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REPORT ON DOMESTIC VIOLENCE AND FEMICIDE RESULTING FROM INADEQUATE
GUN CONTROL AND FIREARMS REGULATION IN THE UNITED STATES
SUBMITTED BY INTERNATIONAL GENDER ORGANIZATION
WEST VIRGINIA NATIONAL ORGANIZATION FOR WOMEN (NOW)
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IN RESPONSE TO THE

NINTH PERIODIC REVIEW OF THE UNITED STATES OF AMERICA

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A Brief on Handgun Laws and Resulting Violence Against Women in the United States: A Call for Greater Regulation for Possession of Firearms

Introduction

Violence against women in the United States manifests in numerous ways that demand closer examination and heightened exposure to the public, policy-makers and law enforcement officials. In this brief report, we will focus our attention on laws in the United States which make guns easily accessible to the general populace regardless of the suitability for an individual to possess one. We request that the United Nations Human Rights Council examine more closely U.S. gun laws and the subsequent violence that results which serves to injure and kill women in this country. We are asking the U.S. Government to conduct further research into gun violence and to restrict the sale of guns congruent to the Brady Center Policies¹ in order to reduce the number of overall fatalities with specific focus on those resulting in femicide, familicide and infanticide.

The United States Constitution Second Amendment states that an individual has the right to keep and bear arms. However, the Second Amendment, starting in the latter half of the 20th century, became the most debated amendment according to the American Bar Association². Concerned with the trend of rising violence in the United States and the role that firearms play proliferating that violence, gun control advocates interpret the Second Amendment differently than firearm enthusiasts. Because the Bush administrations loosened the tighter restrictions put in place by the Clinton administration, the current interpretation of the Second Amendment allows relative ease of gun ownership. Hence, the U.S. is the most heavily armed country in the world³ with an estimated 283 million guns in civilian hands.⁴ In the U.S. there are 97 guns for every 100 persons. The rate of firearm homicide in the U.S. is 19 times greater than in any other high-income nation.⁵ It is not surprising that each day an average of 300 people are shot or killed with a gun. Annually, this results in 30,896 individuals being killed and 78,622 people being injured.⁶ What keeps many laws from becoming more restrictive is the fact that gun proponents are extremely well-funded, file endless lawsuits against restrictive legislation and comprise a powerful lobby.

In accordance with the trend of undoing gun control laws, the recent 2008 landmark case of *The District of Columbia v. Heller*, the U.S. Supreme Court overturned a previous ban on weapons and held that the Second Amendment protects an individual's right to possess a firearm for private use in federal jurisdictions.⁷ However, this decision did not address whether the Second Amendment extends to the individual states, because of the unique status of Washington, DC as a federal jurisdiction rather than a state. Subsequent to this decision, restrictive laws in many states have been attacked by gun proponents, resulting in laxer laws on buying and possessing guns in many states. Previously restrictive laws have been overturned or repealed, such as those concerning the frequency at which one can buy firearms, where firearms may be taken and concealed weapons laws. In fact, the federal laws governing gun ownership are sparse and the majority of the regulation of firearms is left to the individual states, where there is wide variation on their regulation.

While keeping of a gun in a home for self-defense is considered acceptable by some (although this is an erroneous assumption in the case of domestic violence), one very disturbing trend is the Carrying of Concealed Weapons (CCW). CCW is interpreted as carrying a weapon in public in a concealed manner such as in a holster on the upper side of the body under the armpit or in very close proximity such as the glove

¹ Brady Campaign <http://www.bradiycampaign.org>

² "There is probably less agreement, more misinformation, and less understanding of the right to keep and bear arms than any other current controversial constitutional issue." Statement from the American Bar Association in "National Coalition to Ban Handguns Statement on the Second Amendment", quoted by Cottrol, Robert.

³ Barnes, Robert (2009-10-01). "Justices to Decide if State Gun Laws Violate Rights". *The Washington Post*. <http://www.washingtonpost.com/wp-dyn/content/article/2009/09/30/AR2009093001723.html>. Retrieved 2010-02-19. "The 5 to 4 opinion in *District of Columbia v. Heller* did not address the question of whether the Second Amendment extends beyond the federal government and federal enclaves such as Washington." <http://www.reuters.com/article/idUSL2834893820070828>

⁴ Based on the results from the 2004 national firearms survey.

⁵ International Journal of Epidemiology. 1998; 27: 214-21

⁶ <http://www.bradiycampaign.org/facts/gunviolence/>

⁷ *District of Columbia v. Heller* Sup. Ct. Decision <http://supremecourt.gov/opinions/107pdf/07-290.pdf>

compartment of one's motor vehicle. Congress, recognizing the unique and deadly role firearms play in domestic violence passed the Domestic Violence Misdemeanor Gun Ban, which prohibits anyone convicted of a misdemeanor crime of domestic violence or child abuse from purchasing or possessing a gun.⁸ Before a CCW permit can be issued in almost all states, a background check must be done to allow the carrying of a concealed weapon. However, often this background check does not consider mental health screening and misdemeanors are often overlooked including those involving substance abuse. While well-intentioned, the Domestic Violence Misdemeanor Gun Ban does not make guns difficult to own for those who want to obtain a gun either legally or illegally.

For example, permits for concealed weapons are too easily obtained. The issuance of a CCW permit has four categories: Shall Issue, May Issue, Unrestricted and No Issue. A Shall Issue state is one where once the training course (if required) and background check has been performed and all fees have been paid to the authorities, local law enforcement may not use its discretion to deny issuing this permit. It is mandatory. Some states have additional laws requiring drug and alcohol arrest checks, and other infractions, yet others do not. Thirty-seven states are "Shall Issue" states. Nine "May Issue" states allow local law enforcement to exercise discretion when issuing a permit. Unrestricted states consist of Vermont and Alaska where no permit is required to carry a concealed weapon. Two states ban CCW: Michigan and Illinois. The unrestricted and shall issue states pose issues of serious concern, yet the research is inconsistent on the crimes and murders committed by CCW permit holders. The trend in CCW is allowing laxer, not more restrictive laws, in the face of inconclusive, inconsistent poor quality research measuring the incidence of violent crime and CCW laws. Most troubling is that in 2000, 50% of femicide victims were killed with a firearm. Of those female firearm homicides, 75% were killed with a handgun.⁹

Other safety issues exist. For example, one does not have to be a trained marksman to carry a concealed weapon in many states; a course must be taken in most, but not all, states. This course generally lasts for a few hours and covers the basics of law, safety and elementary operation of the weapon. What makes concealed weapons such a lethal problem is that these weapons can be carried most places and there is little regulation involving alcohol consumption and CCW. In some states, carrying of a concealed weapon into a bar is not even illegal! Exemptions do exist for schools and government buildings – but many exemptions are left to the individual states, counties or municipalities.

As stated, most states require a background check for violent crimes (including domestic violence) of varying comprehensiveness and detail before a gun permit is issued at sale. A glaring loophole in the acquisition of guns by unfit individuals exists is the sale of weapons at gun shows, where many states do not require any type of background check. One can simply walk into a gun show where a wide variety of weapons are available – sometimes including assault type weapons – and buy the weapon of his or her choice.

Other loopholes exist. If a crime is committed after the purchase of a gun, either requiring a background check or not, several other problems remain unresolved. For example, it is unclear what law enforcement agencies are notified if any, and what procedure remains in place for law enforcement to retrieve weapons from the person subsequently accused or convicted of a crime. In many states, several years may elapse before a background check is run again after the required one initially. Moreover, stolen guns are often not mandated by law to be reported to law enforcement officials, so a stolen gun could easily be used to commit crimes of violence. All these differing scenarios in gun laws potentially fuel the killing of women and children in domestic and non-domestic violent crimes.

Gun Violence Is Prevalent in the United States -- Women Are More Likely to Be Victims than Men

We are adamant about strengthening the laws for acquisition for firearms because there is a higher likelihood that guns in the wrong hands too often result in violent crimes. Although gun proponents claim that liberal access to firearms equals fewer deaths, this point is strongly contested. Firearms are not only used in the streets between strangers or persons engaged in criminal activity, but often by intimate partners. According to the Violence Policy Center (VPC) report *When Men Murder Women* issued in 2007, 91% of

⁸ ["PUBLIC LAW 104-208](#)

⁹ Data from the 2000 FBI Supplementary Homicide Report. Analysis performed by the Violence Policy Center.

murdered women were killed by someone they knew.¹⁰ Another finding demonstrates that in single victim/single offender incidents, 51% of femicide victims were killed with a gun. Furthermore, 62% of the murdered women were killed by men with whom the victims had an intimate relationship at one point in their lives.¹¹ Black women are especially at risk, since a black woman is three times more likely to be killed by her partner or a family member than a white woman¹².

Gun proponents have argued that if more women were armed, they would be better equipped to defend themselves against violence by an intimate partner. However, a 2003 study by the American College of Emergency Physicians found that having a gun in the home increases the overall risk of someone in the household being murdered by 41% -- and for women the risk is tripled.¹³ Another study published in the *Social Science and Medicine Journal* shows that states with high gun ownership levels have 114 % higher firearm homicide rates and 60% higher homicide rates than states with low gun ownership.¹⁴ Study after study highlight that the rate of femicide from domestic is disproportionately high and is closely tied to gun ownership.¹⁵

Families Murdered by Gun Violence

Several factors are found to be present in familicides: presence of a step-child, substance abuse by the perpetrator, depression or serious mental illness of the perpetrator, revenge by husbands against wives, jealousy or alleged infidelities, a means to end abuse, desire to alleviate real or imagined suffering from their children and economic stress.

Psychologists and criminologists define familicide as murdering one's spouse and at least one child before committing suicide. In familicide, 91% of the time the perpetrator is a man,¹⁶ though other studies have found the figure to be closer to 95%. More incidents of murder-suicide are committed with guns than any other weapon. According to findings published in the American Journal of Epidemiology in 2008, 88 % of 408 homicides-suicides studied were carried out with a gun.¹⁷ Compared to other developed nations, the U.S. rate of familicide is three times higher than Canada's, eight times higher than Britain's, and 15 times higher than Australia's¹⁸. The U.S. Department of Justice (USDOJ) also reports that states with lax gun control laws have eight times the rate of murder-suicides within a family than the states with more restrictive gun control laws.¹⁹

With all of the available findings on the correlation between violence against women and a ready availability of firearms, clearly, in the U.S., guns are used to take women's lives and not to save them. In order to reduce violence against women and intimate partner violence (as well as increase child safety), the data strongly suggest that stricter regulation of gun ownership is urgently needed. Additionally, better availability of mental health facilities and insurance coverage of mental health services could prevent some of these tragic events.

Highway Serial Murders of Women Are Likely to Involve Guns

¹⁰ <http://www.vpc.org/studies/wmmw2009.pdf>

¹¹ <http://www.vpc.org/studies/wmmw2009.pdf>

¹² <http://www.vpc.org/studies/wmmw2009.pdf>

¹³ Wiebe, D.J., (2003) "Homicide and Suicide Risks Associated with Firearms in the Home: A National Case Control Study", *Annals of Emergency Medicine*, Volume 41, American College of Emergency Physicians.

¹⁴ Miller, Matthew, David Hemenway, and Deborah Azrael. "State-Level Homicide Victimization Rates in the US in Relation to Survey Measures of Household Firearm Ownership, 2001-2003." *Social Science and Medicine* 64 (2007) 656-64

¹⁵ David Hemenway et al., "Firearm Availability and Female Homicide Victimization Rates among 25 Populous High Income Countries," *Journal of the American Medical Women's Association (JAMWA)* 57 (Spring 2002): 100-104 and Harvard School of Public Health press release, April 17, 2002.

¹⁶ Logan, J., Hill, H.A., Black, M.L., Crosby, A.E., Karch, D.L., Barnes, J.D. and Lubell, K.M., "Characteristics of Perpetrators in Homicide-Followed-by-Suicide Incidents: National Violent Death Reporting System — 17 US States, 2003-2005," *American Journal of Epidemiology* 168 (November 2008): 1056-1064.

¹⁷ Logan, J., Hill, H.A., Black, M.L., Crosby, A.E., Karch, D.L., Barnes, J.D. and Lubell, K.M., "Characteristics of Perpetrators in Homicide-Followed-by-Suicide Incidents: National Violent Death Reporting System — 17 US States, 2003-2005," *American Journal of Epidemiology* 168 (November 2008): 1056-1064.

¹⁸ <http://www.ojp.usdoj.gov/nij/topics/crime/intimate-partner-violence/murder-suicide.htm>

¹⁹ <http://www.ojp.usdoj.gov/nij/topics/crime/intimate-partner-violence/murder-suicide.htm>

In what is one of the most shocking revelations of violent crimes against women, the Federal Bureau of Investigation (FBI) disclosed in April, 2009 that over the last three decades hundreds of women's bodies have been found near major highways. The victims are frequently picked up at truck stops or service stations and then sexually assaulted, murdered and their bodies dumped along a highway. Stranded motorists and women employed at businesses along major highways have also been among the victims. To date, more than 500 women's bodies have been found, and the FBI officials maintain that the numbers are "grossly underreported."²⁰ Several newspaper reports have speculated that the total number of victims may be in the thousands. A map of the locations of some of the found victims along major transportation routes can be viewed online (http://www.fbi.gov/page2/april09/highwayserialkillings_040609.html).

The FBI has been gathering data on these unsolved murders and formed the Highway Serial Killers Initiative in April 2009.²¹ The FBI used a computer database to search for patterns and similarities in highway murder cases in hopes of discovering the perpetrators. Based on findings, investigative authorities believe long-haul truck drivers may be responsible for many of these serial highway killings. The database also contains information on scores of truckers who have been charged with or suspected of murders and rapes committed near highways. So far, 200 potential suspects have been identified by the FBI, indicating a large number of trucking personnel are not fit to carry weapons.

However, while it is possible to discover links between some cases, identifying perpetrators still remains a difficult task. As one investigator put it, "You've got a mobile crime scene. You can pick a girl up on the East Coast, kill her two states away and then dump her three states after that."²² The mobile nature of the crime complicates the work of law enforcement authorities, but the implementation of a countrywide database is a step in the right direction. The Highway Serial Killer Initiative yields results, according to the FBI. Hitherto, at least 10 suspects believed to be responsible for 30 homicides have been apprehended and placed into custody.²³

But these few arrests and prosecutions pale in comparison to the sheer volume of women's bodies that have been found. The difficulty in investigating these homicides is apparent, but other measures such as increased federal regulatory requirements for interstate trucking companies and more extensive driver criminal background checks may be necessary. Moreover, because most states have reciprocity and allow the concealed weapons permit in one state to be valid in another, the legality of carrying weapons across state lines provides killers an easy method to commit and continue these heinous crimes across the country.

Rape, Gangs and Illegal Possession of Guns

Differences between gang and single-offender rapes show that gang rapes are more likely to use weapons, occur indoors, involve substance abuse, and contain verbal and physical threats than a single-offender rape. While few demographic differences between gang and single-offender rapes were discovered, gang rape victims tend to have lower education levels.²⁴ Similar to single-offender rape, the victims of the gang rapes are frequently ridiculed, disbelieved and blamed for their assault -- which can make seeking help and recovery an exceedingly painful process²⁵. Moreover, if these women are involved in any illegal gang related activity, they are going to be less likely to report the rape.

In the 2007 report, Dr. Ullman concluded that "future studies of sexual assault should include more detailed questions about gang rape specifically in order to determine the characteristics of victims, offenders, and contexts of these attacks," and that "Given the greater levels of violence, injury, sexual acts, and poorer assault aftermath shown in this study, more resources are needed to improve treatment and support to these victims."²⁶

²⁰ <http://articles.latimes.com/2009/apr/05/local/me-serialkillers5?pg=6>

²¹ http://www.fbi.gov/page2/april09/highwayserialkillings_040609.html

²² <http://articles.latimes.com/2009/apr/05/local/me-serialkillers5>

²³ http://www.fbi.gov/page2/april09/highwayserialkillings_040609.html

²⁴ Sarah E Ullman. (2007). Comparing Gang and Individual Rapes in a Community Sample of Urban Women. *Violence and Victims*, 22(1), 43-51. Retrieved December 20, 2009, from Psychology Module.

²⁵ <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/11/15/MN551AK5VK.DTL&tsp=1>

²⁶ Sarah E Ullman. (2007). Comparing Gang and Individual Rapes in a Community Sample of Urban Women. *Violence and Victims*, 22(1), 43-51. Retrieved December 20, 2009, from Psychology Module.

Final Comments

In September 2009, the National Organization for Women stated that in the midst of our serious economic recession funding for many domestic violence programs were being cut (<http://www.now.org/issues/violence/090309dvbg.html>). Other social service programs aiding sexual assault and child abuse survivors and those conducting much-needed research are facing budget reductions as well. At the same time, demand for these services skyrocketed. At the writing of this brief, the United States Supreme Court is expected to rule this summer on the Second Amendment to the U.S. Constitution in the case of *McDonald v. The City of Chicago*.²⁷ It is unknown to what extent the federal laws will be expanded to shape an individual state or local municipalities' gun control laws. However, as a minimum, we suggest the following changes be adopted:

- Buttress the research on access to guns, the carrying of concealed weapons and incidences of domestic violence.
- Adopt more stringent measures on the sale of guns and the carrying of concealed weapons (see the addendum).
- Enact more federal legislation that not only mandates checking for crimes of violence before issuing a gun permit but also checks for a pattern of substance abuse, mental health issues and other types of social instability.
- Require police to be trained to respond to serious threats of domestic violence and kidnapping by putting safety of women and children first, so as to avoid catastrophes such the case of Jessica Gonzalez – a mother of three who reported her husband had taken the girls out to the fair while he had a gun. The local police ignored her call, and her husband subsequently killed her three daughters before killing himself. Under current US law, she had no right to compensation from the police force that ignored her complaint.²⁸
- Fund more comprehensive, high-quality research on domestic violence and the types of gun laws in effect while controlling for potentially confounding demographics and variables. For example, some gun proponents are stating that the tighter laws in Washington DC where the murder incidence is one of the highest in the country when compared with Utah, a sparsely populated State with a lower incidence of drug abuse concludes that there is no cause/effect between gun laws and corresponding death from firearms. More rigorous research must be conducted on this issue – and in the case of domestic violence, this is a seriously under-researched social concern.

²⁷ Docket information about *McDonald v. Chicago* from the U.S. Supreme Court

²⁸ [List of United States Supreme Court cases, volume 545](#)

Addendum

Persons who would be prohibited from purchasing a firearm as a result of data obtained from the National Instant Criminal Background Check System (NICS) include:

- Convicted felons and people under indictment for a felony
- Fugitives from justice
- Unlawful drug users or drug addicts
- Individuals who have been involuntarily committed to a mental institution or mentally incompetent
- Illegal aliens and legal aliens admitted under a non-immigrant visa
- Individuals who have been dishonorably discharged from the military
- Persons who have renounced their American citizenship
- Persons subject to certain domestic violence restraining orders
- Persons convicted of misdemeanor crimes of domestic violence

More restrictive gun sales and acquisition laws would include:

- State license required
 - Record keeping and retention
 - Report records to the state, and state retains records
 - Mandatory theft reporting of all firearms
 - Require stores to have adequate theft-proofing and alarm systems
 - Inspections by police allowed
 - Limit bulk purchases of handguns
 - Limit the frequency at which guns can be acquired
 - Implement a crime gun identification system
 - Report lost/stolen guns
 - Mandate comprehensive universal background checks
 - Regulate permits to purchase
 - Close the gun show loophole
 - Install ammunition regulations
 - Make childproof handguns
 - Mandate child safety locks
 - Codify child access prevention
 - Stop juvenile handgun purchases
 - Ban military style assault weapons
 - Implement a large capacity magazine ban
 - Do not allow guns in the workplace
 - Do not allow guns on college campuses
 - Destroy the carrying concealed weapons “Shall Issue” status
 - Disallow state exemptions
-