

VIRGINIA'S LETHAL LOOPHOLES

**POLICY SOLUTIONS TO DOMESTIC
HOMICIDES COMMITTED WITH FIREARMS**



EFSGV

THE EDUCATIONAL FUND
TO STOP GUN VIOLENCE

VIRGINIA'S LETHAL LOOPHOLES:

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Educational Fund to Stop Gun Violence
September, 30th 2015

INTRODUCTION

In the United States, female intimate partners are more likely to be murdered with a gun than by all other means combined.¹ Research indicates that the introduction of guns into a domestic violence situation greatly increases the chances of homicide.^{2,3,4} Moreover, research shows that family and intimate partner assaults with firearms are 12 times more likely to be lethal than assaults without firearms.⁵

In Virginia, there were 109 Family and Intimate Partner Homicides (FIPH) in 2014, 64 of which were committed with a firearm.⁶ Many gaps exist in Virginia law in regard to domestic violence and the possession of firearms. Despite this violence and these gaps in the law, Virginia's legislators have taken little action to prevent gun-related tragedies in situations where domestic violence is apparent. This report highlights the available data and recommends legislative changes that would prohibit domestic violence misdemeanants and those subject to a family abuse protective order from possessing firearms. Such changes to Virginia law would keep more guns out of the hands of dangerous individuals and save lives across the Commonwealth.

THE PALMER FAMILY: GLADE SPRING

Kristin Palmer

Griffin Palmer

Kevin Palmer



Just after 5:00 a.m. on February 25, 2014, Kevin Dale Palmer walked more than two miles from his parked car to the home where his wife and son were staying with her parents in Glade Spring. He was carrying a Browning rifle and Ruger revolver in his belt holster. The bulky 44-year-old Palmer smashed out a window in the residence's garage and broke through the garage's interior door into the home. He shot his father-in-law, Terry Griffin, 75, and his wife, Kristin Palmer, 46.

Palmer's 17-year-old son Griffin called 911 to say that two people had been shot, but the call was lost. A few minutes later, a reverse 911 call was made to the home and the teenager answered, telling the operator that he had just been shot. Moments later, Kevin Palmer shot his mother-in-law, Nancy Griffin, 74, before turning the gun on himself. A police deputy entered the home at 5:44 a.m. to find four people with gunshot injuries. The fifth, Terry Griffin, was able to crawl the length of a football field to find help at a neighboring home. Terry was the only survivor.

Kristin and Griffin had suffered seven years of physical, mental, and emotional abuse at the hands of Kevin Palmer. In an [affidavit](#), Kristin detailed that abuse: **"He has kicked me, strangled me, tried to drown me, slapped me, dragged me by the hair, and bit me during arguments. He has kicked, whipped, pulled his hair, and hit my child when 'disciplining' him."** Following Kristin's death, Sharon Reed, Director of the Washington County Victim Assistance Program, said, "I know folks in all walks of life that she encountered were trying to help her get out of this situation. **I think that she believed that if she left, he would kill her."**

Kristin and her son signed criminal complaints on February 19, 2014 – less than one week before the murders – that resulted in the arrest of Kevin Palmer on two counts of assault and battery. He posted bond and was released the same day. A few hours prior to the murders, Kristin was granted an Emergency Protective Order against her husband. Kristin's parents were also granted a protective order against Kevin Palmer. It was well known that Palmer had an extensive arsenal of firearms. He often bragged that he owned enough guns to take out the entire state of West Virginia. The protective order made it illegal for Palmer to purchase or transport firearms, but he was allowed to retain his existing collection.

DOMESTIC VIOLENCE AND GUNS: A LETHAL COMBINATION

In Virginia, on average, one person is killed as a result of Intimate Partner Related Homicide committed by a firearm nearly every week.

Domestic violence is an alarming public health problem that affects the lives of countless women, men, and families. The U.S. Department of Justice defines domestic violence as “a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner.”⁷ In the United States, intimate partner homicide comprises 40-50% of all murders of women.⁸ Notably, a perpetrator’s access to a gun significantly increases the risk of intimate partner femicide,⁹ and **family and intimate partner assaults with firearms are 12 times more likely to be lethal than assaults without firearms.**¹⁰ In this section, we outline the most recent domestic violence homicide data in Virginia (with a focus on the role firearms play) and describe characteristics associated with both victims and offenders.

Family and Intimate Partner Homicide

In 2014, Virginia experienced 109 FIPH (Figure 1).¹¹ FIPH refers to homicides that occur in the context of a family, intimate partner, or caretaker relationship.

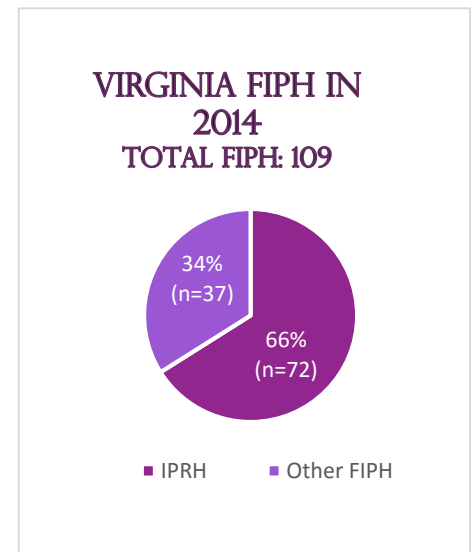
Intimate Partner Related Homicide

The following data section will focus on Intimate Partner Related Homicides (IPRH), a subset of FIPH. IPRH encompasses intimate partner homicide and intimate partner associated homicide.¹² Intimate partner associated homicide includes persons caught in the crossfire of an intimate partner violence incident or who were killed in an incident directly related to an intimate partner conflict, such as children or law-enforcement officers.¹³ IPRH comprises approximately two-thirds of FIPH (Figure 1).¹⁴ Caretaker homicides and family associated homicides, when an intimate partner is not involved, comprises the final third of FIPH.¹⁵

Firearms and IPRH

In Virginia, on average, one person is killed as a result of IPRH committed by a firearm nearly every week.¹⁶ Of the 72 IPRH victims, two-thirds (n=48) were killed by a firearm.¹⁷ Nearly two-thirds (n=30) of IPRH victims killed by firearm were female.¹⁸

- Figure 1. Virginia FIPH Data, 2014 -



Offender History of Violence and IPRH

In 2014, more than a third of all IPRH offenders had a history of violence or threats of violence against their intimate partners (n=27).¹⁹ Of those IPRH offenders with a history of violence or threats of violence against intimate partners, **74%** used a firearm to commit the murder (Figure 2).²⁰ Preventing those with a violent history from purchasing or possessing firearms may prevent IPRH. One way to stop such violent people is by prohibiting those with a domestic violence misdemeanor conviction from accessing firearms. Research has found that preventing violent misdemeanants from purchasing firearms is associated with a decrease in their risk of arrest for new violent crimes.²¹ Policies prohibiting violent misdemeanants from purchasing and possessing firearms may help protect victims of domestic violence from future acts of gun violence.

In 2014, of those IPRH offenders with a history of violence or threats of violence against intimate partners, 74% used a firearm to commit the murder.

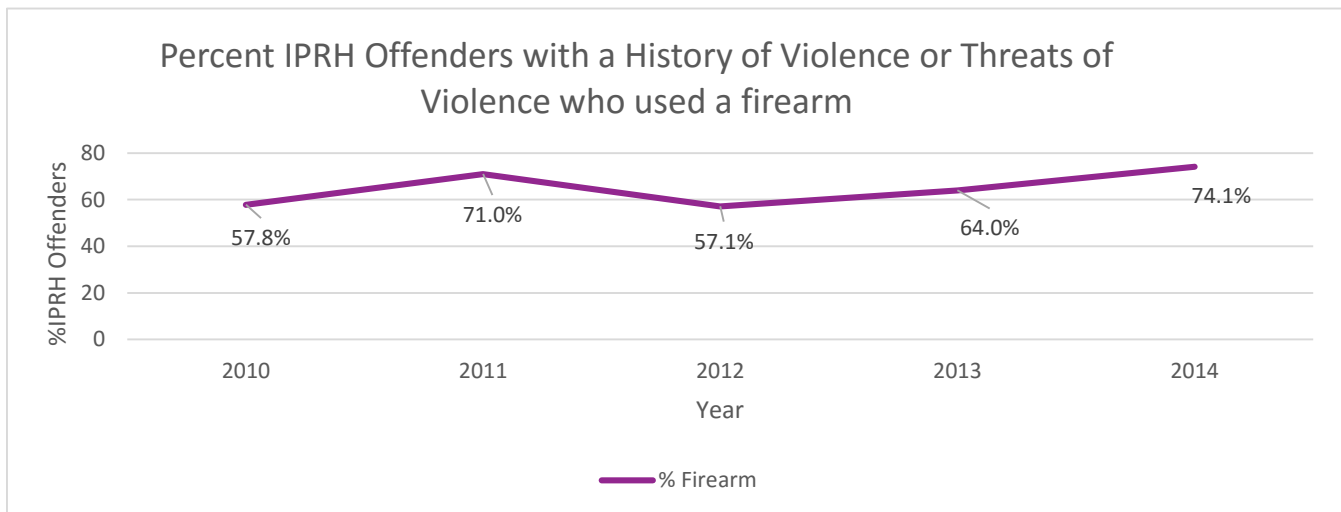


Figure 2. Percent IPRH Offenders with a History of Violence or Threats of Violence against an Intimate Partner from 2010-2014 who used a firearm to commit the homicide

Protective Orders and IPRH

Previous research shows that about half of women killed by intimate partners had contact with the justice system in relation to their abuse within one year preceding their murders.^{22,23} A study shows that cities in states with laws prohibiting subjects of domestic violence restraining orders from purchasing or possessing firearms had 25% fewer firearm-related intimate partner homicides.²⁴ As described above, Kristin Palmer and her son had contact with the justice system when they sought Emergency Protective Orders against Kevin Palmer, just one week before they were killed. A policy prohibiting those subject to a protective order from possessing firearms may have saved their lives.

MORGAN ROGERS: CHESTERFIELD

Stafford Shaw Morgan & Leah Rodgers



On the morning of January 26, 2015 in Senate Room B of the Virginia General Assembly Building, the Senate Courts of Justice Committee killed legislation that would have made it illegal for individuals subject to protective orders, and those convicted of domestic violence misdemeanors, to possess firearms.

Later that same day, about 20 miles to the south, Stafford Shaw got into an argument with his girlfriend of eight years, Morgan Rogers. Shaw grabbed Morgan by the throat and strangled her until she lost consciousness. When Morgan awoke and attempted to stand, Shaw kicked her in the face, knocking her back down. He then smashed her in the face with the butt of his gun. He did all this while their one-year-old daughter, Leah, was a few feet away.

When Morgan filed a [criminal complaint](#) the following day, she had visible cuts to her nose, marks on her forehead, a swollen eye, and bumps on the back of her head. She also filed for a two-year [protective order](#) against Shaw, which was granted.

Shaw was convicted in Chesterfield Juvenile and Domestic Relations District Court of misdemeanor domestic assault and battery of a household member and sentenced to two months in jail. As part of a plea deal, prosecutors withdrew two felony counts of unlawful wounding and strangulation resulting in bodily injury. He began serving jail time on the weekends.

On May 29, 2015, Shaw snuck into Morgan's bedroom and shot her and Leah to death. He then led Virginia police on a high-speed chase before being killed in a fiery crash on Interstate 295 that claimed the lives of two more innocent victims.

Shaw had a long history of violent behavior. In 1989, he was acquitted of killing his 17-year-old pregnant girlfriend, stuffing her body in the trunk of a car, and burning the evidence. He was [convicted](#) of assault and battery of a household member, his then-fiancé, Sonja Holt, in 2008. He was sentenced to three months in jail and ordered to complete a [Batterers Intervention Program](#) and comply with a one-year [protective order](#) filed by Holt. Also in 2008, Shaw was convicted in three animal abuse crimes. A year before he murdered Morgan and Leah, Shaw was found not guilty of assault in Henrico.

Despite this checkered past, a two-year protective order, and a domestic abuse misdemeanor conviction, Stafford Shaw was never prohibited from possessing a firearm or required to surrender his guns to law enforcement.

WEAK LAWS THAT ARM ABUSERS

Federal law

Federal law prohibits persons subject to **domestic violence protective orders** issued after notice and an opportunity to be heard as well as **persons convicted of a misdemeanor crime of domestic violence** from purchasing or possessing a firearm.²⁵

Federal law defines a “misdemeanor crime of domestic violence” as an offense that is a misdemeanor under federal, state, or tribal law, and “has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.”²⁶ **Unfortunately, federal law enforcement agencies rarely attempt to prosecute people under these statutes.**

As Mike Doucette, the Commonwealth’s Attorney for the City of Lynchburg noted, “Existing federal laws prohibiting possession of firearms by those convicted of domestic violence or by those subject to a protective order are practically inadequate. For a long time, there have been no meaningful federal law enforcement or prosecution resources available for their enforcement. State law enforcement officials cannot enforce federal laws. State law enforcement officials need state laws they can enforce which will have a significant impact on saving the lives of domestic violence victims.”

Loopholes in Virginia Law

Virginia law enforcement agencies are eager to fill in the gaps left by the lack of federal enforcement but they do not have the state laws they need to get the job done.

Unfortunately, Virginia law does not:

- Prohibit subjects of family abuse protective orders from possessing firearms or require persons subject to family abuse protective orders to surrender their firearms for the duration of the order.²⁷
- Prohibit persons convicted of a domestic violence misdemeanor from purchasing, possessing, or transporting firearms.
- Require courts to notify those subject to a domestic violence protective order or convicted of a misdemeanor crime of domestic violence when they become prohibited from possessing firearms under federal law.
- Explicitly authorize or require the removal of firearms or ammunition at the scene of a domestic violence incident.

SAFEGUARDING VICTIMS OF ABUSE

In order to address loopholes in Virginia law, we recommend, as a starting place, the following policies be implemented in order to keep guns out of the hands of domestic abusers:

- 1. Prohibit subjects of protective orders from possessing firearms and require subjects of protective orders to surrender any firearms they own or possess to law enforcement for the duration of the order.**

Virginia law currently prohibits persons subject to family abuse protective orders from purchasing or transporting firearms for the duration of the order.²⁸ Though family abuse protective orders issued after notice and an opportunity to be heard include a warning that possessing, transporting, shipping, receiving, or purchasing any firearm or ammunition is a violation of federal law for subjects of qualifying orders, without an analogous state prohibition, Virginia State and local law enforcement cannot enforce the prohibition. This means that it falls on federal law enforcement officials to enforce the prohibition, and such cases are not given a high priority.

Virginia should enact legislation prohibiting those subject to a protective order from possessing a firearm. The Commonwealth should also require that such persons surrender any firearms in their possession to law enforcement for the duration of the order.

- 2. Prohibit individuals convicted of certain misdemeanors from purchasing, possessing or transporting a firearm and require such persons to surrender any firearms they own or possess to law enforcement.**

Virginia should enact legislation prohibiting individuals convicted of sexual battery²⁹, assault and battery³⁰, assault and battery against a family or household member³¹, or stalking³² from purchasing or possessing a firearm for at least five years.

Virginia should also require those convicted of one of the crimes listed above to surrender their firearms to law enforcement.

- 3. Require courts to notify those subject to a domestic violence protective order or convicted of a misdemeanor crime of domestic violence when they become prohibited from possessing firearms under federal law.**

Virginia should enact legislation to codify the existing practice that courts notify persons subject to a domestic violence protective order or convicted of a misdemeanor crime of domestic violence when they become prohibited from possessing firearms under federal law so that they may comply with the prohibition.

4. Explicitly authorize or require law enforcement to remove firearms or ammunition at the scene of a domestic violence incident.

Virginia law does not explicitly provide that a law enforcement officer may search for and seize firearms at the scene of a domestic violence incident without first obtaining a search warrant,

Virginia should enact legislation requiring a law enforcement officer, whenever he/she has probable cause to believe that a person has been abused, to temporarily remove firearms in the defendant's possession. As described above, Kristin Palmer had been subject to years of abuse by her husband. Yet law enforcement did not have the authority to temporarily remove any of the firearms in his possession.

LOST LEGISLATIVE OPPORTUNITIES

When Virginia legislators have been presented with options to strengthen Virginia's firearm laws in order to reduce domestic homicides, they have routinely rejected such legislation.

- In 2012, [SB 554](#) was introduced. This bill would have prohibited subjects of protective orders from possessing firearms, providing Virginia law enforcement authority to prosecute offenders. SB 554 passed the Virginia Senate (29-11) but was defeated in the House Militia, Police, and Public Safety Subcommittee #1 without a recorded vote.
- In 2013, SB 554 was re-introduced as [SB 864](#). It passed the Virginia Senate (38-2) but was defeated without a vote in the House Militia, Police, and Public Safety Subcommittee #1.
- In 2014, [SB 510](#) was introduced to prohibit those who had been convicted of domestic abuse and/or other violent misdemeanors from possessing firearms. It passed the Virginia Senate (29-6-5) but was defeated without a recorded vote in the House Militia, Police, and Public Safety Subcommittee #1.
- In 2015, [SB 909](#), a bill that would have prohibited subjects of protective orders from possessing firearms was introduced. It was defeated in the Senate Courts of Justice Committee (4-10). [The version](#) introduced in the House of Delegates was defeated by the Militia, Police, and Public Safety Subcommittee #1 without a recorded vote.
- In 2015, [SB 943](#) was introduced to prohibit those convicted of violent misdemeanors from possessing or transporting firearms. The bill passed (10-4). SB 943 was referred to the Senate Finance Committee where it was not brought up for a vote. [The House version](#) was defeated, once again, by the Militia, Police, and Public Safety Subcommittee #1 without a recorded vote despite emotional testimony from domestic abuse survivors.

DEBORAH WIGG: SUFFOLK

Robert Wigg

Deborah Wigg



“He is going to come to the house in the middle of the night, and he’s going to shoot me,” said Deborah Wigg, a 39-year-old mother of two, to her co-workers.

Deborah married Robert Wigg in 1995. In 2010, the marriage began falling apart. Robert was unfaithful and began using cocaine and crack cocaine regularly. He also became verbally abusive towards Deborah and their two young boys.

In February 2011, Deborah moved herself and her sons to Suffolk, Virginia. Two months later, Deborah drove to Robert’s home one day to pick up the children, who were visiting their father. Robert slammed her head against the door, pulled her hair and knocked her to the ground. Their 10-year-old son called 911, but the call was lost when Robert pulled the phone cord out of the wall. Deborah eventually escaped and flagged down police. **“I am in fear for mine and my children’s safety and welfare,”** read her ensuing [criminal complaint](#). **“My husband does own a handgun.”** Robert was arrested and Deborah was granted a [protective order](#).

Despite all this, Robert was allowed to keep possession of his handgun—a silver-plated 9mm pistol with a black handle.

On November 8, 2011, Robert drove his red pickup truck to Deborah’s house on Grove Avenue in Suffolk. He began banging on the door around 11:00 p.m. Deborah’s 4-year-old son was asleep in bed and she hid her oldest son in a closet. As Robert broke through the door, Deborah dialed 911, and the dispatcher heard a struggle occur. At this point, Deborah’s neighbor pulled into his driveway and saw Deborah run out of the house with Robert following her. He calmly raised his 9mm and shot her in the back. The neighbor ran at Robert and got about ten feet away before Robert fired at him, barely missing his head. Robert approached his wife as she lay on the ground and shot her in the head at point blank range. **“She’d better be f***ing dead,”** he said as he got in his car. He drove a half-mile to Deborah’s parents’ house, presumably to murder them, as well. When he found the house empty, Robert took his own life.

Deborah died in her front yard, with her now-orphaned sons still inside the house. In the wake of the tragedy, many asked why guns were not removed from a man who had demonstrated such erratic and violent behavior.

CONCLUSION

In Virginia, on average, one person is killed as a result of IPRH committed by a firearm nearly every week.³³ Evidence-based policies focusing on an individual's risk of dangerousness—such as prohibiting those convicted of domestic violence misdemeanors from purchasing, possessing, and transporting firearms and making sure that subjects of protective orders are prohibited from possessing firearms—are needed to protect the lives of Virginians and prevent future domestic violence deaths from occurring.

Despite the urgings of the Virginia State Police, the Virginia Sexual and Domestic Violence Action Alliance, and individual survivors of domestic violence, the Commonwealth of Virginia has yet to enact the life-saving reforms recommended in this report. It is beyond time for them to do so.



VIRGINIA HAS YET TO ENACT THE LIFE-
SAVING REFORMS RECOMMENDED IN THIS
REPORT. IT IS BEYOND TIME FOR THEM TO
DO SO.



ADDITIONAL ED FUND RESOURCES

Educational Fund to Stop Gun Violence Report

Risk-Based Firearm Policy Recommendations for Virginia

<http://www.efsgv.org/wp-content/uploads/2015/02/Consortium-Report-VA.pdf>

Consortium for Risk-Based Firearm Policy State Report

Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Firearm Policy

<http://www.efsgv.org/wp-content/uploads/2014/10/Final-State-Report.pdf>

Educational Fund to Stop Gun Violence

www.efsgv.org

FOR THOSE SEEKING HELP

Virginia Family Violence & Sexual Assault Hotline

Call: 1 (800) 838-8238 24 hours a day

Chat: (confidential instant messaging) Monday-Friday 8am-8pm

Text: 1 (804) 793-9999 Monday-Friday 8am-8pm

LGBTQ Partner Abuse and Sexual Assault Helpline

Call: 1 (866) 356-6998 Monday-Friday 8am-8pm

A listing of all domestic violence resources, by county, in the Commonwealth of Virginia

www.vsdvalliance.org

ACKNOWLEDGEMENTS

A message from Joshua Horwitz, Executive Director of the Educational Fund to Stop Gun Violence:

The Educational Fund was founded in 1978 as a 501(c)(3) organization and has produced and disseminated high quality research as a catalyst for policy change. It is my hope that with the release of this report we will continue that tradition.

I would like to acknowledge the Educational Fund staffers who worked on this report, especially Kelly Ward, Andrew Patrick, and Adelyn Allchin for organizing, researching, and writing the report. I would also like to thank the following individuals for sharing their knowledge and experience with us:

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- ⁶ Virginia Family and Intimate Partner Homicide Surveillance Project, Office of the Chief Medical Examiner, Virginia Department of Health.
<http://www.vdh.virginia.gov/medExam/familyintimatepartnerviolencehomicidesurveillance.htm>
- ⁷ United States Department of Justice. <http://www.justice.gov/ovw/domestic-violence>
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<http://www.vdh.virginia.gov/medExam/familyintimatepartnerviolencehomicidesurveillance.htm>
- ¹² *Id.*
- ¹³ *Id.*
- ¹⁴ *Id.*
- ¹⁵ *Id.*
- ¹⁶ *Id.*
- ¹⁷ *Id.*
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²⁵ 18 U.S.C. § 922(g)(8), (9).

²⁶ 18 U.S.C. § 921

²⁷ Virginia law does prohibit those subject to a family abuse protective order including an ex parte order, from purchasing and transporting firearms for the duration of the order. Va. Code Ann. § 18.2-308.1:4 (West)

²⁸ Va. Code Ann. § 18.2-308.1:4 (West)

²⁹ Va. Code Ann. § 18.2-67.4 (West)

³⁰ Va. Code Ann. § 18.2-57 (West)

³¹ Va. Code Ann. § 18.2-57.2 (West)

³² Va. Code Ann. § 18.2-60.3 (West)

³³ Virginia Family and Intimate Partner Homicide Surveillance Project, Office of the Chief Medical Examiner, Virginia Department of Health.

<http://www.vdh.virginia.gov/medExam/familyintimatepartnerviolencehomicidesurveillance.htm>



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