



## **Domestic Violence and Firearms: Research on Statutory Interventions**

April M. Zeoli, PhD, MPH

### **Part II: The Impact of State-Level Domestic Violence Restraining Order Firearm Restriction Statutes**

Research on these laws has largely fallen into two categories: research on whether the laws impact domestic violence outcomes and research on whether and how to effectively implement these laws.

*Research on whether domestic violence restraining order firearm restriction statutes impact domestic violence outcomes*

There is evidence that suggests these statutes are effective in reducing intimate partner homicide rates. Three studies found a decrease in the rate of intimate partner homicides committed with firearms, and intimate partner homicide in total (Vigdor & Mercy, 2003, 2006; Zeoli & Webster, 2010). That each of these studies found a decrease in total intimate partner homicide is significant. It suggests the absence of a “substitution effect” whereby other weapons are used to kill when firearms are not available. If those motivated to kill had simply used other weapons, we would expect that total intimate partner homicide rates would stay roughly the same. Instead, each of the studies revealed an associated decrease in total intimate partner homicide.

These three studies were conducted at both the state level and city level using multiple decades of data to determine whether the passage of the statutes affected intimate partner homicide rates. The results of the studies were strikingly similar, lending credibility to the findings.

It is important to note that each of these studies took into account numerous additional factors that may impact intimate partner homicide rates, including marriage and divorce rates, median income, poverty rates, police staffing levels, and other domestic violence and firearm laws, when estimating the impact of the restraining order firearm restriction.

Research that examined intimate partner homicide levels in states from 1982 through 1998 found the restraining order firearm restriction statutes to be associated with homicide reductions. In specific, it found a 9% reduction in total intimate partner homicides, a 9% reduction in intimate partner homicides committed with firearms, an 11% reduction in female intimate partner homicides, and a 12% reduction in female intimate partner homicides committed with firearms (Vigdor & Mercy, 2003). Furthermore, when states were classified by whether they had a high or low ability to check for restraining order records in a background check database, only those states with the statute and a high ability experienced significant reductions in all categories of intimate partner homicide, suggesting that implementation of the purchase prohibition was influential.

The researchers also tested the impact of restraining order firearm restrictions on crimes that logically should not be impacted by the laws, namely stranger homicides, rape, robberies, assaults, burglaries, and motor vehicle thefts. This was done to determine if broader crime trends or other factors not considered in the research were responsible for the apparent statistical association between the restraining order firearm restrictions and intimate partner homicides. If the statistical models showed that the statutes were associated with changes in these other crimes, it would suggest that factors not considered were responsible for the association. However, the models suggested no significant changes in the rates of these crimes, thus increasing confidence that the impact of firearm restrictions seen on intimate partner homicide is valid (Vigdor & Mercy, 2003).

A second state-level study, this time using data from 1982 through 2002, replicated the main findings of the first study (Vigdor & Mercy, 2006). They found that restraining order firearm restriction statutes were associated with an 8 to 10% decrease in all intimate partner homicides, firearm intimate partner homicides, female intimate partner homicides, and female intimate partner homicides committed with firearms. Again, when testing the impact of whether the state had a high or low ability to check for restraining order records in the background check system, only those states with the law and a high ability to check showed evidence of a reduction in intimate partner homicide.

This study also looked at whether the language of the statute explicitly prohibited firearm possession only or firearm purchase with or without the inclusion of a possession restriction. They found that states that had a purchase restriction experienced a significant decrease of 10 to 13% in intimate partner homicide, while there was no measurable decrease in states that only prohibited possession (Vigdor & Mercy, 2006). This again suggests that purchase prohibition is influential in reducing intimate partner homicide.

Finally, researchers tested whether the state-level results could be replicated at the city-level. They analyzed 46 of the largest cities in the United States from 1979 to 2003 and found that the statutes were associated with a 19% decrease in total intimate partner homicide and a 25% decrease in intimate partner homicides committed with firearms (Zeoli & Webster, 2010).

### *Implementation studies*

Concerted efforts are now being made in many jurisdictions to implement firearm restrictions, and evidence suggests that these efforts are promising. For example, a study of whether domestic violence restraining order respondents applied for and were allowed to purchase handguns in California found that firearm purchase application rates were lower for those under restraining orders compared to persons before restraining orders were issued or after they expired. The majority of purchase applications made while under a restraining order were denied (Vittes & Sorenson, 2008).

Researchers studied the implementation of firearm relinquishment provisions in two counties in California that had developed protocol to aid in firearm recovery (Wintemute, Frattaroli, Claire, Vittes, & Webster, 2014). California is uncommon among states in that it has a state handgun registry, which law enforcement used, along with information from domestic violence restraining order petitions and interviews with petitioners, to identify which restraining order respondents possessed firearms. In each county, two detectives oversaw the process of identification and firearm recovery. The detectives or other law enforcement officers contacted the prohibited person and explained the firearm restriction and options for firearm relinquishment. They attempted to either recover firearms or facilitate sale to a firearms dealer. Both counties had some success in recovering firearms: roughly 23% and 51% of respondents identified as in possession of firearms relinquished them in San Mateo and Butte Counties, respectively. Reasons for non-recovery included that orders were either not served or were not served by law enforcement empowered to recover firearms, and instead were served by third parties or civil deputies. Importantly, most firearm recoveries occurred without incident (Wintemute, et al., 2014). Equally importantly, interviews with a sample of restraining order petitioners in San Mateo and Butte Counties indicated that the initiative to remove firearms from restraining order respondents made most victims feel safer (Vittes, Webster, Frattaroli, Claire, & Wintemute, 2013).

Studies that have analyzed implementation of these laws outside of specific efforts or programs to enforce them have found that there is opportunity for improvement. In general, research of restraining orders found that judges often do not impose firearm restrictions on restraining order respondents or order firearm relinquishment even when doing so is in accordance with the law (Diviney, Parekh, & Olson, 2009; Everytown for Gun Safety, 2015; Frattaroli & Teret, 2006; Webster, et al., 2010). One factor that may contribute to a lack of ordering restrictions or relinquishment is that some state laws allow judges to use their discretion in deciding whether to do so; mandating that judges implement the laws may increase the proportion of restraining orders that carry restrictions and relinquishment orders (Everytown for Gun Safety, 2015; Webster, et al., 2010). Education of court personnel on the law and the importance of removing firearms from perpetrators of domestic violence may also be called for, as may specific efforts to develop or improve implementation protocols. While the implementation of firearm prohibitions may differ depending on local policies, practices, and state law, there are lessons to be learned from the research.

*Legislation that addresses implementation.* Legislators may be able to improve implementation of existing laws by specifying how those laws are to be implemented. For example, it is hypothesized that the specification in California law of how disqualifying records are to be entered into the background check system will improve entry rates (Vittes & Sorenson, 2008). Indeed, clearly specifying in the law who is responsible for each step of implementation and enforcement, how implementation and enforcement are to occur, and how court personnel and law enforcement officers are to be trained in law implementation, is highly recommended (Frattaroli & Teret, 2006; Moracco, et al., 2006). As discussed, legislators may also promote the use of firearm prohibitions by making them mandatory conditions for qualifying domestic violence restraining orders (Moracco, et al., 2006; Webster, et al., 2010).

*Addressing implementation at the local level.* Firearm restrictions may be better implemented when those who have a role in their inclusion in restraining orders or enforcement are supportive of them (Frattaroli & Teret, 2006). This is critically important as research evaluating the implementation of provisions authorizing or requiring persons disqualified from firearm possession suggests that a specific and concerted effort needs to be made on the part of jurisdictions to develop protocols to implement the restrictions. These protocols can cover the following issues:

- Identification of restraining order respondents who possess firearms. All available sources of data should be investigated, including restraining order petitions and victim interviews (Wintemute, et al., 2014). Jurisdictions can be creative about obtaining this information. For example, in North Carolina it is state law that the court ask about firearm possession at ex parte and full hearings for domestic violence restraining orders.
- Specification of when recovery of firearms will occur. Recovery of firearms from prohibited persons should occur quickly after notification of the prohibition. For example, restraining orders should be served by law enforcement who can recover firearms at the time of service, as opposed to having restraining orders served by third parties (Wintemute, et al., 2014).
- Specification of when and how search warrants may be used. Search warrants may also be a valuable tool for firearm recovery for those respondents identified as firearm owners who deny possession (Wintemute, et al., 2014). Nevada law, for example, allows the court to issue a search warrant for the firearm if the restraining order respondent has not relinquished his or her firearms within the specified time.

#### *Explicit and implicit authority*

While much of the above focuses on the explicit language of state laws, judges often have the authority to include in restraining orders stipulations not explicitly listed in the law if it necessary to ensure the safety of the petitioner. Judges may use this implicit authority to order firearm restrictions and removal or relinquishment even when not explicitly authorized in the law (Prosecutors Against Gun Violence & Consortium for Risk-Based Firearm Policy, 2016).