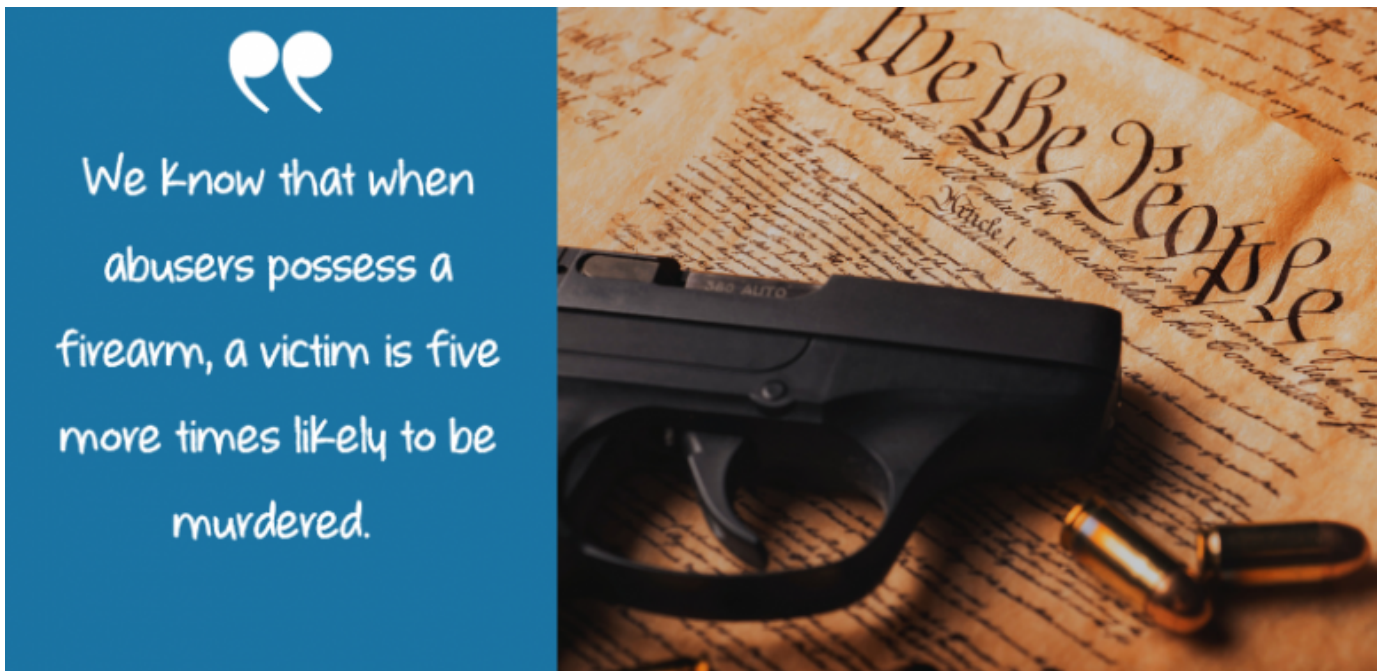


# Gun ownership and CPOs



*by Jeanne Charles, managing attorney*

***Content Warning: This article contains information about violence which may be triggering for survivors of abuse.***

Every day, our legal aid attorneys work to secure civil protection orders for victims of domestic violence whose abusers are also gun owners.

Every single day.

In one recent case, the abuser was a gun collector. He owned rifles, shotguns, and handguns. His list was long and included at least one gun that was modified to add additional chambers. During their relationship, he threatened suicide multiple times

with a gun and threatened to kill the victim with a gun he had in his car. After being served with the protection order, he held on to his guns, sending pictures to his friend. He was later arrested for violating the protection order because he had guns in his possession.

Each and every one of us knows domestic violence survivors. They are our family members, our neighbors, and our friends. They sit in the pew in front of us at church, help us at the bank, and teach our children. They live in urban and rural communities and come from all races, genders, ethnicities, orientations, identities, and socioeconomic backgrounds.

Coming forward to ask for help is an incredibly complicated and difficult decision. Many are digging deep when they call on the justice system to keep them safe.

We know that when abusers possess a firearm, a victim is five times more likely to be murdered. We also know that the threat of harm from a firearm is a common power and control tactic typically used by men over women, with over four million American women reporting they have been threatened with a gun. The impact of gun violence reaches further than just the relationship between abuser and victim. [Abusers often kill multiple victims](#). They kill children, parents, coworkers, new partners, strangers, and police officers.

In recognition of the increased risk of death at the hands of an abuser, current federal law prohibits most abusers from having guns while a protection order is in place. This provision is a part of the 1994 Violence Against Women Act.

A U.S. Supreme Court decision made in June of last year is rattling our interpretation of the Second Amendment and threatening the safety of victims. The opinion in [New York State Rifle & Pistol Association v. Bruen](#) originally didn't receive widespread attention. However, we are now beginning to understand the potential widespread

ramifications of this ruling. And we are worried.

In a nutshell, Bruen found that rather than considering both historical precedent and compelling government interest when determining the constitutionality of firearms laws, a court should only consider historical precedent. In the decision, Justice Thomas goes on to write that courts should use historically analogous reasoning to make this determination. In other words - to look for parallels from our past when deciding the legality around modern firearms and circumstances.

Critics, including historians and legal scholars, question this approach to determining constitutionality. How can we expect to find historical analogies for a gun like the AR-15-style rifle - the firearm used in the mass school shooting in Uvalde, Texas? Or for the full depth and breadth of what we've come to understand of the terrifying dynamics of domestic and intimate partner violence?

Indeed, this new test is causing problems for victims of domestic violence. Earlier this month, a three-judge panel of the U.S. Court of Appeals for the Fifth Circuit (impacting law in Texas, Louisiana, and Mississippi) used the Bruen logic to strike down the federal law against "possessing a firearm while under a domestic violence restraining order." Applying the Bruen test, [United States v. Rahimi](#) found the statute unconstitutional under the Second Amendment because it did not have a historical precedent or analogy.

This leaves us scared for victims in these southern states, and wondering what will happen next. At least 50 cases are currently in federal court challenging gun restrictions. One that could impact Ohio - U.S. v. Combs - was recently heard in the Eastern District of Kentucky and used the same constitutional test as Bruen. If appealed to the 6th Circuit Court of Appeals, this new case law could impact Ohio in the way southern states are impacted by Rahimi.

We need civil protection orders to continue to be powerful tools that regulate behaviors that pose risk to victims - behaviors that are otherwise legal, like going certain places (the victim's home and place for work, for example) or owning a gun. When abusers can't do these things, victims are safer. But when our court orders can no longer provide these core protections, we are failing the victims who bravely came forward for help. And leaving them at greater risk for injury and death.

This all leaves our movement and our mission — the decades-long effort to empower survivors, understand and educate on domestic violence dynamics, and implement laws and practices to protect as many victims as well as possible — shaken. There is a sense that collectively, the U.S. feels someone's right to possess a gun is more important than someone else's right to feel safe, be safe, and stay alive.

Some might argue that just because the abuser gets to keep his firearms, it's still illegal for him to use them to hurt anyone. But the fact is, we can't get someone's life back. And the devastating stats around firearms and domestic violence suggest they, of anyone, should lose their ability to possess a firearm. When does it stop? What violent group keeps their guns next? And how many victims must die before we see the deep ramifications of these decisions.

*This article is part of Legal Aid's ["Big Ideas" series](#).*

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