

coalition to
STOPGUNVIOLENCE
imagine a future free from gun violence

TESTIMONY OF JOSHUA HORWITZ
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SENATE JUDICIARY COMMITTEE
"VAWA NEXT STEPS: PROTECTING WOMEN FROM GUN VIOLENCE"
JULY 30, 2014

Mr. Chairman and Members of the Committee,

My name is Josh Horwitz, and I am the Executive Director of the Coalition to Stop Gun Violence (CSGV). I appreciate this opportunity to provide written testimony on behalf of my organization, a coalition of more than 47 national organizations dedicated to reducing gun death and injury in the United States. We seek to secure freedom from gun violence through research, strategic engagement, and effective policy advocacy.

As this Committee considers measures to protect women from gun-related domestic violence, I would like to offer testimony on the importance of: 1) Barring those under *temporary* restraining orders from purchasing and/or possessing firearms, and; 2) Adding persons convicted of misdemeanor stalking to the federal list of prohibited firearm purchasers.

My testimony in this area is informed by my membership in the Consortium for Risk-Based Firearm Policy, a group of researchers, practitioners and advocates for gun violence prevention that have considered the evidence for risk-based firearm prohibitions and issued recommendations to state and federal lawmakers through a pair of reports that were published in December 2013.

Firearm ownership/purchases by individuals subject to temporary domestic violence restraining orders.

Existing research shows that there is an elevated risk of intimate partner homicide when an abuser has access to a firearm.¹⁻³ The majority of victims of intimate partner homicide are killed with a gun.^{4, 5}

Authorities are frequently aware of abusive relationships in their communities. One study found that approximately half of women killed by their intimate partners had contact with the criminal justice system in the 12-month period preceding their murders.^{6,7} Research demonstrates that policy interventions in this area are effective. According to one study, cities in states with laws that prohibit the subjects of domestic violence restraining orders from purchasing and/or possessing firearms had 25% fewer firearm-related intimate partner



homicides.⁸ This research also found that these policies save lives, because when “would-be killers” do not have access to guns, they do not replace them with other weapons.^{9, 10}

Temporary ex-parte orders are the first step in the domestic violence restraining order process. These emergency orders are issued in the absence of the respondent and signify an immediate danger. Initiating separation in an abusive relationship can be both a difficult and hazardous course of action for a victim of domestic violence.^{11, 12} The evidence demonstrates that temporary ex-parte restraining orders are associated with an increased risk of violence^{13, 14} and a number of states acknowledge that risk by prohibiting the subjects of such orders from purchasing and/or possessing firearms.¹⁵

Judicial review is necessary and the current domestic violence laws ensure that a full hearing (with the respondent present) occurs within a short and defined period of time. As a result, a temporary ex-parte protection order can be quickly dismissed if a judge determines it is not warranted.

At the present time, federal law prohibits firearm purchase and/or possession by those subject to *final* restraining orders or by those convicted of a misdemeanor crime of domestic violence.¹⁶ These prohibitions are supported by ample evidence.¹⁷⁻²¹ Unfortunately, however, current federal law does not prohibit firearm purchase or possession by individuals subject to *temporary* restraining orders.

In the interest of protecting women at the time of greatest risk for intimate partner homicide, the Coalition to Stop Gun Violence recommends that individuals subject to temporary domestic violence restraining orders be prohibited from purchasing and/or possessing firearms for the duration of these orders.

Firearm ownership/purchases by individuals convicted of misdemeanor stalking offenses.

Federal law currently prohibits purchase and/or possession of a firearm by those who are subject to a restraining order for stalking.²² However, it is equally important to disarm individuals who have been convicted of stalking offenses.

The figures on this topic are alarming. A 2010 national survey found that approximately 16% of women had been stalked in their lifetime, resulting in more than 19 million female stalking victims across the country.²³ Women are more likely to be victims than men; one in six women compared to one in 19 men have been stalked during their lifetime.²⁴

Recidivism is a factor in stalking offenses. One study found that 77% of stalkers committed new offenses within 8.8 years.²⁵ Over half were charged with new stalking-related offenses and 33% for violent offenses.²⁶ Reinforcing the fact that stalking is an indicator of violent behavior, another study found that stalking is an important risk factor for intimate partner homicide as 76% of homicide victims and 85% of attempted homicide victims were stalked by their abusers prior to the incident.²⁷ Furthermore, roughly half of the women killed by their intimate

partners reported domestic violence/stalking to the police.²⁸

Because of this overwhelming evidence the Coalition to Stop Gun Violence encourages this committee to support changes to federal law to prohibit those convicted of misdemeanor stalking from owning and/or purchasing firearms.

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⁵ Moracco, K. E., Runyan, C. W., & Butts, J. D. (1998). Femicide in North Carolina, 1991-1993 A Statewide Study of Patterns and Precursors. *Homicide Studies*, 2(4), 422-446.

⁶ Moracco, K. E., Runyan, C. W., & Butts, J. D. (1998). Femicide in North Carolina, 1991-1993 A Statewide Study of Patterns and Precursors. *Homicide Studies*, 2(4), 422-446.

⁷ McFarlane, J. M., Campbell, J. C., Wilt, S., Sachs, C. J., Ulrich, Y., & Xu, X. (1999). Stalking and intimate partner femicide. *Homicide Studies*, 3(4), 300-316.

⁸ Zeoli, A. M., & Webster, D. W. (2010). Effects of domestic violence policies, alcohol taxes and police staffing levels on intimate partner homicide in large US cities. *Injury prevention*, 16(2), 90-95.

⁹ Zeoli, A. M., & Webster, D. W. (2010). Effects of domestic violence policies, alcohol taxes and police staffing levels on intimate partner homicide in large US cities. *Injury prevention*, 16(2), 90-95.

¹⁰ Zeoli, A. M., & Frattaroli, S. (2013). Evidence for Optimism: Policies to Limit Batterers' Access to Guns. *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*, 53-63.

¹¹ Campbell, J. C., Webster, D., Koziol-McLain, J., Block, C., Campbell, D., Curry, M. A., ... & Laughon, K. (2003). Risk factors for femicide in abusive relationships: Results from a multisite case control study. *American journal of public health*, 93(7), 1089-1097

¹² Vittes, K. A., Sorenson, S.B. (2008). Restraining orders among victims of intimate partner Homicide. *Injury Prevention*, 14(3), 191-195

¹³ Campbell, J. C., Glass, N., Sharps, P. W., Laughon, K., & Bloom, T. (2007). Intimate partner homicide review and implications of research and policy. *Trauma, Violence, & Abuse*, 8(3), 246-269.

¹⁴ Wilson, M., & Daly, M. (1993). Spousal homicide risk and estrangement. *Violence and victims*, 8(1), 2-16.

¹⁵ Frattaroli, S., & Vernick, J. S. (2006). Separating Batterers and Guns A Review and Analysis of Gun Removal Laws in 50 States. *Evaluation Review*, 30(3), 296-312.

¹⁶ 27 Code of Federal Regulations § 478.11 Meaning of Terms

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²² 18 U.S.C. § 922(g)(8).

²³ Centers for Disease Control and Prevention. (2010). The National Intimate Partner and Sexual Violence Survey (NISVS): Detailed State Tables. *Table 7.3*. Retrieved July 29, 2014, from http://www.cdc.gov/violenceprevention/nisvs/state_tables_73.html

²⁴ Michele C. Black et al., "The National Intimate Partner and Sexual Violence Survey: 2010 Summary Report," (Atlanta,GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 2011)

²⁵ Eke, A. W., Hilton, N. Z., Meloy, J. R., Mohandie, K., Williams, J. (2011). Predictors of Recidivism by Stalkers: A Nine-year Follow-up of Police Contacts. *Behavioral Sciences and the Law*,29(2), 271-283

²⁶ Eke, A. W., Hilton, N. Z., Meloy, J. R., Mohandie, K., Williams, J. (2011). Predictors of Recidivism by Stalkers: A Nine-year Follow-up of Police Contacts. *Behavioral Sciences and the Law*,29(2), 271-283

²⁷ McFarlane, J. M., Campbell, J. C., Wilt, S., Sachs, C. J., Ulrich, Y., Xu, X. (1999). Stalking and Intimate Partner Femicide. *Homicide Studies*, 3(4), 300-316

²⁸ McFarlane, J. M., Campbell, J. C., Wilt, S., Sachs, C. J., Ulrich, Y., Xu, X. (1999). Stalking and Intimate Partner Femicide. *Homicide Studies*, 3(4), 300-316

U.S. Senator Dianne Feinstein
Senate Committee on the Judiciary
Hearing on “VAWA Next Steps: Protecting Women from Gun Violence”
July 30, 2014

I am pleased that the Judiciary Committee is holding this hearing today to explore how we can better protect women from gun violence. The statistics are startling:

- A woman in the United States is 11 times more likely to be killed with a gun than in other first-world countries.
- 45% of women killed with guns are killed by an intimate partner; another 8% are killed by a family member.
- 54% of women who are killed by an intimate partner are killed with a gun.

A significant factor contributing to gun violence against women is our weak gun laws. Federal law prohibits a person from possessing a gun if he has committed a felony or if he has committed a misdemeanor crime of domestic violence against a spouse, live-in girlfriend, or woman with whom he has had a child. However, federal law places no restriction on firearm possession by a person who has committed a misdemeanor crime of domestic violence against a **dating partner** or who has been convicted of a misdemeanor crime of **stalking**. Yet, as of 2008, more women were killed by dating partners than by spouses.

These loopholes in federal law must be addressed. I am pleased that Senator Klobuchar has introduced a bill to prohibit firearm possession by individuals who have committed a misdemeanor crime of domestic violence against a dating partner or who have been convicted of a misdemeanor crime of stalking. We should come together as a Congress and pass Senator Klobuchar’s bill.

A second loophole in federal law allows a person who is subject to a **temporary** restraining order to possess a firearm. The days immediately following the issuance of a temporary restraining order are often the most dangerous for the women protected by the order. However, federal law does not prevent the person subject to such a temporary order from purchasing or continuing to possess a gun.

Senator Blumenthal has introduced a bill to close this loophole. We should pass his bill.

A third loophole in federal law allows a person to avoid a background check if he purchases his gun at a gun show or online. Thus, if you have been convicted of a crime of domestic violence against your spouse or are subject to a long-term restraining order — as Zina Daniel’s estranged husband was — you can easily buy a gun even though you are legally prohibited from possessing one. We must close these loopholes in our background check system.

If we need evidence of the impact that stronger federal gun laws would have on reducing violence against women, we need look no farther than California. Since the early 1990s, California has enacted a series of laws to keep guns out of the hands of domestic abusers. For example, California prohibits firearm possession by an individual who is subject to a temporary restraining order or who has committed a violent misdemeanor — including misdemeanor stalking — within the past 10 years. With limited exceptions, California requires background checks on all gun sales, including sales by private individuals. Thus, a domestic abuser or stalker cannot avoid a background check by buying the gun from a private party.

The results speak for themselves. In 1993, there were 329 domestic violence homicides in California. In 2011, there were 147 such homicides. That’s a 55% decline. The number of domestic violence calls to law enforcement where a firearm is present has also decreased, from 2,951 in 1993 to 804 in 2012, a 73% decrease.

I hope that this hearing demonstrates clearly the devastating impact that gun violence has on women. Victims of gun violence are not faceless — they are our mothers and daughters; they are our sisters and grandmothers; they are our aunts and nieces.

I urge my colleagues from both sides of the aisle to come together and strengthen our gun laws to protect our loved ones and other women in our lives from the scourge of gun violence.