



Women Under the Gun

How Gun Violence Affects Women and 4 Policy Solutions
to Better Protect Them

By Arkadi Gerney and Chelsea Parsons June 2014

Center for American Progress



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Introduction and summary

Violence against women looks very different than violence against men. Whether in the context of sexual assault on college campuses or in the military, violence by an intimate partner, or other types of violent victimization, women's experiences of violence in this country are unique from those of men. One key difference in the violence committed against women in the United States is who commits it: Women are much more likely to be victimized by people they know, while men are more likely to be victims of violent crime at the hands of strangers. Between 2003 and 2012, 65 percent of female violent crime victims were targeted by someone they knew; only 34 percent of male violent crime victims knew their attackers.¹ Intimate partners make up the majority of known assailants: During the same time period, 34 percent of all women murdered were killed by a male intimate partner, compared to the only 2.5 percent of male murder victims killed by a female intimate partner.²

A staggering portion of violence against women is fatal, and a key driver of these homicides is access to guns. From 2001 through 2012, 6,410 women were murdered in the United States by an intimate partner using a gun—more than the total number of U.S. troops killed in action during the entirety of the Iraq and Afghanistan wars combined.³ Guns are used in fatal intimate partner violence more than any other weapon: Of all the women killed by intimate partners during this period, 55 percent were killed with guns.⁴ Women in the United States are 11 times more likely to be murdered with a gun than are women in other high-income countries.⁵

Limiting abusers and stalkers' access to firearms is therefore critical to reduce the number of women murdered in this country every year. This idea is not new: Congress first acted 20 years ago to strengthen our gun laws to prevent some domestic abusers from buying guns. But we are still a long way from having a comprehensive system of laws in place at both the federal and state levels that protect

women—and children and men—from fatal violence in the context of intimate and domestic relationships. This report provides an overview of the data regarding the intersection of intimate partner violence and gun violence, describing four policies that states and the federal government should enact to reduce dangerous abusers' access to guns and prevent murders of women:

- Bar all convicted abusers, stalkers, and people subject to related restraining orders from possessing guns.
- Provide all records of prohibited abusers to the National Instant Criminal Background Check System, or NICS.
- Require a background check for all gun sales.
- Ensure that abusers surrender any firearms they own once they become prohibited.

Some states have already adopted some of these policies, and in the past 12 months, there has been a growing movement across the country to enact laws closing some gaps related to domestic abusers' gun access in several states, including Wisconsin,⁶ Washington,⁷ Louisiana,⁸ New Hampshire,⁹ and Minnesota.¹⁰

This report collected and analyzed data from a variety of sources, including the Federal Bureau of Investigation, or FBI; the Centers for Disease Control, or CDC; the Office of Violence Against Women; state criminal justice agencies; state domestic violence fatality review boards; and academic research. These data provide a snapshot of women's experiences of violence in this country and show the glaring gaps in state and federal laws that leave victims of domestic violence and stalking vulnerable to gun violence. Many of these data have not been made public prior to the publication of this report and were collected through Freedom of Information Act requests. Among our findings:

- In 15 states, more than 40 percent of all homicides of women in each state involved intimate partner violence. In 36 states, more than 50 percent of intimate partner-related homicides of women in each state involved a gun.¹¹

- A review of conviction records in 20 states showed that there are at least 11,986 individuals across the country who have been convicted of misdemeanor-level stalking but are still permitted to possess guns under federal law. It is likely that there are tens of thousands of additional convicted stalkers who are able to buy guns.
- While submission of records regarding convicted misdemeanor domestic abusers to the FBI's NICS Index has increased 132 percent over the past five-and-a-half years, only three states appear to be submitting reasonably complete records—Connecticut, New Hampshire, and New Mexico. Records from these three states account for 79 percent of the total records submitted to the FBI.¹²

Every day in the United States, five women are murdered with guns.¹³ Many of these fatal shootings occur in the context of a domestic or intimate partner relationship. However, women are not the only victims. Shooters have often made children, police officers, and their broader communities additional targets of what begins as an intimate partner shooting. In fact, one study found that more than half of the mass shootings in recent years have started with or involved the shooting of an intimate partner or a family member.¹⁴ Enacting a comprehensive set of laws and enforcement strategies to disarm domestic abusers and stalkers will reduce the number of women who are murdered by abusers with guns—and it will make all Americans safer.

The intersection between intimate partner violence and gun violence

Violent crime in the United States has steadily declined over the past two decades, but a significant proportion of the violence that remains occurs in the context of domestic or intimate partner violence. The burden of this violence falls overwhelmingly on women: Although women are murdered less frequently than men, when they are killed, it is much more likely to be due to domestic or intimate partner violence.¹⁵ This has been a longstanding trend in America: According to data from the FBI, nearly one in five of all murder victims between 1980 and 2008 were killed by an intimate partner; two in five female murder victims were killed by an intimate partner.¹⁶ While murders of men by intimate partners have steadily declined in recent years—the FBI reports a 53 percent reduction in the percentage of men murdered by an intimate partner between 1980 and 2008—the percentage of women murdered by an intimate partner increased 5 percent during this period.¹⁷ Another study found that between 1976 and 2005, intimate partner homicides accounted for 30 percent of female murder victims and only 5 percent of male victims.¹⁸

In some states, the proportion of murders that occur in a domestic or intimate partner context is even higher. According to FBI supplemental homicide data, 20.4 percent of all homicides in Idaho, 19.8 percent of all homicides in Montana, and 20.3 percent of all homicides in Maine involved intimate partner violence between 2003 and 2012.¹⁹ States that conduct extensive reviews of all their domestic violence fatalities tend to find even higher portions of domestic-violence-related fatalities than are indicated in the FBI data. For example, according to the Arizona State Domestic Violence Fatality Report, 41 percent of all homicides involved domestic violence, compared with the FBI reported number of 11.8 percent in 2011.²⁰ Similarly, 2011 FBI data for Wisconsin found that 7.1 percent of all homicides involved domestic violence, while the state fatality review board reported 29 percent that year.²¹

TABLE 1A
State-by-state intimate partner and domestic violence homicide data

All victims

State	Percentage of all homicides that are IP- or DV-related			Percentage of all IP- or DV-related homicides committed with a gun		
	FBI: IP only (2003–2012)	CDC: all DV (2011)	Fatality Review Board: IP and DV (multiple years)	FBI: IP only (2003–2012)	CDC: all DV (2011)	Fatality Review Board: IP and DV (multiple years)
Alabama	10.9%	--	--	65.5%	--	--
Alaska	10.8%	--	--	50.0%	--	--
Arizona	8.3%	--	41.0%	61.1%	--	60.0%
Arkansas	9.6%	--	--	54.5%	--	--
California	6.5%	--	--	49.6%	--	--
Colorado	14.2%	18.1%	--	54.3%	50%	--
Connecticut	10.1%	--	15.9%	41.3%	--	29.0%
Delaware	7.5%	--	--	48.4%	--	33.8%
Florida	--	--	--	--	--	56.0%
Georgia	10.6%	15.9%	22.3%	58.4%	54%	76.0%
Hawaii	13.7%	--	25.3%	29.4%	--	21.7%
Idaho	20.4%	--	--	69.0%	--	--
Illinois	3.5%	--	--	26.9%	--	--
Indiana	9.0%	--	--	58.5%	--	60.3%
Iowa	15.4%	--	--	39.4%	--	67.3%
Kansas	12.2%	--	4.9%	53.3%	--	61.0%
Kentucky	12.0%	15.6%	--	70.8%	68%	--
Louisiana	7.2%	--	--	61.3%	--	--
Maine	20.3%	--	46.0%	57.1%	--	57.0%
Maryland	5.2%	13.9%	5.2%	42.2%	44%	54.0%
Massachusetts	7.8%	18.2%	--	22.5%	27.8%	--
Michigan	5.5%	--	--	51.2%	--	--
Minnesota	12.6%	--	15.0%	49.2%	--	50.0%
Mississippi	10.6%	--	--	61.1%	--	--
Missouri	9.5%	--	--	55.7%	--	--
Montana	19.8%	--	45.4%	65.9%	--	78.0%
Nebraska	11.9%	--	--	56.1%	--	--
Nevada	12.2%	--	--	50.7%	--	--
New Hampshire	21.1%	--	50.0%	53.8%	--	48.0%

State	Percentage of all homicides that are IP- or DV-related			Percentage of all IP- or DV-related homicides committed with a gun		
	FBI: IP only (2003–2012)	CDC: all DV (2011)	Fatality Review Board: IP and DV (multiple years)	FBI: IP only (2003–2012)	CDC: all DV (2011)	Fatality Review Board: IP and DV (multiple years)
New Jersey	7.0%	11.9%	--	30.5%	--	--
New Mexico	9.6%	18.1%	--	50.4%	--	57.0%
New York	8.1%	--	--	30.5%	--	--
North Carolina	10.1%	23.9%	--	55.6%	55.6%	--
North Dakota	20.9%	--	53.0%	44.4%	--	42.8%
Ohio	8.2%	14.3%	--	49.1%	48.8%	--
Oklahoma	12.0%	24.8%	52.0%	60.3%	53.2%	55.0%
Oregon	15.5%	29.1%	--	56.5%	56.3%	--
Pennsylvania	8.4%	--	26.0%	51.9%	--	56.0%
Rhode Island	11.1%	--	--	23.3%	--	--
South Carolina	12.6%	23.2%	--	57.6%	58%	--
South Dakota	17.3%	--	--	65.4%	--	--
Tennessee	10.7%	--	--	59.1%	--	--
Texas	10.2%	--	--	59.1%	--	--
Utah	14.7%	49.1%	33.0%	56.2%	44.4%	67.8%
Vermont	16.5%	--	50.0%	55.6%	--	56.0%
Virginia	11.0%	22.2%	29.6%	56.8%	62.9%	53.7%
Washington	12.8%	--	28.6%	51.7%	--	55.0%
West Virginia	17.4%	--	30.0%	61.8%	--	75.7%
Wisconsin	9.1%	20.5%	29.0%	37.1%	36.7%	42.5%
Wyoming	19.1%	--	--	53.8%	--	--
National Average	8.9%	--	--	52.5%	--	--

Note: FBI definition of intimate partner, or IP: Female intimate partners are girlfriends, wives, ex-wives, and common-law wives, whether or not-cohabitating. Male intimate partners are boyfriends, husbands, ex-husbands, and common-law husbands, whether or not-cohabitating. Centers for Disease Control, or CDC, definition of domestic violence, or DV, homicide victims: spouse, ex-spouse, parent, child, grandparent, grandchild, or other cohabitating relative. Fatality review board definitions of intimate partner and domestic violence vary by state; please see endnotes for more information.

Source: Center for American Progress analysis of Federal Bureau of Investigation Supplementary Homicide Data, 2003–2013; Centers for Disease Control and Prevention, National Violent Death Reporting System, 2011; State Fatality Review Boards: Arizona (2012); Connecticut (2012); Florida (2006–2012); Georgia (2012); Hawaii (2000–2002); Indiana (2009–2010); Iowa (2007–2008); Kansas (2004–2010); Maine (2012–2013); Maryland (2010–2011); Minnesota (2012); Montana (2012); New Hampshire (2001–2010); New Mexico (2009); North Dakota (1992–2011); Oklahoma (2011); Pennsylvania (2011); Utah (2003–2008); Vermont (1994–2012); Virginia (2005); Washington state (1997–2010); West Virginia (2003–2005); Wisconsin (2011). See endnotes for more information.

TABLE 1B
State-by-state intimate partner and domestic violence homicide data

Female victims

State	Percentage of all homicides of women that are IP- or DV-related		Percentage of all IP- or DV-related homicides of women committed with a gun	
	FBI: IP only (2003-2012)	CDC: all DV (2011)	FBI: IP only (2003-2012)	CDC: all DV (2011)
Alabama	32.1%	--	74.0%	--
Alaska	26.2%	--	48.1%	--
Arizona	34.8%	--	61.4%	--
Arkansas	29.6%	--	59.4%	--
California	33.5%	--	51.0%	--
Colorado	41.2%	42.9%	56.3%	47.6%
Connecticut	41.4%	--	41.4%	--
Delaware	33.8%	--	48.0%	--
Florida	--	--	--	--
Georgia	35.8%	44.0%	62.1%	59.3%
Hawaii	41.8%	--	30.3%	--
Idaho	48.0%	--	69.4%	--
Illinois	18.6%	--	37.1%	--
Indiana	31.5%	--	59.0%	--
Iowa	35.3%	--	38.3%	--
Kansas	33.7%	--	54.7%	--
Kentucky	33.3%	39.5%	73.2%	76.5%
Louisiana	32.1%	--	66.0%	--
Maine	44.1%	--	65.9%	--
Maryland	29.5%	62.3%	44.6%	47.4%
Massachusetts	33.0%	43.6%	23.9%	--
Michigan	22.4%	--	53.3%	--
Minnesota	40.4%	--	53.3%	--
Mississippi	31.7%	--	68.7%	--
Missouri	32.6%	--	55.9%	--
Montana	48.6%	--	70.6%	--
Nebraska	36.2%	--	55.3%	--
Nevada	40.1%	--	50.3%	--
New Hampshire	48.9%	--	54.5%	--
New Jersey	30.3%	53.6%	32.9%	--

State	Percentage of all homicides of women that are IP- or DV-related		Percentage of all IP- or DV-related homicides of women committed with a gun	
	FBI: IP only (2003-2012)	CDC: all DV (2011)	FBI: IP only (2003-2012)	CDC: all DV (2011)
New Mexico	27.3%	46.4%	52.9%	--
New York	32.8%	--	34.5%	--
North Carolina	31.7%	60.3%	58.6%	54.8%
North Dakota	44.7%	--	41.2%	--
Ohio	29.2%	41.5%	53.1%	51.0%
Oklahoma	35.7%	49.3%	62.5%	51.4%
Oregon	42.0%	62.4%	59.3%	61.9%
Pennsylvania	36.2%	--	55.8%	--
Rhode Island	40.3%	--	25.9%	--
South Carolina	41.1%	50.0%	61.5%	54.8%
South Dakota	33.9%	--	73.7%	--
Tennessee	36.2%	--	61.2%	--
Texas	35.4%	--	60.7%	--
Utah	35.3%	75.0%	53.3%	--
Vermont	32.6%	--	53.3%	--
Virginia	35.8%	56.0%	59.8%	68.1%
Washington	37.6%	--	51.9%	--
West Virginia	48.2%	--	60.6%	--
Wisconsin	29.1%	50.0%	40.3%	--
Wyoming	42.9%	--	50.0%	--
National Average	33.7%	--	54.8%	--

Note: FBI definition of intimate partner, or IP: Female intimate partners are girlfriends, wives, ex-wives, and common-law wives, whether or not-cohabitating. Male intimate partners are boyfriends, husbands, ex-husbands, and common-law husbands, whether or not-cohabitating. Centers for Disease Control, or CDC, definition of domestic violence, or DV, homicide victims: spouse, ex-spouse, parent, child, grandparent, grandchild, or other cohabitating relative.

Source: Center for American Progress analysis of Federal Bureau of Investigation Supplementary Homicide Data, 2003-2013; Centers for Disease Control and Prevention, National Violent Death Reporting System, 2011.

Guns play an outsized role in domestic violence homicides. According to FBI data, between 2003 and 2012, 54.8 percent of women murdered in an intimate partner context were killed with a gun.²² The prevalence of guns in domestic violence homicides can also be seen at the state level. During this period, guns were used in 61.4 percent of domestic violence homicides of women in Arizona, 73.2 percent of domestic violence homicides of women in Kentucky, and 70.6 percent of domestic violence homicides of women in Montana.²³

Complicating attempts to document the prevalence of domestic and intimate partner homicide is the fact that there is not a single standard measure of what constitutes it. Tables 1A and 1B show a compilation and analysis of data gathered from three available data sources. The FBI has detailed intimate partner homicide data by state, but these data are not a comprehensive set of all such homicides that occur for two reasons. First, not all local jurisdictions report to the FBI. Second, data supplied to the FBI do not always establish the relationship between the victim and perpetrator. The National Violent Death Reporting System, operated by the CDC, contains more comprehensive data on domestic violence homicides, but only for 17 states. Finally, some—but not all—states conduct comprehensive research through state domestic violence fatality review boards that analyze the circumstances of domestic-violence-related homicides.²⁴

Looking at these three sources demonstrates the limitations of FBI data when considering the impact guns have on the lives of domestic violence victims. According to the FBI, more than 33 percent of all female homicide victims die as a result of domestic violence; for the states where CDC data are available, reports show that domestic violence accounts for more than 50 percent of all female homicides in many states. Part of the discrepancy in the numbers stems from the fact that each source has a different composition of who the victims are. The FBI only counts intimate partners, while the CDC includes other family members, such as children and siblings; state fatality review boards each have their own definitions for intimate and domestic violence. (see the note below Table 1A for a more complete explanation) Nevertheless, taken together, these data illustrate the prevalence of intimate partner and domestic violence and the significant role guns play in it.

At the same time that domestic violence is driving a significant portion of the daily gun violence experienced by women in the United States, there is a strong connection between domestic violence and recent mass shootings. According to a Mayors Against Illegal Guns analysis of the 93 mass shootings in the United States between January 2009 and September 2013 that involved four or more victims, 57 percent involved domestic violence. In these cases, the shooter killed a current or former spouse, intimate partner, or other family member as part of his rampage.²⁵

Challenge 1: Prohibiting all dangerous abusers and stalkers from possessing guns

While the Supreme Court has held that the Second Amendment provides an individual the right to possess firearms to protect his or her home, the Court made it clear in *District of Columbia v. Heller* that this right is not unlimited and that Congress may act to limit access to guns for dangerous individuals who pose a risk to public safety, such as “felons and the mentally ill.”²⁶ One such group of presumptively dangerous individuals—recognized by Congress in the mid-1990s—is domestic abusers. Congress acted in 1994 as part of the Violence Against Women Act to prohibit individuals subject to domestic violence restraining orders from possessing guns. In 1996, Congress enacted a new law barring individuals convicted of a misdemeanor crime of domestic violence from gun possession; the amendment adding this provision overwhelmingly passed the Senate with a vote of 97-2.²⁷

These laws are grounded in data and research that demonstrate that the risk a woman will be murdered increases dramatically when domestic abusers have access to guns: Having a gun in the home increases the risk of homicide of an intimate partner by 8 times compared to households without guns and by 20 times when there is a history of domestic violence in the family.²⁸ The Supreme Court recently reaffirmed the constitutionality of these provisions in a March 2014 decision, rejecting an attempt to narrow the misdemeanor conviction bar and reaffirming the importance of keeping guns away from abusers. In *United States v. Castleman*, Justice Sonia Sotomayor wrote for the majority, “Congress enacted [the misdemeanor domestic violence gun ban], in light of these sobering facts, to ‘close a dangerous loophole’ in the gun control laws: While felons had long been barred from possessing guns, many perpetrators of domestic violence are convicted only of misdemeanors.”²⁹

However, as the Center for American Progress reported in May 2013, the current federal prohibition on gun possession by abusers suffers from two key weaknesses: It does not include individuals convicted of misdemeanor-level stalking crimes, nor does it include abusers in non-cohabitating dating relationships.³⁰ These are significant gaps that potentially leave tens of thousands of women vulnerable to gun violence.

Stalkers

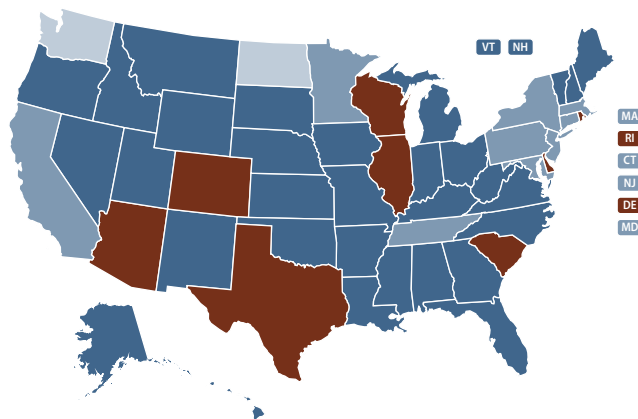
Stalking is generally defined as a course of conduct that would place a reasonable person in fear for his or her physical safety.³¹ Stalking occurs both in the context of intimate partner relationships and among acquaintances or strangers. It is most prevalent in the intimate partner context: Data from the CDC's 2010 National Intimate Partner and Sexual Violence Survey found that 66 percent of female stalking victims were stalked by a current or former intimate partner, while 24 percent were stalked by an acquaintance, and 13 percent were stalked by a stranger.³² Stalking is one of the many methods abusers use to exert power and control over victims and is often reported as part of domestic abuse complaints. Indeed, one

study that reviewed 1,785 domestic violence crime reports found that one in six cases had evidence of stalking.³³ Yet the current federal domestic violence prohibition does not include individuals convicted of misdemeanor stalking crimes, even when the conviction arises in an intimate partner context.

Every state has made stalking a crime, although the specific definitions and elements of these laws vary widely.³⁴ Nearly every state has a felony stalking crime, and individuals convicted of this crime for stalking intimate partners, acquaintances, or strangers—like any other convicted felon—will be prohibited under federal law from buying or possessing guns. But 42 states also have misdemeanor-level stalking crimes, which are generally punishable by less than one year in jail. Only nine of these states have enacted a law that bars all individuals

FIGURE 1
State laws regarding gun possession by convicted stalkers

- Felony stalking law only
- Misdemeanor stalking law and no bar on gun possession for those convicted
- Misdemeanor stalking and a bar on gun possession for those convicted
- Misdemeanor stalking and a bar on gun possession for some of those convicted



Source: CAP analysis of state laws. See Appendix B.

convicted of this misdemeanor crime from possessing guns, and two additional states bar some convicted misdemeanant stalkers. This means that individuals convicted of misdemeanor stalking remain free to purchase guns in most parts of the country.

While there may be a perception that stalking conduct that has not risen to the level of a felony conviction is not serious enough to justify taking away a person's gun rights, there is substantial research that demonstrates a connection between stalking and future escalating violence against women. This is particularly true in the intimate partner context. One study found that 81 percent of women stalked by a current or former intimate partner were also physically abused by that person.³⁵ Another study of female murder victims in 10 cities found that 76 percent of women murdered and 85 percent of women who survived a murder attempt by a current or former intimate partner experienced stalking in the year preceding the murder.³⁶

These data demonstrate that while stalking may appear to be low-level, nonviolent behavior that does not warrant a strong response from the criminal justice system, this conduct is often the first step in an escalating course of conduct that too often tragically results in murder. This is also illustrated by a number of recent tragic cases from around the country of stalkers-turned-murderers. For example, in Ocean Springs, Mississippi, Amanda Salas was shot and killed by an ex-boyfriend in March 2014 following weeks of escalating stalking and after she obtained an emergency protective order.³⁷ In another case in Louisville, Kentucky, Michelle Hahn was killed with one shot to the head at point-blank range in a Wal-Mart parking lot in 2012 by a man she had dated briefly who had a 17-year history of stalking various women.³⁸

Preliminary research also suggests that stalking is startlingly prevalent in the United States. According to the 2010 National Intimate Partner and Sexual Violence Survey³⁹—an ongoing national survey conducted by the CDC to assess experiences of intimate partner violence, sexual violence, and stalking among adult men and women in the United States—an estimated 16.2 percent of U.S. women experience stalking in their lifetimes, which amounts to an estimated 19 million women nationwide.⁴⁰ These numbers vary widely by state; an estimated 24.7 percent of women in Kentucky will experience stalking, 24.4 percent in Nevada, and 22.3 percent in New Mexico and Oklahoma.⁴¹ Women are more often the victims of stalking than men: One in six women are stalked in their lifetimes, compared to 1 in 19 men.⁴²

TABLE 2
Number of misdemeanor stalking convictions, selected states

State	2012	2013
Arkansas	N/A	1
Connecticut	27	24
Georgia	284	N/A
Idaho	28	44
Iowa	15	28
Kentucky	37	51
Maine	N/A	51
Maryland	0	0
Massachusetts	N/A	N/A
Missouri	58	44
Montana	2	N/A
New Mexico	13	5
New York	93	93
North Carolina	86	83
North Dakota	7	4
Pennsylvania	326	358
South Dakota	23	26
Utah	98	78
Virginia	67	74
Washington	54	47

Source: Data provided from state law enforcement agencies.

The high numbers of reported stalking victims across the country do not always translate into criminal convictions. For example, the law-enforcement agencies that received grant funding from the Office on Violence Against Women in 2010 to engage in enforcement activities related to stalking reported making arrests in only 42 percent of the stalking cases they investigated.⁴³ A previous study of domestic violence crime reports yielded similar results: Of the 1,785 cases reviewed, one in six had evidence of stalking, yet only one case resulted in formal stalking charges.⁴⁴ Another study estimated that for every case of partner stalk-

ing identified by police, 21 cases were missed.⁴⁵ There are a few reasons for this, including inadequate training of law-enforcement officers in some jurisdictions to understand and recognize stalking as a serious crime and confusing state stalking laws that make it difficult to determine whether an individual has committed a crime.⁴⁶ As one police officer in Fairfax County, Virginia, explained:

One area of remaining need for improving services is educating law enforcement on the elements of stalking and what this crime has the potential of being (ie, rape, homicide, physical assault). I don't think that it's an issue of avoidance on the [officer's] part, simply of not enough knowledge on the subject.⁴⁷

Despite these challenges in identifying and prosecuting stalkers, there are significant numbers of individuals convicted of misdemeanor-level stalking crimes each year, most of whom remain free to buy and possess firearms. The Center for American Progress obtained data from 20 states regarding the number of individuals convicted of misdemeanor stalking and found that over the past decade, at least 11,986 individuals have been convicted of this offense in these 20 states alone.⁴⁸ This is a significant undercount of the total number of convicted misdemeanor stalkers in the nation, as not every state with a misdemeanor stalking crime provided data and not every state that did provide data did so for each of the previous 10 years.

What these numbers show is that there are a significant number of convicted stalkers across the country who are free to buy and possess guns, despite their demonstrated history of dangerous and predatory behavior. In Georgia alone, for example, between 2003 and 2012, 3,105 individuals were convicted of misdemeanor stalking. In North Carolina, 1,134 individuals were convicted of misdemeanor stalking between 2004 and 2013. In Kentucky between 2003 and 2013, 758 individuals were convicted of this offense. In all of these states, these convicted stalkers are permitted to buy guns despite the known risk they pose of future violence. By contrast, the 1,150 individuals in New York state convicted of misdemeanor stalking between 2004 and 2013 are barred from gun possession because New York is one of the nine states that do not allow those with misdemeanor stalking convictions to possess guns.⁴⁹

Dating partners

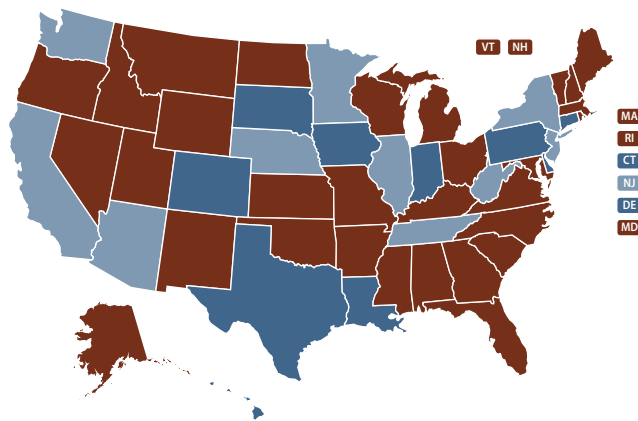
The federal laws disqualifying domestic violence misdemeanants from firearm ownership enacted in 1994 and 1996 exclude a key group of victims from their protection: individuals in a current or former dating relationship who never lived together or had a child together. While more than 100,000 dangerous abusers have been prevented from buying guns under the federal bar,⁵⁰ this gap in the scope of the law leaves a significant number of abusers in this country free to buy guns. Violence among intimate partners in a dating context—as opposed to spouses, co-parents, or intimate partners who live together—has steadily increased in the past two decades. From 2003 through 2012, more nonfatal

violence against women was committed by a current or former boyfriend than by a current or former spouse—39 percent versus 25 percent.⁵¹ This is also seen in the data regarding domestic violence murders: While the majority of intimate partner homicides in 1980—69 percent—were committed by a spouse, by 2008, nearly half of all intimate partner homicides—48.6 percent—were committed by a dating partner.⁵² This trend is present in some state homicide data as well: In Virginia in 2011, 56 percent of intimate partner homicides occurred in a current or former dating relationship.⁵³

Despite the increasing share of domestic violence that occurs in dating relationships, only 10 states have extended the ban on gun possession by misdemeanor domestic abusers to dating relationships, according to an analysis of state laws conducted by the authors.

FIGURE 2
State laws regarding gun possession by convicted domestic abusers

- Federal law only
- State law bar on possession by convicted domestic abusers
- State law bar on possession by convicted domestic abusers that includes dating partners



Source: CAP analysis of state laws. See Appendix B.

Challenge 2: Ensuring that all states provide complete records of prohibited abusers to the FBI's National Instant Criminal Background Check System

Congress first enacted restrictions on who could lawfully buy and possess firearms in 1968 with the passage of the Gun Control Act.⁵⁴ But there was no system in place to actually prevent these prohibited individuals from buying guns until the creation of the National Instant Criminal Background Check System, or NICS, as part of the Brady Handgun Violence Prevention Act that was passed in 1993 and imposed a new requirement that all licensed gun dealers perform a background check before completing a gun sale.⁵⁵ NICS was created and launched by the FBI in November 1998, and since that time,⁵⁶ the system has been used to prevent more than 2.1 million prohibited individuals from purchasing guns.⁵⁷ While the scope of the federal bar on gun possession by abusers is too narrow, even among those persons who are now prohibited under federal law, the scope of record submission and the process for record review is such that, too often, prohibited abusers are able to buy guns from gun dealers.

When an individual seeks to buy a firearm from a licensed dealer, the dealer submits the person's name and other limited identifying information to NICS for a background check to determine if the individual is qualified under state and federal law to buy a gun. In 29 states and Washington, D.C., the FBI performs the background check for all gun sales; in the remaining 21 states, known as "Point of Contact" states, a state agency performs the background check for at least some of the sales.⁵⁸ In 17 states, this background check is also conducted for at least some private gun sales.⁵⁹ The agency running the check then queries NICS, which involves a search of three databases that contain criminal justice information and are used for a number of purposes in addition to firearm background checks: the Interstate Identification Index, or III; the National Crime Information Center, or NCIC; and the NICS Index.⁶⁰ Each of these databases contains different types of records relevant to gun sale background checks: III contains records pertaining to criminal convictions; NCIC contains records relating to fugitives and individuals subject to restraining orders; and the NICS Index contains records submitted by states regarding any of the categories of prohibited purchasers.⁶¹ The FBI also queries databases of Immigration and Customs Enforcement for records pertaining to noncitizens who attempt to purchase firearms.⁶²

The vast majority of NICS background checks are completed within seconds: In 2012, 91.5 percent of checks were completed immediately, and the dealer was advised whether to complete the sale.⁶³ For the remaining 8.5 percent of background checks, additional time was required to determine if the prospective gun purchaser was legally qualified to buy a firearm. By statute, the FBI has three business days to make this determination. If at the end of three days the FBI has not been able to complete the background check, the dealer is permitted to complete the sale in a transfer referred to as a “default proceed.”⁶⁴ The FBI continues to research the default proceed transactions, and if it subsequently determines that the purchaser is, in fact, prohibited from gun ownership, the FBI classifies the transaction as a “delayed denial” and refers the case to the Bureau of Alcohol, Tobacco, Firearms, and Explosives, or ATF, to retrieve the firearm from the prohibited individual who had been allowed to purchase it.⁶⁵

Default proceed gun sales pose a particular concern because these transactions involve a significant number of individuals who turn out to be prohibited from gun possession: According to FBI data, default proceed sales are eight times more likely to involve a prohibited purchaser than background checks that are resolved within three days.⁶⁶ In 2012, there were 3,722 instances in which individuals disqualified from gun ownership were permitted to purchase a firearm through a default proceed transaction, and ATF was subsequently required to attempt retrieve those firearms⁶⁷—a time-consuming, potentially risky, and sometimes unsuccessful assignment.

A disproportionate number of delayed denial cases involve individuals prohibited from firearm possession due to domestic violence, either because of a misdemeanor conviction or a restraining order. In 2003—the most recent year for which this information is available—domestic violence prohibitors were the largest category of firearm retrieval cases referred to ATF, accounting for 34 percent of them.⁶⁸ That same year, 1,227 domestic abusers who were permitted to buy firearms from licensed dealers were later determined to be prohibited; the background check system did not function quickly enough to prevent the sales from going through after three days.⁶⁹ By contrast, domestic violence prohibitors accounted for only 17 percent of overall NICS denials that year.⁷⁰ In other words, domestic violence perpetrators make up twice the portion of delayed denials as they do for typical denials—meaning those that occur before the buyer walks out of a store with a gun.

There are a number of reasons that domestic violence review is slower and less complete in the background check process than reviews of other categories of prohibited persons. First, records of misdemeanor domestic violence convictions and restraining orders that are in III and NCIC are often incomplete and require additional investigation to determine if they render the individual prohibited from gun possession.⁷¹ For example, III may have a record of the individual being arrested for misdemeanor assault but not have information about whether that arrest resulted in a conviction. In such cases, the FBI must contact the local court system or police agency to determine how the arrest was resolved, an investigation that can easily take longer than three days.⁷²

Second, the federal definition of misdemeanor crime of domestic violence does not always easily align with state law crimes. For example, III may show that an individual was convicted of misdemeanor assault but does not indicate the relationship between the defendant and the victim or whether the requisite use of force required under federal law was an element of the state crime.⁷³ When that occurs, the FBI or state law enforcement must again contact local court and police officials to piece together the details of the conviction—a process that is even more time-consuming than just determining the basic disposition of a case.⁷⁴

Third, even simply identifying whether a misdemeanor conviction is prohibiting because it involves domestic violence can pose a challenge, as many of these convictions do not present as such initially. In a number of states, these are merely assault or battery convictions, and the FBI must again do further research with local agencies to determine if it qualifies as a prohibiting conviction under federal law.⁷⁵ This is made even more difficult because many states do not have easily accessible electronic records regarding misdemeanor convictions.⁷⁶

One solution to this problem is for states to affirmatively identify the individuals prohibited from gun ownership due to a domestic violence misdemeanor conviction or restraining order—through a process that law enforcement experts refer to as “pre-validation”—before submitting them to the FBI. Instead of urgent case-by-case examinations, where the FBI or state law enforcement try to figure out within three days whether a particular record is qualifying, pre-validation would mean that state law enforcement had reviewed all the potentially disqualifying records, identified those that are prohibiting under federal law and pre-validate them as such, and submit all those records to FBI. Doing so would ensure that information regarding these

individuals is immediately accessible to NICS operators during a background check and eliminate the need for any additional investigation into whether the individual's criminal history renders him or her ineligible to purchase a firearm.

One way for states to engage in this pre-validation process is to flag disqualifying records in NCIC and III. Each of these indexes currently has a flag that allows states to identify records of individuals who are barred from gun ownership—restraining orders in NCIC and misdemeanor convictions in III. Using these flags allows the NICS operators to immediately ascertain that the individual is prohibited from gun possession and eliminates any ambiguity as to whether the individual has a disqualifying conviction or restraining order. While these flags are the preferred method of indicating that an individual is barred from gun possession because of his or her criminal history, according to a January 2014 report by the Bureau of Justice Statistics, only 22 states currently employ a flag to indicate that an individual is ineligible to purchase firearms.⁷⁷

In addition to using these flags, when states pre-validate disqualifying records, they also have the option of submitting these records directly to the NICS Index. While the NICS Index is generally used to collect prohibiting records that are not otherwise available in the other indexes, it can also be used for records pertaining to any of the federal prohibitors. Indeed, in a 2012 report on the operations of the gun background check system, the FBI endorsed the practice of submitting records directly to the NICS Index, even when the records may also be available in III or NCIC:

Typically, the records submitted to the NICS Index are not available from the NCIC or the III, or may be available but cannot be updated in a manner to readily indicate to a user the existence of a federal firearms prohibition. Making such records available via the NICS Index provides the user with an immediate indication the record, when validly matched to the prospective firearm transferee, has already been validated to be federally disqualifying. This 'pre-validation,' in turn, often eliminates an otherwise lengthy review process where research and evaluation are performed to determine if the record is prohibiting and, ultimately, if the subject is eligible to receive or possess firearms.⁷⁸

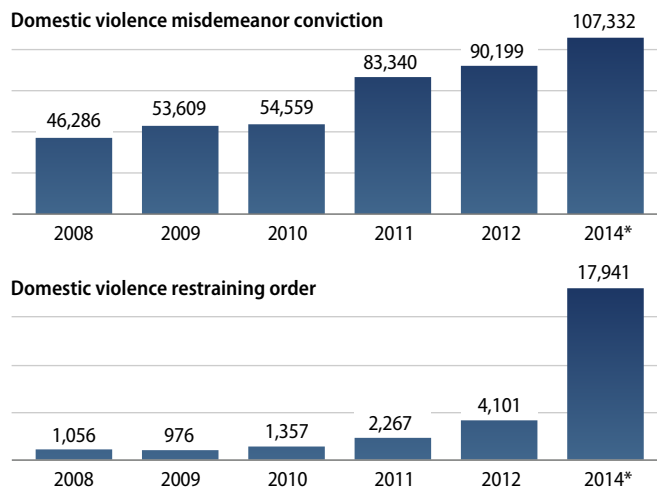
Submitting these pre-validated records to the NICS Index should not replace flagging these records in NCIC and III but instead should act as an additional safeguard to ensure that clear records of who is prohibited from firearm possession because of a domestic violence conviction or restraining order are immediately available during a background check.

The NICS Index is currently set up to accept these records, and, in fact, there are a substantial number of these records already in the index: As of April 30, 2014, there were more than 107,000 records of individuals convicted of domestic violence misdemeanors and nearly 18,000 records of those subject to a domestic violence restraining order.⁷⁹ Over the past several years, state submissions of such domestic violence records to the NICS Index have increased markedly. Between December 31, 2008, and April 30, 2014, the number of records relating to domestic violence misdemeanor convictions in the NICS Index increased 132 percent, and the number of restraining order records increased more than 1,000 percent.⁸⁰

Few states, however, have adopted this approach; most either rely on III and NCIC to flag prohibited domestic abusers or are not flagging abusers at all. According to data obtained by the Center for American Progress through a Freedom of Information Act request to the FBI, as of December 31, 2013, only 36 states have submitted any domestic violence misdemeanor conviction records to the NICS Index, and of these, 21 states have submitted 20 or fewer of these records. Eight have submitted only one record. An even smaller number of states have submitted records regarding restraining orders: 19 states have submitted domestic violence restraining order records to the NICS Index, and of these, 9 states have submitted 10 or fewer. But a few states have begun to submit these records to the FBI for inclusion in the NICS Index in large numbers—conducting exactly the “pre-validating” batch review that the FBI recommended in its 2012 report. In fact, fully 79 percent of all the state domestic violence conviction records submitted to the NICS Index come from just three states: Connecticut, New Hampshire, and New Mexico.

If all states submitted records of misdemeanor domestic violence convictions at the average rate of these three states, we can project that there would be 2.9 million records in the NICS Index in this category, more than 40 times the number currently submitted. In other words, the current total of domestic abuser records in the FBI NICS Index likely makes up 5 percent or fewer of the total number of

FIGURE 3
Prohibiting domestic violence records in the NICS Index



Note: Data collected as of December 31.

* Data collected as of April 31, 2014.

Source: Data from 2008-2012 Federal Bureau of Investigation, “National Instant Criminal Background Check System Operations.”

TABLE 3
Prohibiting domestic violence records submitted to the NICS Index, by state

State	Misdemeanor crime of domestic violence records submitted as of December 2013	Submission rate of misdemeanor crime of domestic violence records per 100,000 people	Domestic violence restraining order records submitted as of December 2013	Submission rate of domestic violence restraining order records per 100,000 people
Alabama	0	0.00	1	0.02
Alaska	0	0.00	0	0.00
Arizona	2	0.03	0	0.00
Arkansas	1955	66.06	2	0.07
California	6271	16.36	10	0.03
Colorado	62	1.18	174	3.30
Connecticut	16454	457.55	543	15.10
Delaware	0	0.00	0	0.00
District of Columbia	0	0.00	0	0.00
Florida	5	0.03	0	0.00
Georgia	1	0.01	0	0.00
Hawaii	3	0.21	0	0.00
Idaho	1	0.06	0	0.00
Illinois	1	0.01	0	0.00
Indiana	1	0.02	0	0.00
Iowa	121	3.92	31	1.00
Kansas	1	0.03	1	0.03
Kentucky	122	2.78	0	0.00
Louisiana	1575	34.05	430	9.30
Maine	0	0.00	0	0.00
Maryland	0	0.00	0	0.00
Massachusetts	0	0.00	0	0.00
Michigan	1	0.01	0	0.00
Minnesota	16	0.30	2	0.04
Mississippi	0	0.00	0	0.00
Missouri	755	12.49	0	0.00
Montana	2	0.20	0	0.00
Nebraska	16	0.86	0	0.00
Nevada	791	28.35	247	8.85
New Hampshire	13472	1017.94	0	0.00

State	Misdemeanor crime of domestic violence records submitted as of December 2013	Submission rate of misdemeanor crime of domestic violence records per 100,000 people	Domestic violence restraining order records submitted as of December 2013	Submission rate of domestic violence restraining order records per 100,000 people
New Jersey	19	0.21	12	0.13
New Mexico	27423	1315.07	2676	128.33
New York	0	0.00	10	0.05
North Carolina	1459	14.82	52	0.53
North Dakota	1	0.14	0	0.00
Ohio	0	0.00	0	0.00
Oklahoma	0	0.00	0	0.00
Oregon	2	0.05	0	0.00
Pennsylvania	0	0.00	0	0.00
Rhode Island	0	0.00	0	0.00
South Carolina	2	0.04	2	0.04
South Dakota	0	0.00	0	0.00
Tennessee	2	0.03	1	0.02
Texas	3	0.01	0	0.00
Utah	1138	39.23	805	27.75
Vermont	2	0.32	0	0.00
Virginia	17	0.21	0	0.00
Washington	343	4.92	98	1.41
West Virginia	0	0.00	0	0.00
Wisconsin	190	3.31	1	0.02
Wyoming	1	0.17	0	0.00

Sources: National Instant Criminal Background Check System Index Entries, obtained by Freedom of Information Act request; U.S. Census Bureau

applicable records for federal prohibited domestic abusers. Again, these records should also be flagged in NCIC and III to ensure that they are available for all criminal justice purposes, but the inclusion of these records in the NICS Index would improve the firearm background check system and help ensure that prohibited domestic abusers are not able to buy guns.

Progress has been made in recent years to improve electronic access to state conviction records, which has likely reduced some of the problems with identifying prohibited domestic abusers during a NICS background check. A number of states have received significant grant funding through the National Criminal History Improvement Program to improve the quality, timeliness, and accessibility of criminal history records as a general matter,⁸¹ as well as funding through the NICS Improvement Act of 2007 specifically intended to improve record submission to NICS.⁸² But despite these efforts, as of the end 2012, less than half of the states employed a flag to indicate that an individual's criminal history renders him or her ineligible to buy a gun.⁸³ The number of gun retrieval cases referred to ATF has remained largely constant over the past 10 years, and considering that prohibited domestic abusers account for a large portion of these retrievals, the failure of this number to decline appreciably suggests that quick and complete access to these records remains a problem.

The incomplete efforts of the states to pre-validate prohibiting domestic violence records, flag them in NCIC and III, and submit them to the NICS Index is not only contributing to delayed denials and the necessity of retrieving guns from people who should not have been permitted to buy them in the first place. According to law-enforcement sources who spoke with the authors anonymously, lack of review and submission also allows the background check system to simply miss many additional prohibited domestic abusers, meaning gun sales are proceeding to people who should be disqualified. All states should consider following practices like those of Connecticut, New Hampshire, and New Mexico—reviewing all potentially disqualifying domestic violence records upfront, pre-validating those records, and submitting these records directly to the FBI.⁸⁴

Challenge 3: Conducting background checks on all gun sales

In the 18 months since the shooting at Sandy Hook Elementary School reignited the debate over the nation's gun laws, the primary proposal urged by gun violence prevention advocates has been to require background checks for all gun sales. Under current federal law, licensed firearms dealers are required to conduct a background check before completing every gun sale; however, unlicensed private sellers are permitted to sell guns without conducting a background check. Permitting firearms to change hands through private sales without a background check creates significant opportunities for dangerous individuals prohibited from gun possession to easily circumvent the law and buy firearms with no questions asked. Seventeen states have acted to require background checks for at least some private sales; however, a proposal to amend the federal law to close this loophole and require checks for all commercial gun sales failed to overcome a filibuster in the Senate in April 2013 and has since stalled.⁸⁵

This private sale loophole has been highlighted by two recent domestic-violence-related murders. In October 2012 in Wisconsin, Radcliffe Haughton appeared at the salon and spa where his estranged wife, Zina Daniel, worked; he opened fire, killing Daniel and two other women and injuring four others before killing himself. Haughton was prohibited from gun possession because there was a restraining order issued against him, but he was able to purchase a gun from a private seller he located on the Internet who was not required to conduct a background check.⁸⁶ In April 2011 in Illinois, Dmitry Smirnov shot and killed his former girlfriend, Jitka Vesel, in a parking lot after having stalked her for several days. Smirnov was prohibited from buying or possessing a gun in the United States because of his immigration status but was able to purchase the firearm used to murder Vesel through a private transaction with an individual who had advertised the gun for sale online and was not required to conduct a background check.⁸⁷

These cases make it clear that laws prohibiting certain dangerous individuals from gun possession are far more effective when coupled with background checks for all gun sales, not just those that take place through a federally licensed gun dealer. Recent polling shows that a vast majority of Americans continue to support this policy: Three polls conducted in May 2014 found that a significant majority of Americans continue to support background checks for all guns sales.⁸⁸ A Mayors Against Illegal Guns analysis found that in states that require a background check for all handgun sales, 38 percent fewer women are shot to death by intimate part-

ners.⁸⁹ Yet despite the common-sense appeal of universal background checks and the overwhelming public support for this policy, Congress has failed to move this legislation, and only 17 states have enacted laws that go beyond the federal law and require background checks for at least some private sales.

Challenge 4: Ensuring that prohibited abusers surrender firearms

While universal background checks are required to prevent prohibited domestic abusers from going around the system to buy guns, laws and policies are also required to ensure that such abusers are relieved of any firearms already in their possession after they become prohibited. The risk to victims of domestic violence does not disappear once the perpetrator is convicted or is issued a restraining order. In fact, victims may be even more vulnerable in the period following a conviction or issuance of a protection order, as the perpetrator may feel increased animosity and hostility during this time. One study of 231 women killed by intimate partners found that 11 percent had a restraining order against their partner at the time of the murder.⁹⁰ It is therefore crucial to ensure prompt surrender of any firearms owned by domestic abusers once they become prohibited from gun possession under state or federal law.

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.⁹¹ 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.⁹² 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.⁹³

Despite the risk posed by prohibited domestic abusers who continue to have access to guns, federal law is silent on the issue of surrender, and only a small number of states have enacted laws mandating that such individuals surrender their guns. According to an analysis of state laws conducted by the authors, 9 states require surrender when a person is convicted of a domestic violence misdemeanor, and 15 states do so upon issuance of a domestic violence restraining order.

These laws are not the only means of ensuring that dangerous abusers do not have access to guns. California, for example, goes much further and requires police officers to confiscate any gun discovered at the scene when responding to a domestic violence incident and hold those guns for at least 48 hours.⁹⁴ In Indiana, police officers have the authority to remove firearms from an individual in an emergency without a warrant when it appears that the individual poses a risk of harm to self or others.⁹⁵ This law was enacted in response to a tragic case in which a mentally ill individual shot and killed his mother and a policeman after having his guns returned to him following a psychiatric evaluation that determined he was not eligible for involuntary commitment.⁹⁶

Conclusion

Research on the impact of laws designed to prevent known misdemeanor abusers from accessing guns makes a compelling case for the type of comprehensive laws and enforcement described in this report. For example, one study shows that convicted misdemeanants posed five times the risk of committing future crimes involving violence or guns,⁹⁷ while another study found that universal background checks for handgun sales are associated with 38 percent lower rates of women murdered by intimate partners.⁹⁸

There has been an increasing movement across the country to enact stronger laws to prevent these known dangerous individuals from having access to guns. Legislation to this effect passed with near unanimous support in a diverse group of states in 2014—Louisiana, Wisconsin, Washington state, Minnesota, and New Hampshire. Momentum is also building at the federal level. For the first time in more than a decade, during the 113th Congress, bills have been introduced in both houses to strengthen the federal law to better protect victims of domestic violence, including a bill in the Senate by Sen. Amy Klobuchar (D-MN),⁹⁹ and bills in the House by Reps. Lois Capps (D-CA),¹⁰⁰ Janice Hahn (D-CA),¹⁰¹ and Gwen Moore (D-WI).¹⁰²

We should drive toward a comprehensive strategy to protect women from gun violence at the hands of abusers and stalkers. This approach has four components:

- Prohibiting all domestic and intimate partner abusers and stalkers from possessing guns.
- Increasing the submission of flagged records of prohibited domestic abusers to the FBI by conducting pre-validation reviews of these records at the state level.
- Requiring background checks for all gun sales.
- Ensuring that prohibited abusers surrender their guns and that law enforcement has the tools it needs to prosecute abusers who attempt to evade the law.

Each of these policies on its own can have a significant impact on public safety. Taken together, the policies would undoubtedly save the lives of hundreds of American women every year.

About the authors

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Appendix A

State	1. Gun possession bar on individuals convicted of misdemeanor domestic violence crimes	2. Gun possession bar on individuals subject to domestic violence protection orders	3. Gun possession bar on individuals convicted of misdemeanor sex crimes	4. Gun possession bar on individuals convicted of misdemeanor stalking crimes	5. Bar for misdemeanor domestic violence crimes, includes "dating partners"	6. Required surrender of certain firearms by persons convicted of misdemeanor domestic violence crimes	7. Required surrender of certain firearms by persons subject to domestic violence restraining orders	8. Required removal of certain firearms by law enforcement at specified domestic violence incidents
Alabama								
Alaska								
Arizona	✓				✓			
Arkansas								
California	✓	✓	✓	✓	✓		✓	✓
Colorado	✓	✓				✓	✓	
Connecticut	✓	✓		✓			✓	
Delaware	✓	✓	✓					
District of Columbia	✓	✓	✓	✓	✓			
Florida		✓						
Georgia								
Hawaii	✓	✓				✓	✓	
Idaho								
Illinois	✓	✓			✓	✓	✓	✓
Indiana	✓							
Iowa	✓	✓				✓	✓	
Kansas								
Kentucky								
Louisiana	✓	✓						
Maine		✓						
Maryland		✓		✓				
Massachusetts		✓		✓			✓	

State	1. Gun possession bar on individuals convicted of misdemeanor domestic violence crimes	2. Gun possession bar on individuals subject to domestic violence protection orders	3. Gun possession bar on individuals convicted of misdemeanor sex crimes	4. Gun possession bar on individuals convicted of misdemeanor stalking crimes	5. Bar for misdemeanor domestic violence crimes, includes "dating partners"	6. Required surrender of certain firearms by persons convicted of misdemeanor domestic violence crimes	7. Required surrender of certain firearms by persons subject to domestic violence restraining orders	8. Required removal of certain firearms by law enforcement at specified domestic violence incidents
Michigan								
Minnesota	✓	✓		✓	✓	✓	✓	
Mississippi								
Missouri								
Montana								✓
Nebraska	✓				✓			✓
Nevada								
New Hampshire		✓					✓	✓
New Jersey	✓	✓	✓	✓	✓			✓
New Mexico								
New York	✓	✓	✓	✓	✓	✓	✓	
North Carolina		✓					✓	
North Dakota*				✓				
Ohio								✓
Oklahoma								✓
Oregon								
Pennsylvania	✓			✓		✓		✓
Rhode Island								
South Carolina								
South Dakota	✓							
Tennessee	✓	✓		✓	✓	✓	✓	✓
Texas	✓	✓						
Utah								✓
Vermont								
Virginia								
Washington*	✓	✓		✓	✓	✓	✓	
West Virginia	✓	✓			✓		✓	✓
Wisconsin		✓					✓	
Wyoming								

* State law bars some convicted misdemeanor stalkers from gun possession.

Appendix B

This appendix provides an explanation and source information for the chart in Appendix A.

General

Columns 1–2 in the table generally cite state laws barring the possession of firearms by certain domestic abusers. The table does not cite state laws imposing additional requirements via concealed carry permit or registration laws, or imposing only partial bans. However, the table does cite state laws that impose a “prohibited persons” firearms ban solely through requisite permitting or registration laws, such as in Illinois.

Columns 6–7 cite state laws requiring the surrender or relinquishment of firearms upon issuance of a domestic violence restraining order or misdemeanor crime of domestic violence conviction, but note that these laws vary widely. The strongest laws require courts to issue warrants for such firearms, or otherwise require law enforcement to immediately seize all weapons under the abuser’s possession and control, regardless of the circumstances leading to the order or the conviction, such as requiring immediate seizure of all of the subject’s firearms and not merely the firearm involved in underlying offense. State laws mandating firearms surrender typically are not included if they are limited solely to the surrender of a firearm used in a criminal offense or where courts in their discretion find that a person may not possess firearms. Note that in the latter case—if a court in its discretion imposes a firearm ban—the court may then also order surrender of certain firearms, such as in Nevada.

Finally, note that in all cases, federal law applies to prohibit from firearms possession persons subject to 18 USC § 922(g)(8), (9). States must check for these federal domestic violence-related prohibitions in conducting any National Instant Criminal Background Check System, or NICS, check, including checks for a concealed carry permit. These prohibitions may be broader than many state laws.

Persons convicted of misdemeanor crimes of domestic violence

State laws are included in this table where they may not specifically ban from possessing firearms persons convicted of criminal offenses with a domestic violence nexus, but where they do ban from possessing firearms persons convicted of certain violent misdemeanor crimes or other classes of misdemeanors, regardless of the underlying relationships, such as California and New York.

Persons subject to domestic violence protection orders

State laws that merely authorize, but do not require, the court to prohibit firearms possession by persons subject to protection orders are not included in this table, for example Arizona. Similarly, not included in this table are state laws, antecedent to a firearms ban, that require a violation of a protection order or other specified act—such as threatened use of a firearm by a subject of a protection order.

Persons convicted of misdemeanor sex crimes

State laws that impose firearms bans on persons convicted of misdemeanor sex crimes are included in this table. State laws that direct courts to impose firearms prohibitions on persons subject to, or in violation of, a court's sexual assault protection order are not included in this table—for example, New Hampshire and Washington state.

Removal of firearms by law enforcement at the scene of domestic violence incidents

State laws expressly requiring the removal of firearms at the scene of domestic violence incidents, as cited in this table, nonetheless may limit these requisite removals to specific instances. These instances include after arrests for violations of protective orders, for assaults occurring between persons with specified domestic relationships or prior offenses, and where there is probable cause to believe that the weapon to be removed was used in the violation or assault.

Alaska

Alaska Stat. § 18.66.100(c)(6).

Arizona

Ariz. Rev. Stat §§ 13-3101(A)(7)(d); 13-3102(A)(4); 3-3602(G)(4).

California

Cal. Penal Code §§ 136.2(d); 18250; 29805; Cal. Family Code § 6389(a), (c).

Colorado

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Connecticut

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Delaware

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District of Columbia

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Florida

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Hawaii

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Illinois

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Indiana

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Iowa

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North Carolina

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Ohio

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Tennessee

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Texas

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Utah

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Washington

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West Virginia

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