

29 March 2022

To the Justice Committee

Victim Support submission on the Firearms Prohibition Orders Legislation Bill

1. Introduction

Victim Support is a non-government organisation that has been offering practical and emotional support to victims of crime and trauma for more than 35 years. Last year Victim Support helped more than 43,000 victims of crime and trauma in the immediate aftermath, through the justice process, and beyond.

We previously submitted on the Arms Legislation Bill, the Police Firearms Prohibition Orders public consultation, and the Police proposals for new regulations under the Arms Act, and strongly support the intention of this bill in improving the safety and wellbeing of New Zealanders. **Given that much of our concern was around the risk of firearms in family harm situations, we have strong reservations about the current proposal to exclude breaches of protection orders and restraining orders as qualifying convictions for firearms prohibition orders.**

As submitted previously, in the 2019/20 financial year, we supported 1109 victims following 453 incidents involving firearms. Of these incidents, 41 or 9% were family harm related. Individuals are only recorded once in these statistics, but many are victims of multiple firearms-related incidents, as is often the case in family harm. We can speak with authority on family harm because it makes up the bulk of our work: we supported more than 16,000 family harm victims last year.

In this submission we will 1) present key statistics and research that highlight the risk of access to firearms in family violence situations, and 2) argue the case for including breaches of protection and restraining orders in this legislation.

2. Firearms and family harm statistics and research

- There is consistent evidence that partner access to firearms increases abuse severity and risk of death.¹ Female victims are five times more likely to be killed by their abusive partner if he has access to a firearm.²
- Firearms amplify the power and control tactics in abusive relationships. Even if the trigger is not pulled, the presence of a firearm can be used to force victims into submission and to control and terrorise them.³
- The impact of control cannot be underestimated: recent research with New Zealand female family violence victims showed at least 42% experienced abuse for 10 or more years. Many of

¹ McFarlane, J., Soeken, K., Campbell, J., Parker, B., Reel, S., & Silva, C. (1998). Severity of abuse to pregnant women and associated gun access of the perpetrator. *Public Health Nursing, 15*(3), 201-206.

² Campbell JC, Webster D, Koziol-McLain J, et al. (2003). Risk factors for femicide in abusive relationships: results from a multisite case control study. *American Journal of Public Health, 93*(7), 1089-1097.

³ Sorenson SB, Schut RA. (2018). Nonfatal gun use in intimate partner violence: a systematic review of the literature. *Trauma, Violence, & Abuse, 19*(4), 431-442.

the women described how psychological abuse and/or controlling behaviour escalated to subsequent physical assaults.⁴

- One study found that women who had been threatened with a gun by their abuser or feared one would be used against them suffered more severe posttraumatic stress disorder symptoms than those who had not endured threats with a gun.⁵ According to the study author, “the fear of a firearm threat—just the fear of the threat, not even the actual threat—is significantly associated with PTSD. It’s stronger even than the link between physical or sexual abuse and PTSD.”⁶
- In the United States, firearms are used more frequently to threaten in family violence situations than they are used to protect the home from intruders.⁷
- It is well established that the mere sight of a firearm can make both angry and non-angry people more aggressive.⁸
- Disrupting firearms access reduces the likelihood of intimate partner violence becoming deadly.⁹ For example, a study of 46 major United States cities from 1979 to 2003 found a 19% reduction in intimate partner homicide following firearms restrictions.¹⁰
- United States research also suggests that when firearms legislation is tightened, violent partners do not tend to substitute other weapons for firearms.¹¹

3. The case for including breaches of protection and restraining orders

Of the 52 intimate partner family violence deaths in New Zealand between 2009 and 2012, 15% involved firearms,¹² Similarly, as we’ve previously submitted, 20% (n=13) of homicides Victim Support dealt with in 2019/20 involved firearms, and we supported 200 victims resulting from these. What’s striking is that in 22% (n=5) of the 23 homicides in 2017 and 2018 where a firearm was used, the offender was the subject of a Protection Order.¹³

The Family Violence Death Review Committee previously submitted that the majority of family violence firearm deaths in New Zealand involved parties who were either not known to, or only had a minor history with, government agencies including Police. This is consistent with the widely held knowledge that abuse severity and frequency in family violence situations may escalate over time,¹⁴ and therefore an exclusive focus on serious family violence (or serious crime) may preclude opportunities for potentially life-saving early intervention.

⁴ The Backbone Collective (2020). Victim-survivor perspectives on longer-term support after experiencing violence and abuse. Wellington: Ministry of Social Development. Retrieved from: <https://static1.squarespace.com/static/57d898ef8419c2ef50f63405/t/5f29217f4f222031501a82c5/1596531111262/Victi%20%20m+Survivor+Perspectives+on+Longer+Term+Support+Backbone+report+for+MSD+2020+FINAL.pdf>

⁵ Sullivan, TP, Weiss NH. (2017). Is firearm threat in intimate relationships associated with posttraumatic stress disorder symptoms among women? *Violence and Gender*, 4(2),31-36.

⁶ Mascia J. (2018). No shots fired. *The Trace*. September 12, 2018.

⁷ Small Arms Survey 2013: Everyday Dangers (2013). Small Arms Survey: Geneva

⁸ Carlson, M., Marcus-Newhall, A., & Miller, N. (1990). Effects of situational aggression cues: A quantitative review. *Journal of Personality and Social Psychology*, 58, 622-633.

⁹ Diez C, Kurland RP, Rothman EF, et al. (2017). State intimate partner violence—related firearm laws and intimate partner homicide rates in the United States, 1991 to 2015. *Annals of Internal Medicine*, 167(8), 536-543.

¹⁰ Zeoli AM, McCourt A, Buggs S, Frattaroli S, Lilley D, Webster DW. (2018). Analysis of the strength of legal firearms restrictions for perpetrators of domestic violence and their associations with intimate partner homicide. *American Journal of Epidemiology*, 187(11): 2365-2371.

¹¹ Zeoli, A.M. (2018) *Domestic Violence and Firearms: Research on Statutory Interventions*. Retrieved from The National Resource Center on Domestic Violence and Firearms. Retrieved from: <https://www.preventdvgunviolence.org/dv-and-firearms-zeoli.pdf>

¹² Family Violence Death Review Committee (2015). Health Quality and Safety Commission New Zealand, Retrieved from Health Quality and Safety Commission New Zealand. Retrieved from: <https://www.hqsc.govt.nz/assets/Uploads/FVDRC-5th-report-Feb-2016.pdf>

¹³ New Zealand Police. (2019). Firearms Prohibition Orders: Public Consultation Document.

¹⁴ Campbell, J. C. (2004). Helping women understand their risk in situations of intimate partner violence. *Journal of Interpersonal Violence*, 19, 1464–1477.

A further concern is that a reason to justify the exclusion of Protection Order breaches in the bill is that their inclusion would capture too many people who do not go on to commit firearms crimes. The cabinet paper on the final design perimeters of this bill states:

Therefore, using a lower benchmark of a breach of a Protection Order, whether firearms were used in the breach or not, would capture people who have demonstrated a propensity to flout such orders. It may also capture those who go on to commit serious violence offences, including murder, with a firearm. However, it may also capture a large number of other people who would not go on to commit serious violence or firearms offences.¹⁵

As acknowledged in the cabinet paper, including Protection Order breaches in the legislation may in fact capture potential killers. Do we want to risk not capturing the few who may go on to harm or kill with firearms, just to avoid the inconvenience of capturing the many who don't? When our homicide statistics show that 22% of firearms homicides involved a breach of a Protection Order, this is not at all defensible. Neither is it defensible when we know that serious family violence often starts with psychological abuse and control that escalates over time. **Therefore, excluding protection and restraining order breaches from this legislation may be misguided, and the cost of this exclusion may potentially be measured in lives lost.**

The cabinet paper further argues that "safeguards" already exist with Protection Order conditions, one of which is that respondents must hand over any firearms to police and their firearms licence will be cancelled if the order is finalised. However, this condition may be modified or removed by the court, and therefore, there will be some situations where a Protection Order would not include the standard condition about weapons, or would include a modified version of it.¹⁶ Protection Orders and their conditions failed to safeguard the five people who died between 2017-2018 from firearms homicides involving breaches of Protection Orders. It is well known that breaches are common: there were 5465 Protection Order breaches in 2020/21, including 69 for failing to comply with conditions regarding possessing a weapon.¹⁷ **The firearms prohibition order goes beyond what is possible with a Protection Order and therefore is a potential solution to the risk of firearms harm and deaths from breaches. It doesn't just stop a perpetrator from owning a firearm, but also from using, accessing, or being around firearms. This extra layer of protection for victims is needed to help prevent an escalation of family violence, and to reinforce the societal message that both firearms and family violence are not to be trivialised.**

4. Conclusion

It is well documented that firearms access increases the risk of serious and lethal family violence. Even if the trigger is never pulled, the mere presence of a firearm in a family harm situation can amplify power and control tactics, which are often a precursor to more serious abuse. Serious and lethal family violence can build up over time, so legislation needs to capture all of those who have the potential to commit serious family violence as early as possible, certainly at the point of breaching a Protection Order.

The explanatory note in this bill states: "The single broad policy implemented by the amendments in this bill is to improve public safety by preventing people whose behaviour and actions represent a high risk of violence, or reflect an underlying risk of violence, from being able to access firearms or restricted weapons." We argue that there is clear evidence from overseas research and our statistics in New Zealand that anyone whose behaviour and actions has led to their being the subject of a

¹⁵ Minister of Police. (2021). Firearms prohibition orders: final design parameters (cabinet paper). Retrieved from: <https://www.police.govt.nz/about-us/publication/proactive-release-papers-relating-firearms-prohibition-orders>

¹⁶ Ibid.

¹⁷ Ministry of Justice. (2021). Offences related to family violence June 2021. Retrieved from: <https://www.justice.govt.nz/justice-sector-policy/research-data/justice-statistics/data-tables/>

protection or restraining order, and who then chooses to breach that order, indeed reflects an underlying risk of violence.

Excluding breaches of protection and restraining orders from this legislation undermines everything we have come to know about family harm and is inconsistent with the nationwide efforts to prevent family violence. Now is the time to strengthen our unified commitment to family violence prevention and to the societal message of zero tolerance for family violence.

Contact information

Victim Support would welcome the opportunity to discuss this further.

Please contact:

Dr Petrina Hargrave

Manager, Victim Advocacy & Research

Petrina.hargrave@victimsupport.org.nz