

Making the Connection Between Gun Violence and Domestic Violence

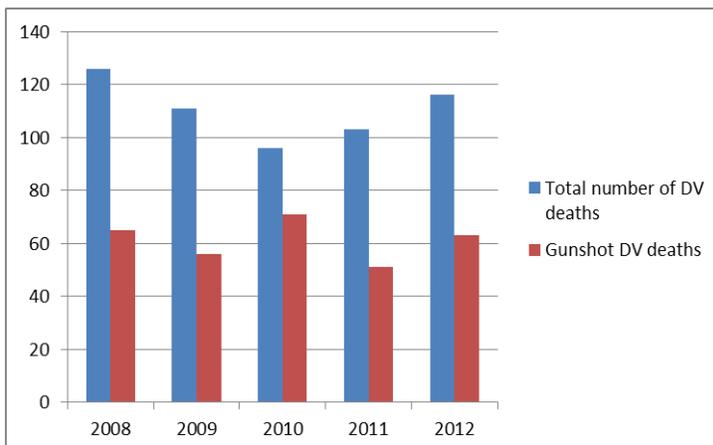


Introduction

Intimate partner violence against women is all too common and takes many forms; the most serious being homicide. Domestic violence is the leading cause of injury to women, even more so than car accidents, muggings and rapes (Uniform Crime Reports, Federal Bureau of investigation, 2011). Contributing to the intimidation and aggression that many women experience from an intimate partner is gun violence. Those who choose to abuse their partner, and have access to weapons, will threaten their victims with guns in various, and sometime subtle ways including cleaning the gun, holding or setting the gun out in plain view, loading a gun during an argument or, more blatantly, threatening to shoot the victim, child(ren) and/or a pet, or firing a gun during an argument with the victim.

As the national spotlight has turned to gun violence, there has been some discussion on how gun reform can help keep domestic violence victims, survivors and their families safe. Nationally, firearms were used to kill more than two-thirds of the spouse and ex-spouse homicide victims between 1990 and 2005 (Department of Justice, 2007). In the United States more than three women are murdered each day at the hands of a family member or an intimate partner (NNEDV, 2012). Studies reveal that the presence of firearms significantly increases the likelihood of death in the context of domestic violence. On their words, in relationships where domestic violence is present, having a hand gun in the home makes a woman more likely to be killed. One study found that women who were threatened or assaulted with a gun were 20 times more likely than other women to be murdered. Women whose partners threatened them with murder were 15 times more likely than other women to be killed. When a gun was in the home, women were 6 times more likely than other abused women to be killed (Campbell et al, 2003).

In Arizona, the link between domestic violence and the threat to use firearms is undeniable. Between 2008 and 2012, over 60% of all domestic violence related homicides were committed with a firearm (Arizona Coalition Against Domestic Violence, 2012).



Federal and State Laws

Most firearms are kept in the home where the homicide occurred. Partners who choose to use guns to kill their intimate partners may also injure or kill innocent third parties, including

children, interveners and bystanders. In light of such alarming statistics, federal and state lawmakers have responded by passing laws prohibiting those that have been convicted of domestic violence offenses from possessing firearms and ammunition. The United States Congress has made several amendments to the Gun Control Act of 1968. In 1994, the Gun Control Act was amended to prohibit anyone who is subject to a domestic violence protective order from possessing a firearm. However, federal law applies only if the protective order was issued after notice was granted to the abusive party and after there was a hearing. In 1996, Congress passed the Gun Ban for those convicted of misdemeanor crimes of domestic violence; a statutory addition known as the Lautenberg Amendment. This amendment prohibits anyone who has been convicted of a qualifying misdemeanor crime of domestic violence from possessing a firearm, preventing individuals who have shown a propensity for domestic violence from obtaining a firearm, and allowing for federal prosecution of those that choose to abuse. In addition to this federal legislation, in Arizona a person convicted of a domestic violence offense or subject to a domestic violence protective order is prohibited from possessing a firearm only when the defendant is given notice or an opportunity to appear in court. Judges are also not obligated to order that the defendant surrenders their firearms when a domestic violence protective order is issued. Peace officers may temporarily seize firearms at the scene of a domestic violence incident upon learning or observing that a firearm is present, and if the officer reasonably believes that the firearm would expose the victim or another individual to serious bodily injury or death. Although both Federal and State laws permit the removal of firearms from the partner that chooses to abuse, additional improvements can be made to fill the gaps and help enhance victim safety.

Recommendations

These trends suggest the need to continue to keep firearms out of the hands of persons that choose to abuse and those with protective orders against them in order to increase victim safety. Unfortunately, current federal law requires criminal background checks only for guns sold through licensed firearm dealers. However, around 40% of all gun sales nationwide are made by private parties and not federally licensed retailers. When a person buys from a private party, background checks are not conducted and no lengthy records are kept, allowing those that choose to abuse to have easy access to guns even when they are federally prohibited from possessing a firearm (Wintemute et al., 2010). Though commonly referred to as the “Gun Show Loophole,” the “private sales” described above include guns sold at gun shows, through classified newspaper

ads, the internet and between individuals virtually anywhere. The gun show loophole makes it very easy for guns to fall into the hands of prohibited individuals. Closing the loophole would put a barrier between the legal and illegal markets for guns. It is more difficult for law enforcement to trace firearms sold on the secondary market. Second-hand firearms typically have left the possession of a licensed dealer, where records are kept and reached the hands of an unlicensed seller, who is not required to keep records. Effective enforcement of federal prohibitions on firearm possession by those that choose to abuse depends largely on state and local law enforcement. Background checks conducted by federally licensed firearms dealers at the time of transfer of a firearm rely on state and local authorities to collect and submit to state and federal databases complete records on misdemeanor convictions and protective orders. In order to enforce existing laws, we must give police the tools they need to do so and the criminal background check is one of the most effective tools we can give them to keep guns out of the hands of those that choose to abuse.

In 75-85% of domestic violence homicides, the perpetrator has a history of previous domestic violence charges. Domestic violence can be a phenomenon that escalates as time goes by, so it is imperative that we close all loopholes that would allow a person who chooses to abuse to purchase a firearm (Websdale, 2012). Nevertheless, while Background checks at the point of transfer can prevent the purchase of firearms by those that choose to abuse, they cannot facilitate the removal of firearms that are already in the possession of those people. Laws requiring the removal of firearms from anyone with a proven history of domestic violence can help ensure that people that choose to abuse will not have continued access to firearms and ensure that their license is revoked so they cannot continue to threaten or harm their victim(s).

Policy Implementation: Keeping Guns Out of the Hands of those that Choose to Abuse

As the statistics reveal, the potential for danger or lethality is always possible in cases involving domestic violence where allegations involve the use or possession of firearms. One of the primary ways to continue to decrease the rate of intimate partner violence, including homicide, is to identify and to intervene promptly, disarming dangerous individuals and holding those that choose to abuse accountable. As the Arizona Coalition Against Domestic Violence continues to support policies that will keep survivors of domestic violence and their children safe from gun violence, it will be dependent on the involvement of not only law enforcement officials, but the entire community to provide a safe environment in our communities and homes. The Arizona

Coalition Against Domestic Violence has reviewed the legislation that has been introduced for the 2013 legislative session and supports legislation that will further protect victims, opposes legislation that will negatively impact victims, and is tracking gun legislation that may potentially have an impact on the domestic violence service provider community.

Support

HB 2379 prohibited possessor; order of protection

Overview:

- Further defines a “prohibited possessor” as someone who is subject to an order of protection that prohibits them from owning a firearm

HB 2380 concealed carry; permit requirements; offense

Overview:

- Requires that a person must carry a permit at all times if they have a concealed weapon
- Requires DPS approved firearms training to obtain a permit

HB 2381 firearms; sales; transfers; background checks

Overview:

- Only licensed firearms dealers can sell or transfer an assault weapon and background checks would be required with certain exceptions (law enforcement, service and repair, etc.)
- Mandatory background checks at gun shows

SB 1049 firearms; prohibition; postsecondary institutions

Overview:

- Adds postsecondary educational institutions to the list of what are classified as schools for the prohibition of possessing a deadly weapon “on school grounds”

SB 1050 prohibited weapon; large capacity magazine

Overview:

- Adds “a large capacity ammunition feeding device” to the list of prohibited weapons and defines what classifies as such a device
- Owning such a weapon is now included under weapon misconduct

SB 1309 firearm sales; transfers; background checks

Overview:

- Calls for universal background checks for all firearm sales in AZ
- Requires all firearm purchases to be made through federally licensed dealers

SB 1390 convicted felons; attempted weapon possession

Overview:

- Classifies a prohibited possessor attempting to possess a deadly or prohibited weapon as misconduct involving weapons

SB 1473 misconduct involving weapons; state buildings

Overview:

- Makes it illegal to enter a state building carrying a deadly weapon

SB 1474 misconduct involving weapons; colleges; universities

Overview:

- Includes colleges and universities under “school grounds” on which it is illegal to carry a deadly weapon

SB 1476 concealed carry; offense; permit requirements

Overview:

- See HB 2380

SB 1472 misconduct involving weapons, firearm storage

Overview:

- Requires that the trigger of all firearms be secured with a lock and key or combination when stored or that the firearm be kept in a securely locked box or other container

SB 1229 large capacity magazine; prohibited weapon

Overview:

- Bans high capacity ammunition clips (one that has a capacity for more than ten rounds of ammunition)

SB 1477 reporting; lost or stolen firearm

Overview:

- The owner of a firearm that is lost or stolen must file a report with law enforcement within 24 hours after the owner realizes that the firearm has been lost or stolen

Oppose

HB 2288 state regulation of firearms

Overview:

- This bill would repeal the section of statute which allows the owner or operator of a public establishment or event to ask a patron to remove his/her deadly weapon
- In order to prohibit firearm possession on public property, all of the following conditions would have to be met
 - Property is a secured facility
 - There are signs that say guns are prohibited
 - There are public firearm lockers

HB 2291/SB 1112 Arizona firearms; prohibited enforcement

Overview:

- Public servants, gun dealers, and government officials would not be allowed to enforce any federal law that relates to firearms in the state of Arizona if they are owned here and stay here
- Laws made after January 1, 2013 would be unenforceable in AZ if the laws restricted/banned semiautomatic weapons or required weapons to be registered

SB 1325 concealed firearms; schools; authorization requirements

Overview:

- Allows schools to authorize teachers to possess a concealed firearm if there are less than 600 students at the school, the school is at least 30 minutes and 20 miles from a law enforcement facility, and the school does not have an SRO
- Applies to universities, colleges, community colleges, high schools, and common schools

HB 2378/SB 1228 destruction; forfeited or unclaimed firearms

Overview:

- Revokes the section of statute which makes it so that confiscated firearms must be sold to an authorized business which will then sell the firearm to the public
 - Bill also says law enforcement can trade the weapon for the benefit of law enforcement.

Tracking/Neutral

HB 2234 firearm; definition

Overview:

- Amends definition of a firearm by specifying that projectiles must be solid, the device uses fixed cartridges, and does not include anything that was made before 1899 or which is inoperable.

HB 2326 firearms; records; prohibited acts

Overview:

- Expands political subdivisions' prohibition on record keeping to include persons who possess firearms and transactions which involve a federally licensed firearms dealer.

HB 2376 mandatory mental health evaluation; admission

Overview:

- Requires a peace officer to submit an application of a court ordered evaluation or emergency admission if the officer has probable cause to believe that someone that he/she encounters is a danger to self or others because of a mental illness or disability
- Requires the officer to temporarily seize any firearm that person possesses

HB 2377 prohibited possessor; voluntary commitment; restoration

Overview:

- Further defines a "prohibited possessor" as someone who has been hospitalized under section 36-518 and whose right to possess a firearm has not been restored

HB 2455 unclaimed property; firearms; disposition

Overview:

- Makes it so that if a firearm is found or surrendered, it can no longer be returned to the person who found it

SB 1475 armor piercing bullets; prohibited

Overview:

- Prohibits the sale, purchase, and possession of armor piercing bullets and defines what constitutes such a bullet