

Gun Violence Legislation and Women: More to Be Achieved

On the surface, gun violence does not seem to be a gendered issue. However, some statistics reveal a disturbing trend. Women are more likely to be victimized by people they know rather than strangers. Although men are more likely to be homicide victims, women are three and a half times more likely to be victims of domestic abuse and victims of murder by an intimate partner (Center for Gun Policy and Research, n.d.). Intimate partner violence is defined as “intimate partner violence as “violence committed by a current or former boyfriend, girlfriend, spouse, or ex-spouse” (Modi et al., 2014 p.253). Domestic violence is often committed with a gun as a threatening tool, and it can and does escalate to homicide. From 2003-2012, 34% of women who were murdered were killed by a male intimate partner (Gerney and Parsons, 2014). Fifty-five percent of women who were killed during that same time period were murdered with a gun. In 2005 alone, “approximately 40% of female homicide victims ages 15–50 were killed by either a current or former intimate partner. In over half (55%) of these cases, the perpetrator used a gun.” (Center for Gun Policy and Research, n.d. para. 3) These statistics show that domestic violence (DV) and gun violence are strongly linked since perpetrators of domestic violence often use a gun to intimidate their victims or the violence escalates to homicide. Therefore, gun violence is a gender-influenced issue. It is important to note that men can be and are victims of domestic violence and gun violence. However, since women are disproportionately affected by domestic violence, this essay focuses on the impact it, and therefore gun violence, has on women.

Certain groups of women are more at risk of homicide by gun or being threatened with a gun. Women of color, immigrant women, low-income earners, and LGBTQ individuals experience particular vulnerabilities that White women, middle-class, or upper-class women do

not have. Crass (2014) reminds society that Black women have historically been devalued when compared with their White counterparts. To illustrate this point, multiracial women or women of color experience the highest rate of rape, physical violence, and/or stalking (Modi et al., 2014). Immigrant women experience greater risk of domestic violence because of their ambiguous legal status, language barriers, and economic dependence on an abusive partner (Whittier, 2016). In addition, they may not know that they have legal recourse to bring a case against their partners and feel that they depend on their partners to gain legal status (Ingram et al., 2010). Finally, Whittier (2016) notes that social services that focus on gendered violence often do not work well for low-income earners because they are dependent on their spouses for income. Crass (2014) also starkly reminds society that racial inequality, class, and gender intersect. Therefore, while legislation was passed to better address domestic violence and gun violence, it is important to note that not all strategies will impact all women in the same ways, and vulnerable groups may need more support than others.

LGBTQ individuals do not have the same protection as heterosexual women for a number of reasons. One reason is the public perception of couples and the tendency to disregard domestic violence between homosexual couples. This is in part due to “heteronormativity.” Heteronormativity, according to Gansen (2017) is the structuring of society so that it assumes and expects people to be heterosexual and allowing heterosexual people certain privileges that homosexual people do not receive. For example, even though homosexual couples face the same rate of DV as heterosexual couples, they are not taken as seriously by social services. In a 2010 report, nearly half of LGBTQ DV victims were turned away from shelters (Modi et al., 2014), and in 2011, a survey of social service providers revealed that nearly 85% had clients who reported that they had been denied services because of their sexual orientation (Modi et al.,

2014). Furthermore, transwomen are often left at the margins of gun legislation. Like cis-women, often face sexual violence from people they know (Stozer, 2009), yet there is little legislation to protect these women.

There are two key pieces of legislation that influence gun violence against women—the Violent Crime Control and Law Enforcement Act of 1994 and the Violence Against Women Act (VAWA). This essay will discuss the key points of each, whether or not they solve gun violence against women, and some solutions for further legislation. When these laws were passed, they helped to protect women and other victims of gun violence better, but there is much to be desired on a federal level. Ultimately, stricter gun laws should be in place to better protect women.

The Violent Crime Control and Law Enforcement Act of 1994 was an enormous piece of legislation that encompassed more than gun violence and violence against women, but it did impact this issue in several ways. First, a new law, the Lautenberg Amendment, was passed that barred individuals convicted of a misdemeanor crime of domestic violence from gun possession (Center for Gun Policy and Research, n.d.). This law was important because it passed federal-level legislation disallowing people from purchasing guns if they had been convicted of a domestic violence misdemeanor charge. Before, it had been possible to purchase a gun even if the individual had a misdemeanor DV charge (rather than a felony). The law also disallowed individuals to purchase a gun if they a court-ordered restraint against “threatening an intimate partner or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury” (Center for Gun Policy and Research, n.d.). This law made it more difficult for people convicted of domestic violence to possess guns.

However, there were several gaps in the legislation that left women vulnerable. First, it does not include legislation on a federal level to bar individuals from gun possession if they have

been convicted of misdemeanor-level stalking (Gerney and Parsons, 2014). Stalking has been linked to both domestic violence and homicide by gun (Gerney and Parsons, 2014). In one study, 76% of women who were killed by an intimate partner had experienced stalking in the previous year before their murder (Gerney and Parsons, 2014). Only nine states have laws that bar individuals from gun ownership if they have been convicted of misdemeanor stalking (Gerney and Parsons, 2014). By allowing these individuals to own guns, there is a greater risk that they will use a gun to threaten, harass, or kill the women they have previously stalked.

The next gap in the law was known as the “lie and try” gap. Lie and try means that people who are already disqualified from owning a gun attempt to pass a background check by lying, which is a federal crime. The law did not include provisions for the FBI to notify local law enforcement agencies within three days if someone had failed a background check attempting to purchase a gun. This lack of coordination between federal and local law enforcement agencies created a risk to potential victims of gun violence. If local law enforcement agencies do not know what is going on in their own community, then that could lead to a failure to prevent gun violence from happening. When the FBI swiftly notifies local authorities, then local police have time to act to prevent an individual from harming another. In 2022, the Denial Notification Act was signed into law that closed this gap, but it is disturbing that it took nearly thirty years for an important preventative measure to occur (Fed Agent, 2022).

The other immensely important piece of legislation to prevent gun violence against women was the Violence Against Women Act. It was originally passed in 1994 and must be reauthorized every five years, and it is the central piece of legislation that targets domestic violence and gun violence against women (Whittier, 2016). The law provided \$1.6 billion dollars toward investigation and prosecution of violent crimes against women, imposed mandatory

minimums for those convicted and increased penalties, provided training for law enforcement personnel and social service workers, and increased funding for shelters and anti-violence groups (Whittier, 2016 and Modi et al., 2014). Its impact is demonstrably measurable. Between its passing in 1994 and 2007, the number of female homicides from an intimate partner decreased by 26% (Modi et al., 2014). This statistic reveals that tighter gun legislation works to prevent gun violence and homicide. Some feminist groups critiqued this law because it imposed mandatory minimums and strict arrest policies, which feeds into the deeply flawed system of mass incarceration in the U.S. Nevertheless, the expansion of federal aid money to support groups, social services, and training for police was seen as largely a positive change.

The VAWA came under criticism for failing to adequately assist people of color, Native women, disabled women, and other marginalized groups. On some reservations, Native women are murdered at ten times the national rate (Modi et al., 2014), and one in three of these murders is by an acquaintance. Because reservations are subject to tribal law, crimes committed on tribal land can be very complicated. Before the 2013 iteration of the VAWA, there were no provisions for Native women if the perpetrator of violence was non-Native. Tribal courts didn't have the authority to persecute non-Native offenders (Whittier, 2016).

Through the years as the VAWA was reauthorized, it expanded protection for several marginalized groups, including homeless people, disabled people, and children. In 2006, the reauthorization increased provisions for immigrants, Native women, and LGBTQ individuals (Whittier, 2016). In 2013, the reauthorization expanded tribal jurisdiction over intimate partner violence, increasing protections for Native women. In addition, it provided grant money to provide assistance for victims of human trafficking (Modi et al., 2014). As the essay will discuss below, some laws prohibit gun possession based on a DV charge of a spouse or former spouse.

Because LGBTQ couples could not legally marry (on a federal level) until 2015, an abusive partner could still access guns, even if they had a DV charge because it was not against a “spouse.” The new reauthorization in 2022 changed certain language to make couples gender-neutral.

However, the VAWA still faces criticism for a few key issues, such as numerous loopholes in the system that allow domestic abusers to own guns and provisions for immigrant women. First, the VAWA does not include federal legislation against perpetrators of domestic violence who have never lived with or had a child with the abused woman. This is called the “boyfriend” loophole (Mascia, 2022). Under current legislation, convicted abusers are banned from gun possession only if the victim is a current or former spouse, someone they lived with (or had a child with or if they are a parent or guardian). In other words, there is no federal legislation to prevent a boyfriend from purchasing a gun, *even if* they were convicted of violent assault. There is also no federal provision if the abuser is a sibling. In addition, there is no federal law to force people convicted of domestic abuse to give up the guns they may already own.

Finally, all licensed firearm dealers must give background checks to individuals if they want to purchase a gun. However, if the sale is private, such as through the Internet, at a gun show, or through classified ads, then there is no requirement for a background check. Even if someone were convicted of the crime of assault or domestic abuse, they could easily go to an unlicensed dealer to obtain a gun. One report shows that DV gun homicides rose 58% over 10 years, and many of the victims were killed by individuals whose criminal histories theoretically prohibited them from gun possession, *and yet*, the victims were still murdered by guns (Gerney and Parsons, 2014). Currently, only sixteen states require universal background checks (checks from both licensed and unlicensed dealers). The lack of requirement of unlicensed dealers to give

a background check represents one of the biggest gaps in legislation to date. These are enormous loopholes that give ample opportunity for people to obtain a gun and use it to intimidate, abuse, or murder women.

This essay has demonstrated that there is a solid link between domestic violence and gun violence. According to Gerney and Parsons (2014), in states that require a universal background check, 38% fewer women are shot to death by an intimate partner. On the other hand, intimate partner assaults with firearms are twelve times more likely to result in death than non-firearm assaults (Center for Gun Policy and Research, n.d.). Therefore, limiting access to guns will result in fewer deadly assaults and women victimization by an intimate partner. There are several pieces of legislation that should be passed to limit gun access.

First and foremost is requiring on a federal level a universal background check on all gun sales. There is already a large majority of public support for this policy (Gerney and Parsons, 2014), yet the legislation has stalled in Congress numerous times. Passing federal legislation for a universal background check is the most important policy change the country could make. Although people who would want access to a gun could find some means to get it, even if they fail a background check, this law would make it much harder to do so.

The next policy solution is to ban access to guns of people convicted of misdemeanor stalking on a federal level. Many domestic abusers stalk their victims before escalating to murder, and this policy would help prevent access to gun ownership. Along the same lines, people convicted of domestic violence or stalking should be required to give up the guns they already own. If they have demonstrably shown a tendency toward violence, then they should be prohibited from owning a deadly weapon.

Finally, legislation should be passed on a federal level to close the “boyfriend” loophole. The language needs to be changed to include abusers who may not have lived with their partner. This would help protect all couples, regardless of sexual orientation. These pieces of legislation would also help protect immigrant women and women of color because of the preventative measures. Having stricter gun ownership requirements would help prevent homicide by gun from happening and thus increase protection for women.

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