

Firearms and Domestic Violence-Related Prohibitions

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Battered Women's Justice Project



Acknowledgement

This project was supported by Grant No. 2016-TA-AX-K047 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this program are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.



I. Statistics



Domestic Violence + Guns = Fivefold Lethality

- Where a Firearm is present in a domestic violence situation, a woman is five times more likely to be killed. *When Men Murder Women 2017*



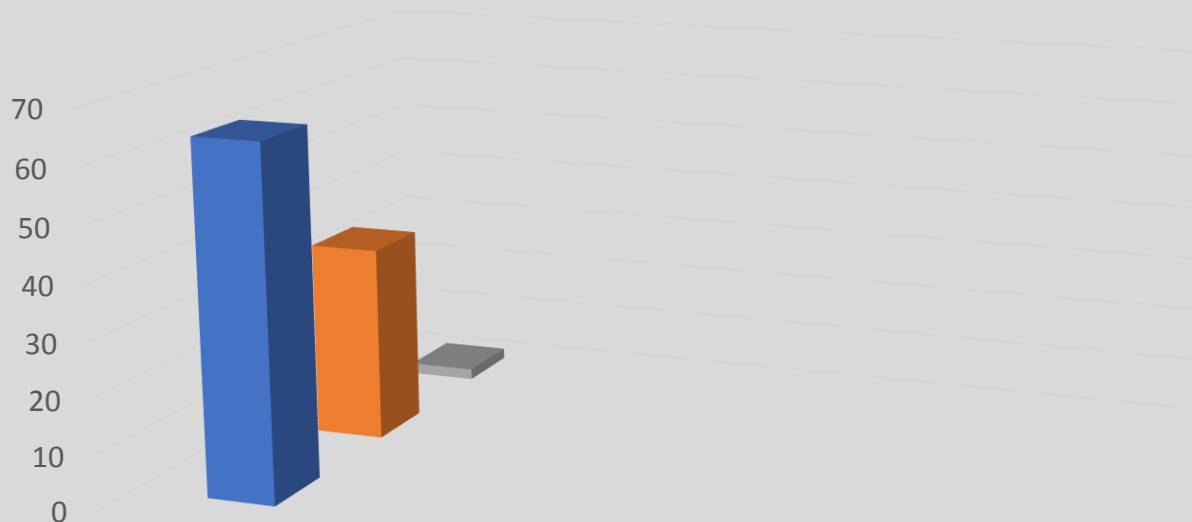
Not by Strangers

- For homicides in which the victim to offender relationship could be identified, 93% of female victims (1,450 out of 1,551) were murdered by a male they knew in 2015. *When Men Murder Women 2017*



Intimate Partners

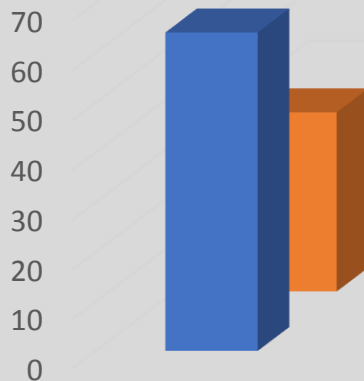
- For victims who knew their offenders, 64% (928) of female homicide victims were wives or intimate acquaintances of their killers. *When Men Murder Women 2017*



Argument Only

- There were 688 women (nearly 64%) shot and killed by either their husband or intimate acquaintance during the course of an argument.

When Men Murder Women 2017



Homicide Motivation

- In 84% of all incidents where the circumstances could be determined, these homicides were not related to the commission of any other felony, such as rape or robbery. *When Men Murder Women 2017*



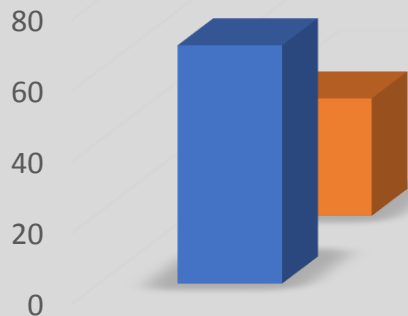
Guns at Home

- A woman living in a home with a gun is three times more likely to be murdered than a woman living in a home without guns. Douglas Wiebe, *Homicide and Suicide Risks Associated with Firearms in the Home: A National Case-Control Study* (2003)



Firearm Storage

- One in three Veteran firearm owners stores at least one firearm loaded and unlocked. *American Journal of Preventive Medicine, (August 2017)*



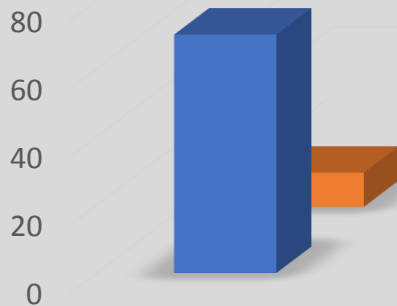
Firearms and Servicemembers

- Firearms used in “vast majority” of lethal incidents among active duty service members. DoD Office of Military and Family Readiness Policy



Suicide

- When a man brings a gun into a home, his chances of dying by suicide within the first year increase **700%**. *Mortality among Recent Purchasers of Handguns*, New England Journal Of Medicine (1999)



II. Firearms Prohibitions



Federal Law 18 U.S.C. 922 (g)

(8) DV Protection Order

- For Length of Protection Order
- Service Firearm Exception

(9) Misdemeanor Crime of Domestic Violence (MCDV)

- Lifelong
- No Exception for Service Weapon



Misdemeanor Crimes of Domestic Violence (MCDVs)

Misdemeanor under Federal, State, or Tribal law

Has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon; and

Was committed by a:

- Current or former spouse, parent, or guardian of the victim
- Person with whom the victim shares a child in common; is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or; is similarly



MCDV Definition (Cont'd)

Not considered a conviction unless

- The person was represented by counsel or knowingly and intelligently waived the right of counsel in the case; and
- If the person was entitled to a jury
 - Case was tried by a jury, or
 - Person knowingly and intelligently waived a jury trial, by guilty plea or otherwise

Restoration by pardon, expungement, or restoration of civil rights (§921(a)(33)(B)(3)); conviction must no longer be used for any purpose



Protection Order

1. Due Process

2. Finding of a Credible Threat OR Express Prohibition on Conduct

3. Relationship Requirement

- Current or former spouse,
- Current or former cohabitant, or
- Share a child in common

4. Terms of the Order



Terms of Protection Order

Restrains from:

- Harassing, stalking, or threatening an intimate partner or partner's child,

OR

- Engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to partner or child,

18 U.S.C. §922(g)(8)(B)

AND



Terms of Order (Cont'd)

- Includes a finding that the respondent represents a credible threat to the physical safety of the petitioner or their child,

18 U.S.C. §922(g)(8)(C)(i)

OR

- Prohibits use, attempted use or threatened use of physical force against the petitioner or their child that would reasonably be expected to cause bodily injury.

18 U.S.C. §922(g)(8)(C)(ii)



III. Firearm Surrender

- Federal Law prohibits Possession, Acquisition of Firearms and Ammunition.
- Does not Require Surrender.



State Laws

Most states require surrender of firearms, or else authorize seizure following imposition of domestic violence injunction or conviction for MCDV

- Require surrender following DV Protective Order: CA, CO, CT, IA, MD, MN, NH, NY, NC, TN, WA and WI
- Authorize or require law enforcement to seize firearms: MA, HA, NJ and IL
- Require surrender following conviction for violent misdemeanor or MCDV: CA, CO, CT, HA, IL, IA, MA, MN, NJ, NV, NY, PA, RI, and TN

Giffords Law Center



Military Protective Orders (MPOs)

MILITARY PROTECTIVE ORDER			
PRIVACY ACT STATEMENT			
In accordance with the Privacy Act of 1974 (Public Law 93-502), this notice informs you of the purpose of the form and how it will be used. Please read it carefully.			
AUTHORITY: 5 U.S.C. 30r, Departmental Regulations; 18 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; and National Defense Authorization Act for Fiscal Year 1995, Sec. 534.			
PRINCIPAL PURPOSE(S): Information from this form will be used to document commanding officers' orders and members' understanding thereof to avoid all manner of contact with specified individuals, against whom members are alleged, or are considered to have committed, domestic violence, child abuse, and any other crime, as stipulated in the terms and conditions of the orders.			
ROUTINE USE(S): Any release of information contained in this system of records outside of DoD will be compatible with the purposes for which the information is being collected and maintained. The DoD "Standard Routine Uses" set forth at the beginning of OIG's compilation of systems of records notices apply to this system.			
DISCLOSURE: Voluntary, however, failure to provide or verify personal identifying information may compromise commanding officers' ability to protect victims or to hold members accountable for their actions.			
1. SERVICE MEMBER		2. PROTECTED PERSON (important: see NOTE)	
a. RANK	b. LAST NAME	FIRST NAME	M.
c. SSN	d. DATE OF BIRTH (YYYYMMDD)	e. RANK	f. LAST NAME
g. UNIT	h. TELEPHONE (incl. area code)	i. SSN	j. DATE OF BIRTH (YYYYMMDD)
k. UNIT	l. TELEPHONE (incl. area code)	m. UNIT	n. TELEPHONE (incl. area code)
3. INSTALLATION		4. INSTALLATION	
o. CURRENT RESIDENCE: STREET (incl. apartment number)		p. CURRENT RESIDENCE: STREET (incl. apartment number)	
q. CITY	r. STATE	z. CITY	aa. STATE
STATE ZIP+0000		STATE ZIP+0000	
NOTE: Once information in item 2, rank, is known to the service member in item 1, could endanger the protected person.			
3. INFORMATION SUPPORTING ISSUANCE OF THIS MILITARY PROTECTIVE ORDER			
4. THE PROTECTED PERSON HAS ALSO BEEN ISSUED THE FOLLOWING COURT ORDERS:			
a. Civil protection order issued (Date - YYYYMMDD) _____, in _____ Court			
_____ County, State of _____			
b. Order issued (Date - YYYYMMDD) _____, in _____ Court, _____			
_____ County, State of _____			
			Property Seizure/ Custody and/or Visitation
DD FORM 2073, APR 2004			

- Commanding officers can issue to service members only
- U.S. Constitution's Full Faith & Credit provision not applicable
- Do not trigger federal firearms and ammunition restrictions, but . . .
- Can include order surrender of government- issued firearms and disposal of personal firearms located on installation



Official Use Exemption

18 U.S.C. § 925(a)(1)



- Limited exception for government employees subject to qualifying court orders -- not convictions
- Must be authorized or required to receive or possess a duty weapon to perform official duties
- Must be pursuant to federal, state or local statute, regulation, or official departmental policy
- Does not apply to personal firearms



Armed Forces Domestic Security Act 10 U.S.C. 1561a

- Gives civilian protection orders (CPOs) the same force and effect on military installations and property as in civilian communities
- Any injunction or other order
- Temporary or Permanent
- Issued by a civil or criminal court
- Containing language protecting one party from the other that meets due process requirements



Conclusion

- Domestic or Intimate Partner Violence can turn fatal where firearms are present.
- This is as true for active duty service members and veterans as it is for the public in general.
- These tragedies are predictable and therefore preventable.



Safer Families, Safer Communities

Safer Families. Safer Communities.
DISARMING DOMESTIC VIOLENCE OFFENDERS

Resources News About Contact

Promoting Safer Families and Safer Communities

The National Domestic Violence and Firearms Resource Center

Safer Families, Safer Communities, a project of the new National Domestic Violence and Firearms Resource Center, supports comprehensive implementation and enforcement of domestic violence firearm prohibitions at all levels of government. By providing information, as well as community-based strategies and examples, this project seeks to prevent domestic violence-related homicide in our families and communities.

Explore this site to learn more about how to improve your community's response to domestic violence-related gun violence.

[Learn More](#)

www.preventdvgunviolence.org

Contact

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Battered Women's Justice Project
Technical Assistance and Training

