of state-level firearm restrictions for those convicted of misdemeanor crimes of domestic violence (Diez et al., 2017; Vigdor & Mercy, 2003, 2006; Zeoli et al., 2017; Zeoli & Webster, 2010). The studies were conducted at both the state level and city

level using multiple decades of data to determine whether the passage of the statutes affected intimate partner homicide rates. Each of the studies took into account numerous additional factors that may impact intimate partner homicide rates, including marriage and divorce rates, median income, poverty rates, police staffing levels, and other domestic violence and firearm laws, when estimating the impact of the misdemeanor domestic violence restriction. These studies were consistent in finding no statistical evidence of an impact of the statutes. No research examining the implementation of the state-level misdemeanor firearm restriction statutes was found in literature searches.

State statutes that prohibit firearm access to those convicted of misdemeanor crimes of violence regardless of victim-offender relationship may impact domestic violence offenders. A study of the impact of a firearm restriction statute for violent misdemeanants regardless of victim-offender relationship suggests that these restrictions may reduce future violent crime (Wintemute, Wright, Drake, & Beaumont, 2001). A handful of states, such as Maryland, have the more general misdemeanor crime of violence firearm restriction statute. Research suggests that this general violent misdemeanor firearm restriction is associated with a 23% decrease in intimate partner homicide and a 21% decrease in firearm intimate partner homicide (Zeoli et al., 2017).

Questions remain about why the general violent misdemeanor firearm restriction statute may be associated with reductions in intimate partner homicide, but the domestic violence misdemeanor firearm restriction has no measurable association. Two plausible explanations exist. The first is that a prohibition under this more general statute could occur either due to a conviction for a misdemeanor crime of violence against an intimate partner or against a non-intimate. A proportion of domestic violence offenders may be prohibited from firearm access due to convictions for misdemeanor crimes of violence against non-intimate partners, thus safeguarding their intimate partners. Some domestic violence offenders do commit crimes against non-intimate partners. For example, a study of probation files of people who were arrested for domestic violence and mandated to treatment found that roughly 17% of them had committed prior violent offenses against non-intimates (Busch & Rosenberg, 2004). Similarly, a study of criminal records of men and women arrested for assault of an intimate partner found that roughly 30% of men and 12% of women had prior arrests for violent offenses against a non-intimate partner (Henning & Feder, 2004). Finally, a case-control study comparing female victims of intimate partner homicide with victims of non-lethal intimate partner violence found that perpetrators of intimate partner homicide were significantly more likely to be reported as violent outside the home (56% versus 36%, respectively) (Campbell, et al., 2003). This suggests the possibility that there are some domestic violence offenders who are prohibited from firearm access due to convictions for violent misdemeanor crimes against non-intimate partners. This statute, therefore, may prohibit more high-risk domestic violence offenders from accessing firearms than the domestic violence-specific firearm restriction.

The second plausible explanation has to do with the way background checks work. When a background check is run, multiple national (and sometimes state) databases are quickly searched for records disqualifying one from gun ownership. Often, domestic violence is charged

under statutes that are not specific to domestic violence and do not include information about the relationship between the victim and offender; simple assault, for example. Because the relationship information that is critical to identifying a conviction as domestic violence is absent, some domestic violence convictions may be overlooked, and the firearm sale allowed to proceed. If all violent misdemeanors are prohibited, it will be easier to identify prohibiting convictions in the background check system.

This type of statute has also been associated with reduced crime in those it directly affects. California implemented a general prohibition against firearm access for violent misdemeanants, as well a specific domestic violence misdemeanor prohibition, in 1991. Researchers examined the impact of the general violent misdemeanor firearm restriction law, and found encouraging results; however they did not specifically examine domestic violence offenders or subsequent domestic violence crimes. Two groups of people aged 35 years and under were compared: people who were denied purchase in 1991 due to prior violent misdemeanor convictions and people who had been convicted of violent misdemeanors but legally purchased firearms in 1989 or 1990. The researchers found that those who were denied legal handgun purchase due to the new law were less likely to be arrested for crimes involving violence and/or guns than those who were able to purchase firearms before the passage of the law in the three years after the purchase attempt (Wintemute, et al., 2001). In other words, the research suggests that the law is effective in reducing future violence among those it impacts.

### **Statutes authorizing law enforcement removal of firearms from the scene of domestic violence:**

Some states have enacted statutes that specifically authorize law enforcement officers to remove firearms from the scene of domestic violence. These laws vary greatly between states (Frattaroli & Vernick, 2006). Points on which states vary include the following:

- Whether firearm removal is mandatory or discretionary
- Whether removal may only occur if the offender is arrested
- Whether removal is authorized only if a firearm was used in the domestic violence incident
- Whether only firearms in plain view be removed or a consensual search may uncover firearms to be removed
- When firearms must be returned to the alleged offender

The conditions under which firearms can or will be seized therefore differs greatly between states. A domestic violence incident that may lead to firearm seizure in one state may not be eligible for firearm seizure in another state.

One study examined the implementation of Maryland's statute authorizing law enforcement officers to remove firearms from the scene of domestic violence (Frattaroli & Teret, 2006). Maryland's law gave law enforcement officers the discretion to decide whether to remove

firearms that they see in plain sight, and allows firearms to be removed even when an arrest is not made and when firearms were not used in the incident. Semi-structured interviews with those knowledgeable about law implementation were conducted.

Responses from the interviewees suggested they believed the law was unclear on several points, including when officers had the authority to remove firearms and the circumstances under which confiscated firearms could be returned. This lack of clarity hampered implementation of the law. Increased clarity in the written law, as well as leadership on how to implement the law, or local jurisdiction implementation policies could increase understanding of the law and, ultimately, removal of firearms from domestic violence offenders (Frattaroli & Teret, 2006).

Two studies examined the circumstances under which firearms were seized under an Indiana law allowing the confiscation of firearms from those who pose a risk of suicide or violence or have active psychosis (Parker, 2010, 2015), with similar results. From 2006-2013, 404 firearm seizures occurred. Eight-five of those seizures were due to a risk of violence, with roughly 56% of the threatened individuals being intimate partners or family members. Additionally, 29% of total seizures involved “domestic disturbances,” which were defined as arguments between intimate partners or family members, or a disturbance involving the end of a relationship. The researcher concluded that the law was used “sparingly” (Parker, 2015).

A report of Connecticut’s gun seizure law from October 1, 1999 through May 31, 2008 found that the most common reasons for seizure were suicide or murder threats reported by intimate partners, and that female intimate partners were among the most common targets of the person whose firearms were seized (Rose & Reilly, 2008). Despite being a common reason for firearm seizure, firearm seizure for domestic violence was still rare. None of the individual-level research on these laws examined the likelihood or severity of violence subsequent to firearm seizure.

Three studies analyzed the impact of these laws on intimate partner homicide (Vigdor & Mercy, 2006; Zeoli et al., 2017; Zeoli & Webster, 2010). Two were conducted at the state level while the other examined intimate partner homicide at the city level. Each study used multiple decades of data to determine whether the passage of the statutes affected intimate partner homicide rates, taking into account numerous additional factors that may impact intimate partner homicide rates, including marriage and divorce rates, median income, poverty rates, police staffing levels, and other domestic violence and firearm laws, when estimating the impact of the misdemeanor domestic violence restriction. No study found a measurable impact of the firearm confiscation statutes on intimate partner homicide. However, if the research in Maryland, Indiana, and Connecticut is any indication, then firearm seizure in cases of domestic violence may be rare, and therefore unlikely to have an impact large enough to be measured at the city or state level. Future efforts should focus on the implementation of these laws.

### **Firearm restrictions for those convicted of stalking**

Stalking is a tactic frequently used by domestic violence offenders to further abuse their current or former intimate partner (Logan & Cole, 2011). Violent intimate partners who engage in stalking may be particularly dangerous. For example, a case-control study comparing female victims of intimate partner homicide with victims of non-lethal intimate partner violence found that violent intimate partners who engaged in stalking behaviors were significantly more likely to kill their intimate partners than those who did not (Campbell, et al., 2003). Additionally, when a comparison was made between victims of non-lethal intimate partner violence and victims of near lethal or lethal intimate partner violence, it was found that victims of near lethal or lethal violence were significantly more likely to have been stalked (McFarlane, Campbell, & Watson, 2002). Another study found that of women killed by current or former intimate partners, roughly 23% had been stalked (Moracco, Runyan, & Butts, 1998).

Conviction for the crime of stalking does not uniformly carry firearm prohibitions across the United States. In most states, stalking is a misdemeanor crime and there is no federal law specifying that those who convicted of a misdemeanor crime of stalking are prohibited from firearm purchase or possession. However, some states have legislated in a way that applies firearm prohibitions to stalking.

One way states have done this is by creating a felony crime of stalking, such as in Colorado, Illinois, Indiana, New Jersey and others. Those convicted of felony crimes are prohibited from firearm purchase and possession under federal law (18 U.S.C. § 922(g)(1)), so the restriction would automatically apply. Other states (such as California, Connecticut, Maryland, New York, and others) have enacted laws prohibiting those who are convicted of misdemeanor stalking from accessing firearms. Two studies have tested the impact of stalking conviction firearm restrictions on intimate partner homicide, however neither found a statistically significant association (Diez et al., 2017; Zeoli et al., 2017). However, as with most policy analyses, we do not know the extent to which these firearm restrictions are being enforced. As evidence suggests that those convicted of stalking are a high-risk group for future violence, it is possible that with good implementation these laws may be effective in reducing the severity of future intimate partner violence.

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