

ADDRESSING THE NEXUS OF INTERPERSONAL VIOLENCE &
GUN OWNERSHIP: THE NEED FOR A FEDERAL DATABASE WITH
CROSS-REFERENCING

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INTRODUCTION

Zackey Rahimi shoved his ex-girlfriend and the mother of their child to the ground, threatening to take the child after an argument.¹ As the woman attempted to leave, Rahimi dragged her to his vehicle in the parking lot and forced her inside.² A bystander witnessed the incident, prompting Rahimi to retrieve a gun and fire in their direction.³ Fortunately, the woman was able to escape; however, Rahimi threatened to shoot her if she reported the abuse.⁴

Nevertheless, the woman reported Rahimi to authorities.⁵ In the affidavit accompanying her application for a restraining order, she recounted the parking lot incident as well as other assaults.⁶ Additionally, she detailed how Rahimi's conduct endangered their child.⁷

A Texas state court determined Rahimi committed family violence that was likely to occur again and granted the woman a two-year restraining order against Rahimi.⁸ The restraining order prohibited Rahimi from threatening, harassing, or approaching the woman or her family.⁹ Importantly, in addition to state-level restrictions, the restraining order automatically triggered a federal prohibition on purchasing or possessing firearms.¹⁰

Despite the restraining order, Rahimi approached the woman's house at night and contacted her through social media.¹¹ Rahimi also threatened a different woman with a gun, resulting in a charge of aggravated assault with a deadly weapon.¹² While Rahimi was under arrest for that assault, police

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¹ United States v. Zackey Rahimi, 602 U.S. 680, 686 (2024).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 686–87.

⁹ *Id.* at 687.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

identified Rahimi as a suspect in at least five additional shootings in six weeks.¹³

In December 2020, Rahimi fired an AR-15 rifle into the home of a person he had recently sold drugs to.¹⁴ The following day, he collided with another vehicle, pulled out a handgun, fired at the driver, and fled the scene.¹⁵ Three days later, while driving down a residential street with young children nearby, Rahimi fired several bullets into the air.¹⁶ A couple of weeks later, he sped past vehicles on the highway and, after a truck flashed its headlights at him, slammed the brakes and swerved to follow the truck.¹⁷ Once off the highway, Rahimi fired multiple rounds at the truck.¹⁸ In early January 2021, after Rahimi's coworker's credit card was declined at a restaurant, he fired several bullets into the air.¹⁹

Police officers executed a warrant to search his residence after Rahimi was identified as a suspect in these shootings.²⁰ In his room, they discovered a .45-caliber pistol, a .308-caliber rifle, magazines, and ammunition.²¹ Officers also found a copy of the Texas restraining order.²² Consequently, the United States charged Rahimi with a violation of 18 U.S.C. § 992(g)(8), which prohibits the purchase or possession of firearms or ammunition by individuals subject to restraining orders.²³

However, the restraining order against Rahimi and § 922(g)(8) failed to prevent him from acquiring firearms, and there was no system in place for authorities or his victims to know that he possessed multiple weapons.²⁴ Rahimi flew under the radar and managed to evade detection.²⁵ Not only did he violate the restraining order by possessing firearms, but he also used those weapons to commit further acts of violence.²⁶ Such a fatal gap in the law

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 687–88.

²⁰ Brief for Petitioner at 3, *United States v. Rahimi*, 61 F.4th 443 (2023) (No. 22-915).

²¹ *Id.* at 3–4.

²² *Id.* at 4.

²³ *Id.*; 18 U.S.C. § 992(g)(8); U.S. DEP'T OF JUST., CRIMINAL RESOURCE MANUAL § 1116, <https://www.justice.gov/archives/jm/criminal-resource-manual-1116-prosecutions-under-18-usc-922g8> [https://perma.cc/8T57-RUPV].

²⁴ *See Zackey Rahimi*, 602 U.S. at 687.

²⁵ *Id.*

²⁶ *Id.*

endangers victims of interpersonal violence,²⁷ eliminates an opportunity to reduce interpersonal violence, and urgently needs a resolution.

To address the intersection between interpersonal violence and gun ownership, this Note argues for the establishment and cross-referencing of a federal interpersonal violence database and gun ownership database.

Part I of this Note highlights the relationship between interpersonal violence and gun ownership. Additionally, Part I delves into the emergence of the criminal registries model, analyzing examples from Texas, New Jersey, and New York to guide the creation of the federal database. Moreover, Part I assesses the relevant, current law regarding gun ownership registries.

Furthermore, Part II of this Note examines the relationship between the Supreme Court's ruling in *New York Rifle and Pistol Association, Inc. v. Bruen*²⁸ and the recent decision in *United States v. Rahimi*.²⁹ This Note argues that although § 922(g)(8) is insufficient to fully address the gaps in federal law, the *Rahimi* decision establishes a strong legal precedent for creating a federal database on interpersonal violence and gun ownership.

Ultimately, this Note concludes in Part III by advocating for the creation of a federal interpersonal violence and gun ownership database. This Note argues for Congress to amend the National Instant Criminal Background Check System ("NICS") to ensure information about gun ownership by individuals under restraining orders remains accessible in the new federal interpersonal violence and gun ownership database. Overcoming this legal hurdle will allow the federal database to serve as a vital tool in preventing individuals under restraining orders from obtaining firearms, emphasizing the insufficiency of the criminal justice system and the heightened need for alternative victim protections.

I. THE INTERPLAY BETWEEN INTERPERSONAL VIOLENCE AND GUN OWNERSHIP

The interplay between interpersonal violence and gun ownership is a complex and critical issue with significant implications for public safety and

²⁷ James A. Mercy et al, *Interpersonal Violence: Global Impact and Paths to Prevention*, in INJURY PREVENTION & ENV'T HEALTH 71–96 (Dean T. Jamison et al. eds., 2019), <https://www.ncbi.nlm.nih.gov/books/NBK525208/> [<https://perma.cc/2EPT-8EUC>]. Interpersonal violence is defined as the intentional use of physical force or power against other persons by an individual or small group of individuals. Interpersonal violence may be physical, sexual, or psychological and it may involve deprivation and neglect. Acts of interpersonal violence can be further divided into family or partner violence and community violence. Many courts, state or federal statutes, and individuals use the narrower term domestic violence. This Note will use the term interpersonal violence to encompass domestic violence.

²⁸ N.Y. State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1 (2022).

²⁹ *Zackey Rahimi*, 602 U.S. 680.

individual well-being.³⁰ Understanding the history of criminal registries, the recent emergence of interpersonal violence registries, and relevant gun ownership laws is essential for establishing and cross-referencing a federal database on interpersonal violence and firearms.

A. Statistical Insight into the Lethal Dynamics of Interpersonal Violence and Gun Ownership

Interpersonal violence and a firearm is often a deadly combination.³¹ Access to firearms plays a significant role in interpersonal violence, injury, and death.³² Victims of interpersonal violence face a stark reality: the risk of fatality for victims of interpersonal violence escalates significantly when their abuser has access to firearms, increasing fivefold.³³ This trend is particularly pronounced in the United States, where firearm-related homicides within such relationships occur at a much higher rate compared to similar industrialized nations.³⁴ More than 50% of female homicide victims are murdered by a current or former male intimate partner,³⁵ with firearms used in over half of these homicides.³⁶ Every month in the United States, an average of 70 women are shot and killed by an intimate partner.³⁷

From 2014 to 2020, interpersonal violence-related firearm murders increased by 58%.³⁸ This significant increase correlates with a surge in gun sales beginning in 2015 and escalating during the COVID-19 pandemic.³⁹

³⁰ Sabrina Talukder & Kierra B. Jones, *Domestic Violence Survivors Need More Options for Accountability as the Supreme Court Prepares to Hear Major Gun Case*, CTR. FOR AM. PROGRESS (Nov. 3, 2023), <https://www.americanprogress.org/article/domestic-violence-survivors-need-more-options-for-accountability-as-the-supreme-court-prepares-to-hear-major-gun-case/> [https://perma.cc/L43Z-24KZ] (discussing gaps in public accountability for abusers and the need for firearm restrictions reform for domestic violence abusers).

³¹ See *United States v. Hayes*, 555 U.S. 415, 427 (2009) (“[F]irearms and domestic strife are a potentially deadly combination.”).

³² *Id.*

³³ Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93(7) AM. J. PUB. HEALTH 1089, 1090 (2003), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1447915/> [https://perma.cc/RN9J-DW6Z].

³⁴ Aaron Edward Brown, *This Time I’ll Be Bulletproof: Using Ex Parte Firearm Prohibitions to Combat Intimate-Partner Violence*, 50 COLUM. HUM. RTS. L. REV. 159, 167 (2019).

³⁵ *Fast Facts: Preventing Intimate Partner Violence: What are the Consequences*, CTR. FOR DISEASE CONTROL & PREVENTION (2022), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html> [https://perma.cc/D859-FCVR].

³⁶ April M. Zeoli et al., *Risks and Targeted Interventions: Firearms in Intimate Partner Violence*, 38(1) EPIDEMIOLOGIC REV. 125, 125 (2016).

³⁷ Interview by John Yang with Kelly Roskam, Dir. of Law and Pol’y, Johns Hopkins Center for Gun Violence Solutions, *How Gun Policies Affect the Role of Firearms in Domestic Violence*, PBS NEWS WEEKEND (Nov. 11, 2023), <https://www.pbs.org/newshour/show/how-gun-policies-affect-the-role-of-firearms-in-domestic-violence> [https://perma.cc/R3C9-9D8L].

³⁸ Jennifer Gollan, *How the US Fails to Take Away Guns from Domestic Abusers: ‘These Deaths are Preventable’*, GUARDIAN (Oct. 26, 2021), <https://www.theguardian.com/us-news/2021/oct/26/domestic-abuse-gun-violence-reveal> [https://perma.cc/DY22-Y293].

³⁹ *Id.*

Over seven million people purchased firearms for the first time between January 2019 and April 2021, despite most never previously living in homes with guns.⁴⁰

Fortunately, not all interpersonal violence involving firearms is fatal.⁴¹ It is estimated that while over 4.5 million women have been threatened by an intimate partner with a gun, around a million have been shot or shot at by an intimate partner with a gun.⁴² In the realm of interpersonal violence, firearm injuries extend further than just physical injury; abusers frequently employ firearms to intimidate victims, instilling a genuine fear of death and asserting manipulative control to deter a partner from ending the relationship.⁴³ Interpersonal violence presents a significant problem in society that affects countless individuals, often in silence and encompassing a wide range of physical, psychological, sexual, financial, and other abusive behaviors.⁴⁴ Victims of interpersonal violence relationships face numerous challenges in ending the relationship, such as fear of retaliation by the abuser, intimidation, lack of financial support, and restricted access to resources and legal assistance.⁴⁵ Further, some victims may normalize the abuse, struggle with low self-esteem, have children with their abuser, still love their abuser, or have a genuine hope their abuser will change.⁴⁶

The toxic and violent nature of the relationship often makes it seem safer to stay than to leave; leaving is frequently the most dangerous period for survivors of abusive relationships.⁴⁷ Accordingly, interpersonal violence victimizations often go unreported.⁴⁸ In 2010, around 65% of victims of interpersonal violence crime reported to the police, compared to 52% in 2019.⁴⁹ Consequently, victims require greater protection than the law currently provides and deserve the option to rely on adequate legal support to justify the risks associated with reporting.⁵⁰ Victims simply may not want

⁴⁰ See Matthew Miller et al., *Firearm Purchasing During the COVID-19 Pandemic: Results From the 2021 National Firearms Survey*, 175(2) ANN. INTERNAL MED. 219, 219–225 (2022), <https://pubmed.ncbi.nlm.nih.gov/34928699/> [<https://perma.cc/RRU4-U2D7>].

⁴¹ See generally Susan B. Sorenson & Rebecca A. Schut, *Nonfatal Gun Use in Intimate Partner Violence: A Systematic Review of the Literature*, 19(4) TRAUMA VIOLENCE ABUSE 431 (2016), <https://pubmed.ncbi.nlm.nih.gov/27630138/> [<https://perma.cc/9FA8-4UF6>].

⁴² *Id.* at 431.

⁴³ *Id.*

⁴⁴ See *National Statistics Domestic Violence Fact Sheet*, NAT'L COAL. AGAINST DOMESTIC VIOLENCE (2020), <https://ncadv.sitewrench.com/statistics> [<https://perma.cc/ZCB7-58CK>].

⁴⁵ See *Why People Stay It's not as easy as simply walking away*, NAT'L DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/support-others/why-people-stay-in-an-abusive-relationship/> [<https://perma.cc/VC9S-TRB2>].

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ USAFacts Team, *Data Says Domestic Violence Incidents Are Down, but Half of All Victims Don't Report to Police*, USAFACTS (Oct. 21, 2021), <https://usafacts.org/articles/data-says-domestic-violence-incidents-are-down-but-half-of-all-victims-dont-report-to-police/> [<https://perma.cc/S5Z6-R6ED>].

⁴⁹ *Id.*

⁵⁰ Talukder & Jones, *supra* note 30.

to risk reporting interpersonal violence if there is not an adequate justice system to effectively shield them from further abuse.⁵¹

There is no disputing the connection between interpersonal violence and gun possession.⁵² Yet, the lack of a cohesive database to alert law enforcement when someone under a restraining order has a gun prevents the identification of such individuals.⁵³ Equally troubling is the absence of notifications to the victims of interpersonal violence and the public that a firearm is in the possession of someone currently under a restraining order.⁵⁴ This legal deficiency endangers not only victim safety but public safety.⁵⁵ Therefore, it is crucial to promptly address this issue to prevent future tragedies. Failure to do so puts vulnerable individuals at greater risk and undermines the purpose of restraining orders to keep victims safe.⁵⁶

B. History of the Criminal Registry Model

The implementation of the criminal registry model, rooted in legislative responses to tragic cases of violent crime like those of Jacob Wetterling,⁵⁷ Megan Kanka,⁵⁸ and Adam Walsh,⁵⁹ serves as a critical tool in addressing and preventing instances of violent crimes, particularly within interpersonal violence and sexual assault contexts. The evolution of these laws into their current form enables law enforcement to track offenders and empowers communities with access to vital information.⁶⁰ Accordingly, the criminal

⁵¹ *Id.*

⁵² See statistics discussed *supra* Section IA.

⁵³ Joyce Y. Young, *Three Strikes and You're In: Why the States Need Domestic Violence Databases*, 90 TEX. L. REV. 771, 781–83 (Feb. 2012).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Esme Murphy, *For 1st Time, 'Person of Interest' Goes Through Day of Wetterling Abduction*, CBS MINN. (May 14, 2013), <https://www.cbsnews.com/minnesota/news/for-1st-time-person-of-interest-goes-through-day-of-wetterling-abduction/> [<https://perma.cc/2NJ2-KDGK>].

⁵⁸ *What is Megan's Law?*, MEGAN'S LAW INFO, <https://meganslawinfo.com/megans-law.html> [<https://perma.cc/VQB8-2V6U>].

⁵⁹ *Police: 1981 Killing of Adam Walsh Solved*, NBC NEWS (Dec. 16, 2008), <https://www.nbcnews.com/id/wbna28257294> [<https://perma.cc/2UTP-DAFV>].

⁶⁰ See Amanda Y. Agan, *Sex Offender Registries: Fear Without Function?*, 54 J.L. & ECON. 207, 208 (2011).

registry model enhances public safety and cultivates a more informed, vigilant society.⁶¹

1. The Jacob Wetterling Act

The origin of the criminal registry model traces back to the Jacob Wetterling Act.⁶² In October 1989, 11-year-old Jacob Wetterling was cycling with two other boys when a masked assailant seized Jacob and instructed the other two boys to sprint into the woods as fast as they could or face the threat of being shot.⁶³ Jacob's abductor was never apprehended.⁶⁴

In response to Jacob's disappearance, Congress enacted the Jacob Wetterling Act in 1994, mandating that individuals convicted of specific crimes⁶⁵ register as required by their state's law.⁶⁶ The purpose of the Act was to allow the police to monitor the locations of sex offenders.⁶⁷ By 1996, all fifty states had implemented sex offender registries in compliance with the Jacob Wetterling Act.⁶⁸ Under the Jacob Wetterling Act, states had the discretion to disseminate registration information to the public. However, that changed with Megan's Law.⁶⁹

2. Megan's Law

In 1996, Congress enacted Megan's Law, further expanding the criminal registry model, in response to the sexual assault and murder of 7-year-old Megan Kanka.⁷⁰ Unbeknownst to the Kanka family, Jesse Timmendequas had two prior convictions for sexually assaulting young girls before moving across the street from Megan and her family.⁷¹ If Megan's family had known of Jesse's prior convictions, her death could have been prevented.⁷²

Megan's Law enhances the adaptability of the criminal registry model through the public disclosure of personal information of sex offenders.⁷³ Megan's Law expands the Jacob Wetterling Act, providing not only police

⁶¹ See *id.* at 207.

⁶² Murphy, *supra* note 57.

⁶³ *Id.*

⁶⁴ Beth Hawkins, *Without a Trace*, MINN. MONTHLY (Sept. 17, 2009), <https://www.minnesotamonthly.com/archive/without-a-trace/> [https://perma.cc/S93T-4TQV].

⁶⁵ See 42 U.S.C. § 14071(a)(3)(A)–(B) (1994) (repealed 2006).

⁶⁶ See 42 U.S.C. § 14071(b) (1994) (repealed 2006).

⁶⁷ Molly J. Walker Wilson, *The Expansion of Criminal Registries and the Illusion of Control*, 73 LA. L. REV. 509, 522–28 (2013).

⁶⁸ See *People v. Ross*, 646 N.Y.S.2d 249, 250 n.1 (Sup. Ct. 1996) (listing every state that adopted the Jacob Wetterling Act and in which year).

⁶⁹ *What is Megan's Law?*, *supra* note 58.

⁷⁰ See 42 U.S.C. § 14071(e)(2) (2006) (repealed 2009).

⁷¹ *What is Megan's Law?*, *supra* note 58.

⁷² *Id.*

⁷³ See 42 U.S.C. § 14071(e)(2) (2006).

the ability to monitor sex offenders' whereabouts but also individual citizens the ability to access sex offenders' information.⁷⁴

The specifics of information shared with the public under Megan's Law vary by state, encompassing a range of the offender's details such as their name, address, and employment.⁷⁵ While Megan's Law mandates the information amassed in each state's sex offender registry be made accessible to the public, states have the discretion to choose the method of public release.⁷⁶ Notification may occur via the Internet or through alternative means such as personal notifications like door-knocking, publication of the offender's name in newspapers, distributing flyers, and requiring the offender to send postcards to neighbors within a one-mile radius of their residence.⁷⁷

To determine the scope of information required from an offender, a tiered system has been implemented to assess the likelihood of re-offense for each individual.⁷⁸ Alongside the offender's details, their tier level is disclosed to the public.⁷⁹ The tier system is comprised of three levels: Tier 1 for offenders with a low risk of recidivism, Tier 2 for those with a moderate risk, and Tier 3 for those with a high risk.⁸⁰ The extent of public access to personal information is contingent on the offender's tier level.⁸¹ Professionals acquainted with sex offenders and their behavioral patterns, such as prosecutors, boards, and mental health counselors, determine the offender's tier level.⁸² Following the classification, offenders can appeal their tier assignment.⁸³

Releasing the information of offenders to the public serves to advance the objectives of the Jacob Wetterling Act of allowing law enforcement to

⁷⁴ Compare § 14071 (2006) (requiring the establishment of a national sex offender registry and expanding its scope), with § 14071 (1994) (establishing the original federal guidelines for sex offender registration, but without the broader requirements and scope found in the 2006 amendment).

⁷⁵ See § 14071(e)(2) (2006). The law states: "[t]he State or any agency authorized by the State shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released. The release of information under this paragraph shall include the maintenance of an Internet site containing such information that is available to the public"

⁷⁶ § 14071(e) (2006).

⁷⁷ Susan Oakes, *Megan's Law: Analysis on Whether it is Constitutional to Notify the Public of Sex Offenders Via the Internet*, 17(4) J. MARSHALL J. COMPUT. & INFO. L. 1133, 1142-43 (1999).

⁷⁸ E.B. v. Verniero, 119 F.3d 1077, 1082-83 (3d. Cir. 1997).

⁷⁹ *Id.* at 1083 (requiring only Tier 2 and Tier 3 offenders to register).

⁸⁰ See N.J. REV. STAT. § 2C:7-8a (2024); Verniero, 119 F.3d at 1083.

⁸¹ Oakes, *supra* note 77, at 1140.

⁸² *Id.*; Verniero, 119 F.3d at 1083 ("The prosecutor of the county where the sex offender intends to reside and the prosecutor from the county of conviction use the registration information and other data to jointly assess the risk of reoffense by the registered individual."); Roe v. Office of Adult Prob., 125 F.3d 47, 51 (2d Cir. 1997) (recognizing that professionals in a clinic determine the risk level of a sex offender); Roe v. Farwell, 999 F. Supp. 174, 178 (D. Mass. 1998) (recognizing that a sex offender registry board determines the risk level of a sex offender).

⁸³ See Verniero, 119 F.3d at 1086 (explaining that states must provide sex offenders with a pre-notification judicial review to contest their classification, where they bear the burden of persuasion to

monitor and safeguard communities from sex offenders.⁸⁴ As a result, Megan's Law enables community members to be informed about the whereabouts of convicted sex offenders, aiding them in avoiding areas where these individuals may reside.⁸⁵ However, Megan's Law was narrow in scope, resulting in gaps and inconsistencies in the law.⁸⁶ Following Megan's Law, Congress took another step in expanding its effect after the murder of Adam Walsh in 1981.⁸⁷

3. Adam Walsh Child Protection and Safety Act

Adam Walsh disappeared after his mother had left him playing in the toy department of a store on July 27, 1981.⁸⁸ A fisherman found Adam's decapitated head in a canal approximately 120 miles away, but his body was never recovered.⁸⁹ Adam's murder played a significant role in advancing police searches for missing children and brought about a notable change in parents' perspectives on their children's upbringing.⁹⁰ Congress passed the Adam Walsh Act, which effectively repealed and replaced the Jacob Wetterling Act.⁹¹

Title I of the Adam Walsh Child Protection and Safety Act of 2006 encompasses the Sex Offender Registration and Notification Act ("SORNA").⁹² SORNA provides a comprehensive set of minimum standards for sex offender registration and notification in the United States.⁹³ SORNA seeks to address potential gaps and loopholes in earlier legislation, ultimately

show that they were improperly classified). *See also* Farwell, 999 F. Supp. at 196 (describing that a sex offender "has a protectable liberty under the Massachusetts Constitution," affording him a hearing to determine if public notification is necessary).

⁸⁴ Walker Wilson, *supra* note 67.

⁸⁵ *See* 42 U.S.C. § 14071(e)(2) (2006) (repealed 2009); Oakes, *supra* note 77, at 1147 ("In passing Megan's Law, Congress intended to identify potential recidivists, alert the public when necessary, and thus prevent future sex offenses.").

⁸⁶ *Legislative History of Federal Sex Offender Registration and Notification*, OFFICE OF SEX OFFENDER SENT'G, APPREHENSION, REGISTERING, & TRACKING, <https://smart.ojp.gov/sorna/current-law/legislative-history> [<https://perma.cc/X982-R24Z>].

⁸⁷ *See* Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C. § 16911 (2006). *See also* OFFICE OF THE PRESS SEC'Y, *Fact Sheet: The Adam Walsh Child Protection and Safety Act Of 2006*, THE WHITE HOUSE, PRESIDENT GEORGE W. BUSH (July 27, 2006), <https://georgewbush-whitehouse.archives.gov/news/releases/2006/07/20060727-7.html> [<https://perma.cc/Q2ZE-V9GE>].

⁸⁸ *Police: 1981 Killing of Adam Walsh Solved*, *supra* note 59.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Legislative History of Federal Sex Offender Registration and Notification*, *supra* note 86.

⁹² SORNA: Sex Offender Registration and Notification Act, OFFICE OF SEX OFFENDER SENT'G, APPREHENSION, REGISTERING, & TRACKING, <https://smart.ojp.gov/sorna> [<https://perma.cc/3GDM-33PU>].

⁹³ *Id.*

enhancing the effectiveness of the nationwide network of sex offender registration and notification programs.⁹⁴

SORNA's establishment of a national sex offender registry mandated that every jurisdiction maintain a sex offender registry.⁹⁵ As of 2023, under SORNA, sex offenders are categorized into three tiers.⁹⁶ When an offender is classified under the tier system, they must register either before completing the mandated term of imprisonment or, if the sentence does not involve imprisonment, no later than three days after sentencing.⁹⁷

In contrast to Megan's Law, where their tier ranking does not determine the extent of information each offender provides,⁹⁸ the Adam Walsh Act obligates every sex offender to supply specific details.⁹⁹ These include the offender's name, social security number, residence address, employer's name and address, student status with corresponding details, license plate number, and any other information considered necessary by the Attorney General.¹⁰⁰

The tier levels play a crucial role in determining the duration for which each sex offender must update and maintain their information within the registry.¹⁰¹ A Tier I sex offender must register for fifteen years.¹⁰² A Tier II offender must register for twenty-five years.¹⁰³ A Tier III offender must register for life.¹⁰⁴ In contrast to Megan's Law, which granted sex offenders the right to appeal their tier classification, the Adam Walsh Act offers offenders the opportunity to diminish their mandatory registration period.¹⁰⁵

C. Emergence of Interpersonal Violence Databases

Amid the increasing acceptance and adoption of sex offender registries designed to notify the public about the whereabouts of convicted sex offenders,¹⁰⁶ cities and states have proposed a broader criminal registry model.¹⁰⁷ The interpersonal violence model extends beyond sex offenses to

⁹⁴ *Id.*

⁹⁵ 42 U.S.C. § 16912(a) (2006) (transferred to 34 U.S.C. § 20912).

⁹⁶ 34 U.S.C. § 20915 (2006).

⁹⁷ 42 U.S.C. § 16913 (2006) (transferred to 34 U.S.C. § 20913(e) (failure to comply will result in a criminal penalty)).

⁹⁸ *See* 34 U.S.C. § 20913(b) (compiles the information that every registered sex offender must provide); 42 U.S.C. § 16914 (2006) (transferred).

⁹⁹ 34 USC § 20915(a); 42 U.S.C. § 16914(a) (2006).

¹⁰⁰ *Id.*

¹⁰¹ *See* E.B. v. Verniero, 119 F.3d 1077, 1082 (3d. Cir. 1997).

¹⁰² *See* 34 U.S.C. § 20915(a); 42 U.S.C. § 16915(a) (2006).

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *See* 34 U.S.C. § 20915(b); 42 U.S.C. 16915(b) (2006).

¹⁰⁶ *See* discussion on SORNA *supra* Section IBiii.

¹⁰⁷ *See* sources cited *infra* notes 108–110.

encompass various registries focused on child abuse,¹⁰⁸ animal abuse,¹⁰⁹ and elder abuse.¹¹⁰ Even more, some states maintain arsonist registries, operating similarly to sex offender registries.¹¹¹ However, whether these registries are accessible to the public depends on the jurisdiction and crime.¹¹²

Yet, as the concept of the criminal registry model gains popularity, so does the urge to expand the database of crimes and increase the public availability and accessibility to the information.¹¹³ While there is currently no federal interpersonal violence database, several states have proposed legislation to establish such a database, and some states have already established interpersonal violence databases.¹¹⁴

1. Texas

Unbeknownst to Monica Deming and law enforcement officials, her ex-boyfriend had a history of abuse and dating violence.¹¹⁵ Subsequent examination of court records revealed that her ex-boyfriend had been subject to two prior restraining orders from different women in Texas, issued in 2003 and 2012.¹¹⁶ Complicating matters, two different Texas counties issued restraining orders but no established communication mechanism existed between county law enforcement agencies.¹¹⁷ The absence of a law to bridge

¹⁰⁸ See CONN. GEN. STAT. ANN. § 17a-101k (West 2013) (maintaining registry of findings of abuse or neglect of children maintained by Connecticut's Commissioner of Children and Families). See also IOWA CODE ANN. § 235A.14 (West 2008) (establishing the creation and maintenance of a central registry for certain child abuse information).

¹⁰⁹ E.g., *Lou. Metro Ord. No. 45-2019* (approved 4-25-2019, effective 10-22-2019); See also *Animal Abuse Registry*, DEP'T OF ANIMAL SERVICES, <https://animalabuseregistry.louisvilleky.gov/> [<https://perma.cc/T4JU-GEFX>].

¹¹⁰ See ARIZ. REV. STAT. ANN. § 46-457 (2005) (creating an elder abuse central registry).

¹¹¹ E.g., OHIO REV. CODE ANN. § 2909.14 (West 2006) (requiring an arson offender to register with the county sheriff); LA. STAT. ANN. § 15:562.3 (2012) (requiring anyone over the age of seventeen who has been convicted of arson to register with the state fire marshal); Arsonist Registration Act, 730 ILL. COMP. STAT. ANN. 148/1-148/999 (West 2007) (requiring an arsonist, subject to criteria established by the Arsonist Registration Act to register with the chief in police or the sheriff for the county).

¹¹² See DOMESTIC VIOLENCE REGISTRY, <https://domesticviolenceregistry.com/by-state> [<https://perma.cc/TSW9-DUFP>] (providing a compiled list of states allowing public access to a national domestic violence registry with links to Arkansas Court Records, Indiana Protective Order Registry, and a Kansas General Offender Registry).

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Monica's Law: Texas protective order registry goes live statewide*, KOSA CBS 7 (Oct. 29, 2020), <https://www.cbs7.com/2020/10/29/monicas-law-texas-protective-order-registry-goes-live-in-texas/> [<https://perma.cc/23K5-FZVG>].

¹¹⁶ Family Violence Prevention Services, *The Texas Protective Order Registry: Monica's Law*, TEXAS LAW HELP (Dec. 27, 2022), <https://texaslawhelp.org/article/texas-po-registry-monicas-law> [<https://perma.cc/RL4P-LT3A>].

¹¹⁷ Mary Kate Hamilton, *Landgraf's Bill to Strengthen Monica's Law Passes Out of Texas House*, KOSA CBS 7 (May 10, 2021), <https://www.cbs7.com/2021/05/11/landgrafs-bill-to-strengthen-monicas-law-passes-out-of-texas-house/> [<https://perma.cc/F83M-DLA6>].

this information gap hindered local law enforcement agencies and other authorities from being alerted to the prior restraining orders.¹¹⁸

Monica's Law passed into Texas Law in 2019, creating a public website database containing names of individuals with restraining orders issued against them.¹¹⁹ Monica's Law serves to prevent repeat offenders of domestic abuse from hiding their crimes by moving from county to county because every court and law enforcement agency in the state will have access to a complete database of all restraining orders.¹²⁰ The general public maintains limited access to the registry, and information about a particular order is available only if a victim in the case has given authorization.¹²¹

2. New Jersey

If twenty-five-year-old Stephanie Parze knew about the violent past of her boyfriend, she might still be alive today.¹²² Days after Stephanie disappeared in 2019, past domestic dispute charges against her boyfriend came to light.¹²³ Authorities suspect her boyfriend murdered Stephanie and attempted to hide her body before committing suicide.¹²⁴

The Senate Judiciary Committee is currently reviewing Stephanie's Law, Bill S3712.¹²⁵ The Bill requires the Administrative Office of the Courts ("AOC"), in conjunction with the Attorney General, to develop and maintain a publicly accessible interpersonal violence Internet registry and mandates

¹¹⁸ See, e.g., *Monica's Law*, *supra* note 115 (quoting Representative Landgraf, "The Texas Protective Order Registry fills in an information gap that existed between the courts, law enforcement and the public as it relates to protective orders arising from incidents of domestic violence").

¹¹⁹ See TEX. GOV'T CODE § 72.153(a) ("In consultation with the Department of Public Safety and the courts of this state, the office shall establish and maintain a centralized Internet-based registry for applications for protective orders filed in this state and protective orders issued in this state."). See also *Protective Order Registry*, TEXAS JUDICIAL BRANCH, <https://www.txcourts.gov/judicial-data/protective-order-registry/> [<https://perma.cc/F38B-36B9>] ("The bill is now codified in Chapter 72, Subchapter F of the Texas Government Code, §§ 72.151–72.158."); *Search Protective Orders*, TEXAS ONLINE PUBLIC INFORMATION – COURTS (TOPICS), <https://topics.txcourts.gov/ProtectiveOrdersPublic> [<https://perma.cc/4S8M-P5NT>].

¹²⁰ Family Violence Prevention Services, *supra* note 116.

¹²¹ See TEX. GOV'T CODE § 72.154(a)(c) ("Subject to Subsections (c) and (d) and Section 72.158, the office shall establish and maintain the registry in a manner that allows a member of the public, free of charge, to electronically search for and receive publicly accessible information contained in the registry regarding each protective order issued in this state . . . (c) A member of the public may only access the information in the registry described by Subsection (b)."). See also *Protective Order Registry*, *supra* note 119.

¹²² Emily Shapiro, *Ex-boyfriend who died by suicide named suspect in Stephanie Parze murder: Prosecutor*, ABC NEWS (Jan. 27, 2020), <https://abcnews.go.com/US/stephanie-parze-found-dead-jersey-weeks-months-missing/story?id=68559511> [<https://perma.cc/SEE8-MQYH>].

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ See Stephanie's Law, S. 3712, 220th Leg., 2d Ann. Sess. (N.J. 2023), https://www.njleg.state.nj.us/bill-search/2022/S3712/bill-text?f=S4000&n=3712_I1 [<https://perma.cc/7C3S-J5LA>] (Failed). But see S. 2050, 221st Leg., 1st Ann. Sess. (N.J. 2024) (revived S. 3712 on June 3, 2024).

law enforcement officers search the State's interpersonal violence registries upon arresting a person.¹²⁶ The AOC maintains the interpersonal violence 'central' registry under N.J. Rev. Stat. § 2C:25-34, which is not accessible to the public, whereas Stephanie's Law registry operates separately.¹²⁷

Stephanie's Law seeks to grant public access to a registry containing details about individuals convicted of crimes or offenses related to interpersonal violence, those subject to final interpersonal violence restraining orders, or individuals found guilty of contempt of a temporary or final interpersonal violence restraining order.¹²⁸ The proposed Internet registry provides the general public easy access to the following information: (1) the person's name and aliases known to be used, (2) a description of any crime or offense involving interpersonal violence for which the person was convicted, the date and location of each disposition, and a general description of the person's signature methods; (3) person's age, race, gender, date of birth, height, weight, hair, eye color, any distinguishing scars or tattoos, (4) a photograph of the person and the date on which the photo was entered into the registry; and (5) the make, model, color, year, and license plate number of any vehicle operated by the person; (6) and the person's last known address.¹²⁹

3. New York

Although unsuccessful, a New York proposed database would have made public the abuser's name, address, and photograph, along with a description of the offenses of which the abuser was found guilty.¹³⁰ The proposed bill sought to mandate individuals who have been convicted of interpersonal violence at least three times to register as a repeat offender.¹³¹ Further, the bill would (1) charge offenders with the duty to notify law enforcement officials of any address change, (2) establish a special telephone number the public could call to inquire whether a particular person was on the list, and (3) require a public awareness campaign to advise the public of the registry.¹³² Access to the databases would have been available to the general

¹²⁶ *Id.*

¹²⁷ *Id.*; N.J. Rev. Stat. § 2C:25-34 (2024).

¹²⁸ Stephanie's Law, S. 3712, 220th Leg., 2d Ann. Sess. § 1(b).

¹²⁹ *Id.* at 1(c).

¹³⁰ See The Domestic Violence Protection Act—Brittany's Law, A.B. 3471, Leg. Reg. Sess. § 2 (N.Y. 2021).

¹³¹ S. S672, 2019-2020 Leg., Reg. Sess., § 195.04 (N.Y. 2019) (stating that "a person is guilty of failure to register or verify as a violent felony offender in the first degree when he or she commits the crime of failure to register or verify as a violent felony offender in the second degree and has previously been convicted of failure to register or verify as a violent felony offender in the second degree").

¹³² *Id.* at § 165-A (explaining the registry shall include "[t]he Domestic Violence Offenders name, all aliases used, date of birth, sex, race, height, weight, eye color, driver's license number, home address and/or expected place of domicile, any internet accounts with internet access providers, belonging to such

public without cost via a special telephone number.¹³³ Although the proposal aimed to reduce interpersonal violence by warning past and potential victims, the New York Senate has passed Brittany's Law eight times from 2011 to 2018 but remains unenacted.¹³⁴ As of 2025, legislative efforts continue to address domestic violence, including proposed measures to strengthen protections for survivors and expand law enforcement responsibilities.¹³⁵

4. Private Databases

Recognizing the importance of such databases, private companies and individuals have created the origins of a national database model for interpersonal violence convictions.¹³⁶ Any Internet user can search the registry by the offender's last name or state.¹³⁷ An entry typically includes details such as the offender's name, last-known residence, birth date, gender, race, hair color, eye color, a photograph, convictions with case numbers, and links to court documents or case information.¹³⁸ The organization compiles this information from state and county public records.¹³⁹ The Domestic Violence Database website describes the registry as an ongoing project; the registry is populated with information provided by survivors of interpersonal violence and advocates.¹⁴⁰ The information is validated by cross-referencing it with public court records before adding the offender's name and details to the registry.¹⁴¹

5. Significance of Recent Efforts to Establish Interpersonal Violence Databases

Despite the collective efforts of state and independent entities to establish interpersonal violence databases, such efforts remain insufficient and fragmented.¹⁴² Presently, the existence of any database, if any, is marred by

offender and internet identifiers that such offender's uses.").

¹³³ *Id.* at 165-K.

¹³⁴ See N.Y. State Senate, *Senate Passes Brittany's Law for Eighth Consecutive Year*, N.Y. SENATE (June 18, 2018), <https://www.nysenate.gov/newsroom/press-releases/2018/catharine-young/senate-passes-brittany-s-law-eighth-consecutive-year> [<https://perma.cc/CN4X-F7BP>].

¹³⁵ S. A848, 2025 Leg., 248th Sess. (N.Y. 2025), <https://www.nysenate.gov/legislation/bills/2025/A848>.

¹³⁶ *Domestic Violence Database*, DOMESTIC VIOLENCE REGISTRY, <https://domesticviolencedatabase.net> [<https://perma.cc/3WBL-29A7>].

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.* See also *Domestic Violence*, DOMESTIC VIOLENCE DATABASE, <http://www.domesticviolencedatabase.org/> [<https://perma.cc/T229-J757>] (providing additional information on domestic violence provided by the Domestic Violence Database).

¹⁴¹ *Id.*

¹⁴² See, e.g., Emerald Sheay, *People Who Hurt Animals Don't Stop With Animals: The Use of Cross-*

inconsistencies between states and private entities.¹⁴³ Consequently, Victims of interpersonal violence are left to navigate a patchwork of disjointed information state by state.¹⁴⁴ Such lack of uniformity poses a significant risk, as victims of interpersonal violence may not be aware of their partners' previous residence or whether the state maintains an interpersonal violence database.¹⁴⁵

As a result, a potentially dangerous information gap exists.¹⁴⁶ Texas's new database leads the way for other states to adopt similar registries.¹⁴⁷ Despite the lack of success in New York's and New Jersey's proposals to adopt interpersonal violence registries, these recent efforts display changing attitudes and growing acceptance of interpersonal violence registries.¹⁴⁸

D. Relevant Laws Regarding Gun Ownership and Registries

Understanding the legal framework underpinning gun ownership is crucial to addressing the relationship between gun ownership and

Checking Domestic Violence and Animal Abuse Registries in New Jersey to Protect the Vulnerable, 26 Animal L. 445, 453–54 (2020) (“Several states, including Texas and New York, have considered an expansion of this program with the implementation of publicly searchable domestic violence registries as a solution to the limits of a privately-accessible database, but none have been successful thus far.”); Young, *supra* note 53 at 783 (“No state has implemented a domestic violence database. As such, there is no empirical evidence on the effects of such a bill that can be analyzed.”).

¹⁴³ See, e.g., Office of Justice Programs, *Domestic and Sexual Violence Data Collection: A Report to Congress Under the Violence Against Women Act*, BUREAU OF JUST. STAT. (July 1996), <https://bjs.ojp.gov/library/publications/domestic-and-sexual-violence-data-collection-report-congress-under-violence> [perma.cc/GJ8V-9RBD] (describing the inconsistencies in data collection regarding domestic violence offenders).

¹⁴⁴ *Id.*

¹⁴⁵ See, e.g., Maryum Jordan, *Domestic Violence Homicide-Suicide: Expanding Intervention Through Mental Health Law*, 37 HARV. J.L. & GENDER 545, 550 (“Because information is not shared across jurisdictions, out-of-state law enforcement must rely on the victim to provide a copy of a protection order. Not only does this burden the victim to carry a protection order at all times, but out-of-state law enforcement is unaware if abusers who commit a domestic violence crime in its jurisdiction are subject to an out-of-state restraining order.”).

¹⁴⁶ *Id.*

¹⁴⁷ See Tex. Gov’t Code § 72.153(a). See also Young, *supra* note 53.

¹⁴⁸ Young, *supra* note 53, at 780 (“[I]t ought to be a welcome addition to the tools that law enforcement currently wields against domestic violence.”).

interpersonal violence. Currently, there is no federal firearm database or registry.¹⁴⁹

1. National Instant Criminal Background Check System

The Firearm Owners Protection Act of 1986 prohibits the NICS from establishing a system for registering firearms or firearm owners.¹⁵⁰ Instead, the United States relies on a system of background checks through the NICS to ensure that individuals who are prohibited from possessing or purchasing firearms, such as felons,¹⁵¹ interpersonal violence abusers,¹⁵² and those with certain mental health issues,¹⁵³ are not able to do so.¹⁵⁴

The NICS attempts to block firearm sales to prohibited individuals, thereby enhancing public safety by reducing the likelihood of guns being obtained by those who may pose a danger to themselves or others.¹⁵⁵ However, NICS only aims to determine if the prospective buyer is eligible under federal or state law to purchase or possess firearms.¹⁵⁶ If an individual passes a background check, the NICS does not retain the results.¹⁵⁷ Results

¹⁴⁹ *Owners Responsibilities - Registration*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/policy-areas/owner-responsibilities/registration/> [<https://perma.cc/85XZ-9GYC>].

¹⁵⁰ See 18 U.S.C. § 926(a) (“No such rule or regulation prescribed after the date of the enactment of the Firearms Owners’ Protection Act may require that records required to be maintained under chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established.”). See also 28 C.F.R. § 25.9(b)(3) (indicating that the NICS, including the NICS Audit Log, may not be used by any Department, agency, officer, or employee of the United States to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited from receiving a firearm by 18 U.S.C. 922(g) or (n) or by state law. The NICS Audit Log will be monitored and reviewed on a regular basis to detect any possible misuse of NICS data).

¹⁵¹ 18 U.S.C. § 922(g)(1).

¹⁵² See § 922(g)(8); § 922(g)(9).

¹⁵³ § 922(g)(4) (defining as “who has been adjudicated as a mental defective or who has been committed to a mental institution”).

¹⁵⁴ § 926(a); § 25.9(b)(3).

¹⁵⁵ See 28 C.F.R. § 25.1 (“The Brady Act requires the Attorney General to establish a National Instant Criminal Background Check System (NICS) to be contacted by any licensed importer, licensed manufacturer, or licensed dealer of firearms for information as to whether the transfer of a firearm to any person who is not licensed under 18 U.S.C. 923 would be in violation of Federal or state law.”).

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

are only used to approve or deny the sale of the firearm at that time.¹⁵⁸ Therefore, NICS itself does not establish a database of firearm owners.¹⁵⁹

2. The Gun Control Act

In 1968, Congress enacted the Gun Control Act (“GCA”).¹⁶⁰ The GCA aims to impose stricter licensing and regulation on the firearms industry, establish new categories of firearms offenses, and prohibit the sale of firearms and ammunition to felons and certain other prohibited persons.¹⁶¹ 18 U.S.C. § 922(g) represents a significant section of the GCA regarding interpersonal violence and firearms.¹⁶²

18 U.S.C. § 922(g)(8) prohibits an individual who received adequate notice of a court order that restrains such person from harassing, stalking, or threatening an intimate partner or their child from possessing or purchasing a firearm.¹⁶³ Section 922(g)(8) requires the court to issue the order after a hearing in which it gives the defendant proper notice and the opportunity to participate.¹⁶⁴ Additionally, the restraining order must contain a distinct determination that the defendant poses a credible threat to the victim’s physical safety, or it must expressly forbid the use of force likely to cause harm.¹⁶⁵

Further, 18 U.S.C. § 922(g)(9) was added as a critical federal statute concerning the intersection of interpersonal violence and gun ownership.¹⁶⁶ Section 922(g)(9) constitutes a significant legal framework concerning unlawful acts and regulating firearms¹⁶⁷ by prohibiting the possession or receipt of firearms and ammunition by individuals “who ha[ve] been convicted in any court of a misdemeanor crime of domestic violence.”¹⁶⁸ Section 922(g)(9) applies to individuals who have been convicted of misdemeanor crimes of interpersonal violence or those who are subject to qualifying interpersonal violence restraining orders.¹⁶⁹ These misdemeanor interpersonal violence offenses encompass crimes committed against current or former spouses, cohabitants, or parents and guardians of shared

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ Gun Control Act, 18 U.S.C. § 922(g).

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ § 922(g)(8).

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ § 922(g)(9).

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

children.¹⁷⁰ Violation of this statute carries criminal penalties, including imprisonment and fines.¹⁷¹

The paramount relevance of §§ 922(g)(8) and (9) lies in their recognition of the inherent risks associated with allowing individuals with histories of interpersonal violence, or those currently subject to restraining orders, to possess or purchase firearms.¹⁷² Thus, §§ 922(g)(8) and (9) provide the solid legal foundation for implementing and cross-checking federal interpersonal violence and gun databases to prevent these individuals from accessing firearms, ultimately contributing to enhanced public safety.¹⁷³

3. Violence Against Women Act

Congress established the Violence Against Women Act of 1994 (“VAWA”) to facilitate the government’s ability to address the epidemic of gun violence.¹⁷⁴ The VAWA includes provisions designed to address interpersonal violence and with further reauthorizations focusing on the nexus between interpersonal violence and gun ownership to enhance the safety of victims of such violence.¹⁷⁵ VAWA provides survivors, local programs, and communities with much-needed resources for housing, safety, legal assistance, alternatives to criminal responses, and prevention programming.¹⁷⁶

Subsequent reauthorizations of VAWA have aimed to address the “boyfriend loophole,” referring to the fact that, initially, the firearm prohibitions applied only to individuals who were married to, lived with, or had children with their abusers.¹⁷⁷ On March 15, 2022, reauthorization by President Biden extended prohibitions to individuals in dating relationships.¹⁷⁸ Additionally, the reauthorization increased federal penalties for those who violate protection orders, including orders related to firearms possession.¹⁷⁹

VAWA seeks to keep firearms away from convicted domestic abusers and stalkers by alerting law enforcement when abusers try to buy guns.¹⁸⁰

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Prosecutions Under 18 U.S.C. § 922(g)(8)*, *supra* note 23.

¹⁷⁴ *Reauthorize the Violence Against Women Act*, EVERYTOWN FOR GUN SAFETY (Apr. 28, 2021), <https://www.everytown.org/report/reauthorize-the-violence-against-women-act/> [<https://perma.cc/PX5G-9TV2>].

¹⁷⁵ *Id.*

¹⁷⁶ 34 U.S.C. § 12351 (providing housing protections for survivors of domestic abuse, dating violence, sexual assault, and/or stalking).

¹⁷⁷ *Reauthorize the Violence Against Women Act*, *supra* note 173.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

Moreover, VAWA includes measures to improve the effectiveness of background checks for individuals purchasing firearms.¹⁸¹ For instance, the FBI must inform state law enforcement if an abuser fails a background check and is stopped from buying a gun.¹⁸² Consequently, the law aims to ensure that the background check process correctly identifies individuals subject to restraining orders for interpersonal violence or stalking.¹⁸³

4. New York Rifle and Pistol Association, Inc. v. Bruen

The Supreme Court had upheld §§ 922(g)(8) and (9), VAWA, and other relevant gun laws as constitutional for almost thirty years until recently.¹⁸⁴ On June 23, 2022, the Supreme Court issued a decision in *New York Rifle and Pistol Association, Inc. v. Bruen* (2021), significantly changing how courts evaluate Second Amendment cases.¹⁸⁵ Consequently, this decision jeopardizes previously settled gun laws, such as § 922(g)(8).¹⁸⁶ Now, whether interpersonal violence abusers have a constitutional right to own a gun is left on unstable ground.¹⁸⁷

Before *Bruen*, courts upheld most gun laws based on a test derived from the *District of Columbia v. Heller* (2008) and *City of Chicago v. McDonald*.¹⁸⁸ Under the *Heller-McDonald* test, the Second Amendment protects firearms for lawful purposes like self-defense.¹⁸⁹ The *Bruen* majority opinion, written by Justice Thomas, held that courts may not look at everyday use in the current time to justify gun regulations.¹⁹⁰ Instead, the Court held:

The *Bruen* standard applying the Second Amendment is as follows: When the Second Amendment's *plain text* covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is *consistent with the Nation's historical tradition of firearm regulation*.

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ Interview by John Yang with Kelly Roskam, *supra* note 37.

¹⁸⁵ *Id.*; N.Y. State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1, 19 (2022).

¹⁸⁶ United States v. Rahimi, 61 F.4th 443, 448 (5th Cir. 2023) (reversed and remanded).

¹⁸⁷ *Bruen*, 597 U.S. at 19.

¹⁸⁸ See *Post-Heller Second Amendment Jurisprudence*, CONG. RSCH. SERV. (Mar. 25, 2019), <https://sgp.fas.org/crs/misc/R44618.pdf> [<https://perma.cc/QV5R-L5SC>]. See also *District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. City of Chicago*, 561 U.S. 742 (2010) (plurality opinion).

¹⁸⁹ *Heller*, 554 U.S. at 627.

¹⁹⁰ *Bruen*, 597 U.S. at 24.

Only then may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command."¹⁹¹

As a result, when a law is challenged for violating the Second Amendment, the government may no longer justify a restriction solely by arguing such restrictions are presently commonplace.¹⁹²

The *Bruen* court emphasized that individual and public safety can only be considered for gun violence if an analogous historical law did so as well.¹⁹³ Consequently, the decision resulted in lower court rulings striking down more than a dozen laws regarding firearms¹⁹⁴ and ruling interpersonal violence abusers have a constitutional right to purchase and possess a gun.¹⁹⁵

II. THE PATH TO ESTABLISHING A FEDERAL INTERPERSONAL VIOLENCE AND GUN OWNERSHIP DATABASE

Following the *Bruen* decision, Rahimi, the individual from Texas charged with violating firearm regulations related to an interpersonal violence restraining order, challenged 18 U.S.C. § 922(g)(8) in *United States v. Rahimi*.¹⁹⁶

The Fifth Circuit Court of Appeals heard the *Rahimi* case and held § 922(g)(8) unconstitutional.¹⁹⁷ Rahimi's writ of certiorari was granted, and the Supreme Court published an opinion in June of 2024.¹⁹⁸

A. 18 U.S.C. § 922(g)(8) Survives Constitutional Scrutiny

Rahimi tested how far the Supreme Court's conservative majority would go in interpreting the scope of its *Bruen* ruling.¹⁹⁹ The stakes of the case were high, as § 922(g)(8) could be the difference between life and death for victims of interpersonal violence.²⁰⁰ Fortunately, the *Rahimi* Court upheld § 922(g)(8g) as constitutional.²⁰¹ The majority opinion, written by Chief

¹⁹¹ *Id.* (citing *Konigsberg v. State Bar of California*, 366 U. S. 36, 50 (1961)) (emphasis added).

¹⁹² *Id.*

¹⁹³ *Id.* at 29 ("Therefore, whether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified are 'central' considerations when engaging in an analogical inquiry.") (citing *McDonald*, 561 U.S. at 767).

¹⁹⁴ See *United States v. Quiroz*, 629 F. Supp. 3d 511, 527 (holding that the federal law banning those under indictment from obtaining a firearm violated the Second Amendment).

¹⁹⁵ *United States v. Rahimi*, 61 F.4th 443, 448 (5th Cir. 2023) (reversed and remanded).

¹⁹⁶ Brief for Petitioner, *supra* note 20, at 2.

¹⁹⁷ *Rahimi*, 61 F.4th at 467.

¹⁹⁸ *United States v. Zackey Rahimi*, 602 U.S. 680 (2024).

¹⁹⁹ Linda Greenhouse, *We're About to Find Out How Far the Supreme Court Will Go to Arm America*, N.Y. TIMES (Mar. 29, 2023), <https://www.nytimes.com/2023/03/29/opinion/guns-supreme-court.html> [https://perma.cc/ME75-BMCZ].

²⁰⁰ *Id.*

²⁰¹ *Rahimi*, 602 U.S. at 699–701.

Justice Roberts, provides lower courts with clarity on the framework laid out in *Bruen* as applied to individuals subjected to restraining orders.²⁰² By upholding § 922(g)(8), the Court underscored the urgency and importance of comprehensive solutions to address the intersection of interpersonal violence and gun ownership.²⁰³

1. Second Amendment Analysis

The Court upheld § 922(g)(8) as constitutional under the *Bruen* standard.²⁰⁴ The “tradition of firearm regulation allows the Government to disarm individuals who present a credible threat to the physical safety of others.”²⁰⁵ Section 922(g)(8) aligns with that longstanding tradition.²⁰⁶ When a protection order identifies individuals who present a credible threat to the physical safety of an intimate partner, barring that individual from firearm possession is consistent with the Second Amendment while the order remains active.²⁰⁷

i. The right to bear arms is not unlimited

Although the Second Amendment protects the right to bear arms, this right is not without limitations.²⁰⁸ The Court has consistently stressed that “the right secured by the Second Amendment is not unlimited.”²⁰⁹ An examination of the United States’ historical and traditional context reveals that the Second Amendment does not guarantee an unrestricted right to possess every kind of weapon.²¹⁰

The *Heller* Court determined that the right to bear arms applies to ordinary citizens within the home, but the right is not boundless.²¹¹ Historically, there were regulations on bearing arms, including guidelines on storage bans on “dangerous and unusual weapons” and concealed firearms.²¹² Furthermore,

²⁰² *Id.* at 692.

²⁰³ Kelly Roskam, *Questions and Answers on U.S. v. Rahimi, The Major Gun Case Before the Supreme Court During its 2023-2024 Term*, JOHN HOPKINS BLOOMBERG SCH. OF PUBLIC HEALTH (Oct. 10, 2023), <https://publichealth.jhu.edu/2023/questions-and-answers-on-us-v-rahimi-the-major-gun-case-before-the-supreme-court-during-its-2023-2024-term> [https://perma.cc/S2VG-LJEF].

²⁰⁴ *Rahimi*, 602 U.S. at 690.

²⁰⁵ *Id.* at 717.

²⁰⁶ *Id.* at 690.

²⁰⁷ *Id.* at 690–91 (citing *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008)).

²⁰⁸ *Id.*

²⁰⁹ *Id.* at 691 (quoting *Heller*, 554 U.S. at 626).

²¹⁰ *Heller*, 554 U.S. at 595 (“[N]ot [to] read the Second Amendment to protect the right of citizens to carry arms for any sort of confrontation, just as we do not read the First Amendment to protect the right of citizens to speak for any purpose.”).

²¹¹ *Heller*, 554 U.S. at 626–27.

²¹² *Id.* (acknowledging “longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government

the *Heller* Court assessed the extent of the right by considering both the Second Amendment's text and history.²¹³

In *Bruen*, the Court directed lower courts to explore the “historical tradition of firearm regulation” to better define the boundaries of Second Amendment rights.²¹⁴ Accordingly, under *Bruen*, a regulation that aligns with that historical tradition is considered constitutional under the Second Amendment.²¹⁵ Additionally, the *Bruen* Court clarified that when the government seeks to regulate the conduct of arms-bearing—as it does with other constitutional rights—it carries the responsibility to “justify its regulation.”²¹⁶

ii. A historical twin is unnecessary for a gun regulation to be constitutional

The *Rahimi* Court highlights that some lower courts misinterpreted the recent Second Amendment rulings, noting that “[t]hese precedents were not meant to suggest a law trapped in amber.”²¹⁷ Therefore, the Second Amendment's scope is not limited to only arms existing at the time of the United States' founding.²¹⁸ Instead, it extends to all bearable arms, including those developed later on in history.²¹⁹ Consequently, acceptable regulations are not restricted to those that existed in 1791.²²⁰ The *Rahimi* Court emphasized that “[h]olding otherwise would be as mistaken as applying the protections of the right only to muskets and sabers.”²²¹

The *Bruen* Court outlined that the correct analysis for evaluating a challenged regulation involves determining whether it aligns with the principles of the United States' historical regulatory tradition.²²² Thus, the law must be “*relevantly similar*” to regulations that have historically been accepted as permissible, “apply[ing] faithfully the balance struck by the founding generation to modern circumstances.”²²³

The rationale behind the impact of a regulation on the right to bear arms is crucial to this evaluation.²²⁴ If historical laws addressed particular issues

buildings, or laws imposing conditions and qualifications on the commercial sale of arms”).

²¹³ *Id.* at 624 (examining the Second Amendment's prefatory clause, operative clause, precedent, and history).

²¹⁴ *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17 (2022).

²¹⁵ *Id.*

²¹⁶ *Id.* at 24.

²¹⁷ *United States v. Zackey Rahimi*, 602 U.S. 680, 691 (2024) (providing the Amendment “extends, *prima facie*, to all instruments that constitute bearable arms, even those that were not [yet] in existence”).

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.* at 692.

²²² *Id.*

²²³ *Id.* (citing *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 29 (2022)).

²²⁴ *Id.*

related to firearm use, it indicates that modern regulations targeting similar concerns may be constitutional.²²⁵ However, a regulation must not impose more restrictions than those in place at the founding.²²⁶ “The law must comport with the principles underlying the Second Amendment, but it need not be a ‘dead ringer’ or a ‘historical twin.’”²²⁷ Therefore, even if a challenged regulation does not exactly match its historical counterparts, it can still be deemed constitutional if it is sufficiently analogous.²²⁸

Notably, Justice Sotomayor’s concurring opinion, joined by Justice Kagan, underscores the shortcomings of the *Bruen* test and an originalist approach in effectively tackling interpersonal gun violence prevention.²²⁹ She notes that at the time of the Constitution’s ratification, there were no laws specifically designed to protect interpersonal violence victims.²³⁰ Consequently, she argues that strictly adhering to the legal and political perspectives of that era perpetuates the marginalization of interpersonal violence victims who were similarly marginalized in the 18th century.²³¹

iii. History and tradition support the disarmament of individuals posing a credible threat to others’ physical safety

Supreme Court decisions, including *McDonald*, *Heller*, *Bruen*, and *Rahimi*, affirm Congress’s authority to disarm individuals who pose a credible threat to the physical safety of others.²³² A thorough review of American gun law history, as outlined in these four cases, reveals that early common law established regulations against the misuse of firearms for physical harm or intimidation.²³³

Long before America’s founding, “going armed to terrify the King’s subjects” was treated as a serious crime.²³⁴ Parliament enacted firearm prohibitions as early as the 1200s and 1300s.²³⁵ In the wake of the Reformation and the English Civil War, additional regulations were

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ *Id.* (citing *Bruen*, 597 U.S. at 30).

²²⁸ *Id.*

²²⁹ *Id.* at 702–03.

²³⁰ *Id.*

²³¹ *Id.*

²³² See *Rahimi*, 602 U.S. 680; *Bruen*, 597 U.S. 1; *McDonald v. City of Chicago*, 561 U.S. 742 (2010); *District of Columbia v. Heller*, 554 U.S. 570 (2008).

²³³ *Rahimi*, 602 U.S. at 693–94.

²³⁴ *Id.* (citing *Sir John Knight’s Case*, 3 Mod. 117, 118 (K. B. 1686)).

²³⁵ *Id.* (citing *Bruen*, 597 US at 40). See, e.g., *Statute of Northampton*, 2 Edw. 3, c. 3 (1328).

implemented, including the Militia Act of 1662, which empowered authorities to confiscate weapons from individuals deemed a threat.²³⁶

The Glorious Revolution of 1688 curtailed the Crown's power to disarm individuals without consent, setting the stage for the English Bill of Rights in 1689.²³⁷ This document granted Protestant subjects the right to bear arms for self-defense, though legal restrictions still abridged this right.²³⁸ From the 1200s until the late 1700s, when the United States was founded, English law imposed disarmament on a range of individuals—including brigands, highwaymen, political opponents, and disfavored religious groups.²³⁹

At the time of America's founding, state constitutions and the Second Amendment limited the government's capacity to disarm political adversaries.²⁴⁰ Nevertheless, regulations continued to exist aimed at individuals perceived as threats to others, typically enforced through criminal laws or civil action.²⁴¹ However, by the early 1800s, two separate legal structures emerged to address firearms violence: surety laws and "going armed laws."²⁴²

Surety laws originated from the ancient practice of frankpledges, in which groups of ten men guaranteed one another's good conduct.²⁴³ This communal approach gradually developed into a more individualized surety system, enabling magistrates to mandate that individuals deemed likely to engage in future misconduct post bonds to prevent violence.²⁴⁴ These laws were extensively utilized to curb different types of violence, including domestic abuse, and specifically targeted those who misused firearms.²⁴⁵

For instance, a 1795 Massachusetts law authorized justices of the peace to "arrest" all who "go armed offensively [and] require of the offender to find sureties for his keeping the peace."²⁴⁶ Massachusetts subsequently revised its surety laws to make them more precise, allowing courts to impose bonds on individuals "armed with a dirk, dagger, sword, pistol, or other offensive and

²³⁶ *Id.*; Militia Act of 1662, 14 Car. 2 c. 3, § 13 (1662); J. Greenlee, *The Historical Justification for Prohibiting Dangerous Persons from Possessing Arms*, 20 WYO. L. REV. 249, 259 (2020).

²³⁷ *Rahimi*, 602 U.S. at 692 (citing 1 WM. & MARY c. 2, § 6, in 3 *Eng. Stat. at Large* 440 (1689)).

²³⁸ *Id.* (citing 1 WM. & MARY c. 2, § 6, in 3 *Eng. Stat. at Large* 441 (1689) ("that the Subjects which are Protestants may have Arms for their Defense suitable to their Conditions, and as allowed by Law")).

²³⁹ *Id.* at 693–94.

²⁴⁰ *Id.* (citing *District of Columbia v. Heller*, 554 U.S. 570, 594–95 (2008)).

²⁴¹ *Id.* at 694 (citing 4 WILLIAM BLACKSTONE, COMMENTARIES *145–46, 149–50 (10th ed. 1787)).

²⁴² *Id.*

²⁴³ *Id.* (citing A.H.F. Lefroy, *Anglo-Saxon Period of English Law, Part II*, 26 YALE L. J. 388, 391 (1917)).

²⁴⁴ *Id.* (citing 4 BLACKSTONE *251).

²⁴⁵ *Id.* at 695; see 4 BLACKSTONE *253 (stating that wives could "demand sureties against their husbands or husbands, if necessary, against their wives"). See also Ruth H. Bloch, *The American Revolution, Wife Beating, and the Emergent Value of Privacy*, 5 EARLY AM. STUD.: AN INTERDISC. J. 223, 232–35 (2007) (discussing peace bonds).

²⁴⁶ *Rahimi*, 602 U.S. at 696 (citing 1795 Mass. Acts ch. 2, in Acts and Resolves of Massachusetts, 1794–95, ch. 26, pp. 66–67 (1896)); see *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 55 (2022).

dangerous weapon.”²⁴⁷ Between 1838 and 1871, at least nine other jurisdictions adopted similar measures.²⁴⁸

These surety laws also required a formal complaint to be filed by an individual with reasonable grounds for fear before the accused could be compelled to secure a bond for carrying arms.²⁴⁹ A judge would evaluate the evidence presented and, if justified, order the accused to appear before the court.²⁵⁰ The bonds lasted up to six months, although exceptions were made for self-defense cases.²⁵¹

While the surety laws offered a way to prevent firearm possession proactively, “going-armed” laws were established to punish those who menaced others with firearms.²⁵² Rooted in a particular subset of the ancient common-law prohibition on affrays, these laws evolved beyond just addressing public brawls to include the act of “riding or going armed with dangerous or unusual weapons, [to] terrify[] the good people of the land.”²⁵³ This recognition allowed authorities to target those who posed threats by merely displaying weapons.²⁵⁴

Such conduct threatened “public order” and “almost necessarily led to actual violence.”²⁵⁵ As a result, the law established penalties for these actions, which included “forfeiture of the arms . . . and imprisonment.”²⁵⁶ In several occurrences, prohibitions on “going armed” and affrays were integrated into American law through the common law.²⁵⁷ Moreover, at least four states explicitly codified laws prohibiting going armed.²⁵⁸

The surety and “going armed” laws together illustrate a fundamental historical tradition: individuals who present a clear threat of physical violence to others may be disarmed.²⁵⁹ Section 922(g)(8) is not an exact replica of these early legal frameworks, but it does not need to be.²⁶⁰ Its prohibition on firearm possession for those deemed a danger to others by a

²⁴⁷ *Id.* at 695 (citing Mass. Rev. Stat., ch. 134, § 16). *See also Bruen* 597 U.S. at 55–56.

²⁴⁸ *See Bruen* 597 U.S. at 56 and n.23.

²⁴⁹ *Rahimi*, 602 U.S. at 695–96 (citing Mass. Rev. Stat., ch. 134, §§ 1, 16). *See also Bruen* 597 U.S. at 56.

²⁵⁰ *Rahimi*, 602 U.S. at 695 (citing Mass. Rev. Stat., ch. 134, §§ 3, 4).

²⁵¹ *Bruen*, 597 U.S. at 56 (citing Mass. Rev. Stat., ch. 134, § 16).

²⁵² *Id.* at 116; *Rahimi*, 602 U.S. at 697.

²⁵³ *Rahimi*, 602 U.S. at 697 (citing 4 BLACKSTONE *149).

²⁵⁴ *Id.*

²⁵⁵ *Id.* (citing *State v. Huntly*, 25 N.C. 418, 421–22 (1843)).

²⁵⁶ *Id.* (citing 4 BLACKSTONE *149).

²⁵⁷ *Id.*

²⁵⁸ *See Huntly*, 25 N. C., at 421–22; *O’Neill v. State*, 16 Ala. 65, 67 (1849); *Hickman v. State*, 193 Md. App. 238, 253–55 (2010) (providing in Maryland the common-law prohibition on fighting in public is still chargeable).

²⁵⁹ *Rahimi*, 602 U.S. at 697.

²⁶⁰ *Id.*

court corresponds with the historical practices reflected in both the surety and “going armed” laws.²⁶¹

iv. Individuals subject to a restraining order under 18 U.S.C. § 922(g)(8) pose a credible threat to the physical safety of others

Section 922(g)(8) targets individuals who pose a threat to another’s physical safety.²⁶² Therefore, the statute is “relatively similar”²⁶³ to historical laws in its intent and restrictions on Second Amendment rights.²⁶⁴ Similar to the surety and “going armed” laws, § 922(g)(8) restricts firearm possession in response to evident threats of violence.²⁶⁵ Contrary to the regulation invalidated in *Bruen*,²⁶⁶ § 922(g)(8) does not impose a sweeping limitation on public access to firearms.²⁶⁷

The restriction § 922(g)(8) places on the right to bear arms aligns with established regulatory traditions.²⁶⁸ The Court notes that § 922(g)(8) applies once a court has found that the defendant “represents a credible threat to the physical safety” of another.²⁶⁹ This approach reflects the practices of surety and going armed laws, which relied on judicial evaluations to decide if an individual was likely to threaten or had already threatened someone with a weapon.²⁷⁰ Furthermore, similar to surety bonds, the limitations imposed on Rahimi under § 922(g)(8) are temporary.²⁷¹ The law only bars firearm possession “so long as the defendant ‘is under a restraining order.’”²⁷² For Rahimi, this limitation remains in effect for one to two years following his release from prison.²⁷³

Finally, the penalty aligns with historical regulatory practices.²⁷⁴ Under the “going armed” laws, imprisonment was an established form of punishment.²⁷⁵ If incarcerating individuals for using guns to threaten or

²⁶¹ *Id.* at 698 (citing *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 30 (2022)).

²⁶² *Id.*

²⁶³ *Id.* (citing *Bruen*, 597 U.S. at 29).

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ *Bruen*, 597 U.S. at 71.

²⁶⁷ *Rahimi*, 602 U.S. at 698.

²⁶⁸ *Id.* at 698-99.

²⁶⁹ *Id.* (citing 18 U.S.C. § 922(g)(8)(C)(i)).

²⁷⁰ *Id.* at 699.

²⁷¹ *Id.*

²⁷² *Id.* (citing § 922(g)(8)).

²⁷³ *Id.* (citing *Tex. Fam. Code* § 85.025(c) (West 2019)).

²⁷⁴ *Id.* (citing 4 BLACKSTONE *149).

²⁷⁵ *Id.*

menace others was permissible, then the comparatively milder consequence of temporary disarmament mandated by § 922(g)(8) is equally justifiable.²⁷⁶

The United States' tradition of firearm regulation clearly distinguishes between citizens who pose a credible threat to others' safety and those who do not.²⁷⁷ In line with this tradition, the government is authorized to disarm individuals deemed to present such a threat.²⁷⁸ Accordingly, § 922(g)(8) is lawfully applicable to *Rahimi* and others who a judge finds to be a threat to the physical safety of another individual.²⁷⁹

2. *Rahimi* establishes a strong legal foundation for a federal interpersonal violence and gun ownership database via 18 U.S.C § 922(g)(8)

Section 922(g)(8) is crucial for safeguarding victims and survivors of interpersonal violence, particularly because existing laws and means often fail to disarm abusers.²⁸⁰ The federal statute attempts to shield victims of interpersonal violence from the dangers posed by their abusers' as a result of gun ownership.²⁸¹ The ruling in *Rahimi* represents considerable progress in the fight against interpersonal violence by reinforcing the importance of protecting victims from further harm.²⁸²

However, as noted by Esther Sanchez-Gomez, litigation director at Giffords Law Center, the ruling in *Rahimi* "will save lives, but too many women die at the intersection of domestic violence and firearms. We still have a lot of work to do."²⁸³ In upholding § 922(g)(8), *Rahimi* sets a precedent that supports the establishment of additional protections, such as a

²⁷⁶ *Id.*

²⁷⁷ *Id.*

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ Kim, *United States v. Rahimi: A win for ending violence against women*, NAT'L ORG. FOR WOMEN (Aug. 6, 2024), <https://now.org/blog/united-states-vs-rahimi-a-win-for-ending-violence-against-women/> [<https://perma.cc/5Q83-CVW3>].

²⁸¹ *Id.*

²⁸² *Id.* See also Sabrina Talukder & Nick Wilson, *In U.S. v. Rahimi, Supreme Court Rules in Favor of Domestic Violence Survivor Safety but Upholds Problematic Bruen Framework*, CENT. FOR AM. PROGRESS (Jun. 21, 2024), <https://www.americanprogress.org/article/in-u-s-v-rahimi-supreme-court-rules-in-favor-of-domestic-violence-survivor-safety-but-upholds-problematic-bruen-framework/> [<https://perma.cc/EKP8-HYK2>].

²⁸³ Melissa Quinn, *Supreme Court upholds law banning domestic abusers from having guns*, CBS NEWS (June 21, 2024), <https://www.cbsnews.com/news/supreme-court-guns-domestic-violence-second-amendment-us-v-rahimi/> [<https://perma.cc/H547-XVSB>].

federal interpersonal violence and gun database, which could address the gap in federal laws.²⁸⁴

B. 18 U.S.C. § 922(g)(8) Is Not Enough to Bridge the Gap in Federal Laws

A fatal gap exists in federal law. The law only *prevents* individuals subjected to interpersonal violence restraining orders from purchasing firearms.²⁸⁵ Section 922(g)(8) is silent on removing guns abusers already own when a restraining order is taken out against them.²⁸⁶ Each state has the discretion to establish a removal process; yet, only a minority of states have enacted specific removal laws detailing how to turn guns in and ensure compliance with the order.²⁸⁷ Currently, 32 states prohibit interpersonal abusers under restraining orders from having guns,²⁸⁸ and 22 states require prohibited interpersonal violence abusers to turn in any firearms in their possession while under a restraining order.²⁸⁹

While sometimes gun possession violations are prosecuted, it is much more likely that an offender would be prohibited from purchasing a firearm.²⁹⁰ Accordingly, it remains too easy for an offender to maintain the possession of a previously purchased gun without facing prosecution.²⁹¹ Further, the lack of cohesion between individual state and local interpersonal violence databases and state/local gun ownership registration, if such a database even exists, results in offenders flying under the radar and purchasing or possessing guns anyway.²⁹²

It is not uncommon that despite violating federal law, a subject of a restraining order will continue to possess a gun.²⁹³ Here, the current law has

²⁸⁴ United States v. Zackey Rahimi, 602 U.S. 680, 690 (2024).

²⁸⁵ See 18 U.S.C. § 922(g)(8) (prohibiting firearm purchase and/or possession by those subjected to court protective orders relating to domestic violence); 18 U.S.C. § 922(g)(9) (prohibiting firearm purchase and/or possession of those convicted of a misdemeanor crime of domestic violence).

²⁸⁶ See 18 U.S.C. § 922(g)(8)–(9).

²⁸⁷ Interview by John Yang with Kelly Roskam, *supra* note 37.

²⁸⁸ Everytown Research & Policy, *Which states prohibit domestic abusers from having guns?*, EVERYTOWN FOR GUN SAFETY (2024), <https://everytownresearch.org/rankings/law/prohibition-for-domestic-abusers-under-restraining-orders/> [https://perma.cc/76LV-D9J4].

²⁸⁹ Everytown Research & Policy, *Which states require prohibited domestic abusers to turn in any guns while under a restraining order?*, EVERYTOWN FOR GUN SAFETY (2024), <https://everytownresearch.org/rankings/law/relinquishment-for-domestic-abusers-under-restraining-orders/> [https://perma.cc/EKZ9-HFAX].

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

²⁹³ See, e.g., *Shea v. State*, 194 N.E. 3d 648 (Ind. Ct. App. 2022) (explaining that Defendant received a copy of a protective order and was aware of its terms. While under the protective order, Defendant was arrested after being involved in a car accident when police discovered he was “open carrying” a firearm without a license); *Logan v. Commonwealth*, 72 Va. App. 203, (Va. Ct. App. 2029) (deciding that Defendant was convicted of attempting to purchase a firearm while subject to a protective order); *United States v. Zackey Rahimi*, 602 U.S. 680, 690 (2024) (holding that Defendant was convicted for possessing a firearm while under a domestic violence restraining order in violation of 18 U.S.C. § 922(g)(8). While

one major shortcoming: it does not effectively protect a victim who reports interpersonal violence because the law fails to mandate and regulate the removal and relinquishment of firearms.²⁹⁴ Counteractively, the restraining order instead provokes the abuser, who likely will retaliate against the victim for reporting, all while possessing a gun despite the restraining order.²⁹⁵ As a result, the victim who reports domestic abuse remains unprotected and, arguably, in a more dangerous situation than if they remained silent.²⁹⁶

Implementing a federal interpersonal violence and gun database that tracks individuals subject to restraining orders would provide a crucial layer of protection for victims of domestic violence.²⁹⁷ Despite the issuance of restraining orders, it's evident that relying solely on these legal documents is insufficient to ensure the removal of firearms from the hands of potential abusers.²⁹⁸ By utilizing such a database, courts could effectively monitor and enforce the relinquishment of firearms owned by individuals under restraining orders.²⁹⁹

Moreover, the database will enable states to flag individuals attempting to purchase firearms if they have an active restraining order against them, preventing them from obtaining weapons.³⁰⁰ This system would not only provide victims with a tangible means of protection but also incentivize them to come forward and seek legal recourse, knowing that concrete measures are in place to ensure their safety.³⁰¹ By empowering victims with access to adequate legal remedies, such a database would play a pivotal role in breaking the cycle of silence and enabling survivors to reclaim their autonomy and security.³⁰²

Section 922(g)(8) sets a robust legal foundation for creating an interpersonal violence and gun database and is pivotal for safeguarding victims.³⁰³ However, it is crucial to address the gap in the law, which underscores the need for a federal database to track individuals under restraining orders and ensure compliance with relinquishment mandates.³⁰⁴

under a protective order, the Defendant was involved in five shootings spanning six weeks).

²⁹⁴ Interview by John Yang with Kelly Roskam, *supra* note 37.

²⁹⁵ *Id.*

²⁹⁶ *Id.*

²⁹⁷ Aaron Zucker, *Making Gun Offender Registries Available to the Public: A Safety Practice or Target Practice?*, 42 HOFSTRA L. REV. 1299, 1318–19.

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ *Id.*

³⁰¹ *Id.*

³⁰² *Id.*

³⁰³ Kim, *supra* note 279.

³⁰⁴ *Id.*

Such a database would not only shield victims but also deter abusers, fostering a safer environment for survivors seeking legal recourse.³⁰⁵

III. RESOLUTION

Although the government has the constitutional authority to prohibit individuals under restraining orders from purchasing or possessing firearms, the safety of interpersonal victims remains vulnerable.³⁰⁶ Stronger legal protections are necessary. Enhancing public access to gun ownership information about individuals under such restraining orders can significantly mitigate potential risks and prevent future harm.³⁰⁷

A. Proposal

Congress possesses the authority to enact legislation that provides adequate protection for victims of interpersonal violence against future harm. Gun regulations, such as § 922(g)(8), play a crucial role in safeguarding interpersonal violence victims by disarming individuals who pose a threat to their physical safety.³⁰⁸ However, the effectiveness of § 922(g)(8) heavily depends on the government's ability to enforce restrictions on gun ownership for individuals under restraining orders, ensuring that victims receive the safety they deserve.³⁰⁹

While the decision to uphold § 922(g)(8) has cleared a significant legal hurdle for gun legislation, Congress now faces the challenge of amending the NICS to create a comprehensive federal gun ownership database.³¹⁰ NICS's primary goal is to determine the eligibility of prospective buyers to purchase or possess firearms according to federal or state laws.³¹¹ Once a background check is completed, NICS does not retain the results if the individual passes; the data is solely used to approve or deny the firearm sale at that moment.³¹² Consequently, NICS does not maintain a database of firearm owners.³¹³

To remedy this shortcoming in federal law, Congress must move toward a system of universal firearm registration by enhancing NICS to encompass all firearm transfers and incorporating the information gathered into a federal

³⁰⁵ *Id.*

³⁰⁶ Zeoli et al., *supra* note 36.

³⁰⁷ Zucker, *supra* note 296 at 1319.

³⁰⁸ Currie Engel, *What the Supreme Court's Rahimi Ruling Means for Everyone*, WOMEN'S HEALTH (Jun. 24, 2024), <https://www.womenshealthmag.com/health/a61209402/rahimi-supreme-court-ruling-next-steps/> [<https://perma.cc/GJ4R-Y2MR>].

³⁰⁹ *Id.*

³¹⁰ See discussion *supra* on NICS Section IDi.

³¹¹ See sources cited *supra* note 149.

³¹² *Id.*

³¹³ *Id.*

firearm database to retain the data indefinitely. Additionally, Congress must enact legislation that enables authorities to make information on gun ownership and possession by individuals under restraining orders accessible to the public until the order expires. The NRA itself pointed out that this approach is practical:

NICS would become a registry of firearm transfers if all firearm transfers were subject to NICS checks, the FBI retained records of approved checks indefinitely, and such records included information currently maintained on federal Form 4473s, which document the identity of a person who acquires a firearm from a firearm dealer, along with the make, model and serial number of the firearm acquired. Over time, as people would sell or bequeath their firearms, a registry of firearm transfers would become a registry of firearms possessed.³¹⁴

As such, establishing a federal firearm registry through NICS would be straightforward and familiar, minimizing the risk of errors.³¹⁵

Despite the urgency for such measures, some resistance exists regarding the creation of a federal gun ownership database, primarily due to privacy concerns and apprehension of government overreach.³¹⁶ However, the database would not need to make public all information in the database but instead focus on information about individuals disqualified from purchasing firearms, particularly those deemed a threat to another's physical safety, as specified in § 922(g)(8).

If Congress amends the NICS accordingly, states could use a federal database tracking interpersonal and gun violence to implement protocols that ensure individuals surrender guns when issued a restraining order and prevent them from making future purchases. Without such laws, victims of

³¹⁴ *Gun Registration | Gun Licensing*, NAT'L RIFLE ASS'N—INST. FOR LEGIS. ACTION (Aug. 8, 2016), <https://www.nraila.org/get-the-facts/registration-licensing/> [https://perma.cc/7CYV-RXFZ].

³¹⁵ Dylan J. McDonough, *Note: Locked, Loaded and Registered: The Feasibility and Constitutionality of a Federal Firearms Registration System*, 96 NOTRE DAME L. REV. 1347, 1378.

³¹⁶ *Id.*

interpersonal violence remain vulnerable, facing an increased likelihood of gun violence and potential death.

B. Victims of Interpersonal Violence Require More Protection

The criminal justice system alone is not sufficient for victims of interpersonal violence.³¹⁷ A federal interpersonal violence and gun database serves to provide alternative protection for victims.

1. The Criminal Justice System is Not Enough

The prevailing emphasis on the criminal legal system as a solution to address survivor needs is flawed, assuming it can swiftly ensure accountability and meet the diverse needs of survivors.³¹⁸ Recent research counters this assumption, revealing persistent low rates of arrest, prosecution, and conviction despite high incidences of domestic violence.³¹⁹ Even when abusers are apprehended, the process can be prolonged, leaving survivors vulnerable during a critical period.³²⁰ Moreover, the criminal legal system falls short of providing essential services, with only a fraction of survivors receiving support.³²¹ Financial hurdles, housing insecurity, and involvement with child protective services further complicate survivors' ability to leave abusive situations.³²² Further, victims often encounter negative experiences with law enforcement, including discrimination and dismissive responses.³²³ Overall, the criminal legal system fails to effectively meet the needs of survivors, underscoring the urgency for alternative approaches to support and protect them.³²⁴

2. Benefits of a Federal Interpersonal Violence and Gun Ownership Database

Notwithstanding the grim statistics³²⁵ regarding interpersonal violence and gun ownership, legislation policy that prevents batterers from acquiring firearms effectively decreases rates of gun violence in domestic settings. An examination of FBI data shows that states mandating background checks for every handgun sale have reduced the number of women fatally shot by

³¹⁷ Talukder & Jones, *supra* note 30.

³¹⁸ *Id.*

³¹⁹ *Id.*

³²⁰ *Id.*

³²¹ *Id.*

³²² *Id.*

³²³ *Id.*

³²⁴ *Id.*

³²⁵ See statistics discussed *supra* Section IA.

intimate partners by 38%.³²⁶ Additional research suggests that the prohibition of violent misdemeanants from possessing firearms correlates with a reduction in the likelihood of being arrested for new firearm crimes and violent offenses.³²⁷

A federal interpersonal violence and gun database will facilitate law enforcement efforts in preventing and investigating crimes involving firearms, aiding in the apprehension of perpetrators.³²⁸ Additionally, the database will enable authorities to assess the risk of escalating violence and intervene proactively to prevent further harm.³²⁹ The readily accessible information provided by the federal interpersonal violence and gun database guarantees cohesive and seamless communication among law enforcement, social services, other relevant agencies, victims, and the public.³³⁰ Consequently, this promotes a comprehensive and uniform approach to addressing interpersonal violence and gun ownership.³³¹

Furthermore, establishing and creating interpersonal violence and gun registries supports the development and improvement of policies and programs aimed at preventing and addressing interpersonal violence.³³² The database would support evidence-based policymaking by providing up-to-date data to identify trends, patterns, and risk factors associated with interpersonal violence and firearm-related incidents.³³³ This information could aid in the formulation of legislation and policy.³³⁴ Additionally, this information would provide agencies with the information to implement targeted interventions, programs, and resources to prevent violence and promote community safety.³³⁵

A federal interpersonal violence and gun database will assist courts, law enforcement, and related agencies, and the database will also benefit victims.³³⁶ Providing victims of interpersonal violence with information about individuals who may pose a threat to their safety empowers them to take proactive steps to protect themselves.³³⁷ Such a database will allow victims to make informed choices about their safety and seek appropriate

³²⁶ Mayors Against Illegal Guns, *Gun Laws and Violence Against Women*, VAWNET (Jan. 2013), <https://vawnet.org/material/gun-laws-and-violence-against-women> (citing U.S. Department of Justice, Federal Bureau of Investigation, Supplementary Homicide Reports, 2010) [<https://perma.cc/A8DV-Y9K5>].

³²⁷ Garen J. Wintemute et al., *Subsequent Criminal Activity Among Violent Misdemeanants Who Seek to Purchase Handguns*, 285 JAMA 1019, 1026 (2001).

³²⁸ Zucker, *supra* note 296 at 1318–19.

³²⁹ *Id.*

³³⁰ *Id.*

³³¹ *Id.*

³³² *Id.*

³³³ *Id.*

³³⁴ *Id.*

³³⁵ *Id.*

³³⁶ Young, *supra* note 53, at 782.

³³⁷ *Id.*

support and resources.³³⁸ Moreover, the availability of information to the public regarding individuals engaged in interpersonal violence ensures perpetrators are held accountable and acts as a deterrent against future violence.³³⁹ The creation and availability of the federal interpersonal violence and gun database fosters a culture of accountability in communities and promotes collaboration among individuals to address root causes contributing to the violence.³⁴⁰

V. CONCLUSION

Firearms pose a grave threat to victims of interpersonal violence.³⁴¹ More than a million instances of interpersonal violence are reported in the United States every year, with the presence of a gun substantially increasing the chance that violence will escalate to homicide.³⁴² When a gun is present in the household, the likelihood of an abused woman being killed is over five times higher than for an abused woman in a household without a gun.³⁴³ The Court recognizes that “[a]ll too often, the only difference between a battered woman and a dead woman is the presence of a gun.”³⁴⁴

Given that Rahimi was suspected in five shootings within a mere six-week period despite being under a restraining order, the woman who sought the order was exceptionally fortunate that Rahimi never directed his firearm violence toward her.³⁴⁵ However, relying on luck should not be the norm for victims of interpersonal violence. Instead, victims and the public deserve a robust legal system that safeguards them from abusers and ensures their safety.

In an era where data-driven solutions are at the forefront of addressing complex issues, it is urgent to examine the link between interpersonal violence and gun possession. The sobering statistics reveal a grim reality,³⁴⁶ and it is necessary to consider a pragmatic and potentially life-saving initiative: the establishment of a federal interpersonal violence database and a federal gun ownership database, with a critical emphasis on the cross-referencing of the two databases. The cross-referencing of these a federal database supports victims of interpersonal violence by ensuring greater

³³⁸ *Id.*

³³⁹ *See id.*

³⁴⁰ *See id.*

³⁴¹ *See* United States v. Hayes, 555 U.S. 415, 427 (2009).

³⁴² United States v. Castleman, 572 U.S. 157, 159–60 (2014) (citing 142 Cong. Rec. 22986 (1996) (statement of Sen. Wellstone)).

³⁴³ Campbell et al., *Assessing Risk Factors for Intimate Partner Homicide*, 250 NAT’L INST. OF JUST. J. 16 (Nov. 2003).

³⁴⁴ *Castleman*, 572 U.S. at 160.

³⁴⁵ *See* United States v. Zackey Rahimi, 602 U.S. 680 (2024).

³⁴⁶ *See* statistics discussed *supra* Section IA.

protection than what the law currently provides, thereby strengthening victim justifications and outweighing the risks in reporting interpersonal violence. Moreover, this measure guarantees on a national level that a recurring interpersonal violence offender does not have access to a firearm. Further, the measure empowers potential victims with the chance to make informed decisions about the history of their dating partners, thereby aiming to prevent an abusive relationship from even forming.

To effectively safeguard the victims of such violence, it is crucial that laws like 18 U.S.C. § 922(g)(8) withstand constitutional scrutiny.³⁴⁷ Nonetheless, § 922(g)(8)³⁴⁸ alone cannot rectify the shortcomings in existing law, which inadequately prevents firearm ownership by individuals under restraining orders. Congress must act decisively to amend the NICS, creating a comprehensive federal database that tracks and cross-references information on interpersonal violence and gun ownership. This additional legislative action would significantly enhance the protection of vulnerable individuals and improve the enforcement of restraining orders.

As such, a federal interpersonal violence and gun ownership database provides a powerful resolution in addressing the nexus between interpersonal violence and gun ownership. The identification of individuals who pose a credible threat of interpersonal violence, as exemplified by individuals such as Rahimi,³⁴⁹ leads to early intervention and the prevention of potentially fatal but preventable gun ownership. Such a level of proactive protection is essential to ensuring the safety and well-being of those affected by interpersonal violence and the public.

³⁴⁷ 18 U.S.C. § 922(g)(8).

³⁴⁸ *Id.*

³⁴⁹ See generally *Rahimi*, 602 U.S. 680 (holding that individuals under interpersonal violence restraining orders may be prohibited from possessing firearms, reinforcing the link between gun ownership and interpersonal violence).