

Toxic Masculinity and Gender-Based Gun Violence in America: A Way Forward

Hayley N. Lawrence¹

INTRODUCTION	34
I. THE RELATIONSHIP BETWEEN GENDER AND GUN VIOLENCE	37
A. <i>Suicide</i>	37
B. <i>Intimate Partner Violence</i>	41
C. <i>Mass Shootings</i>	45
II. CAN TOXIC MASCULINITY EXPLAIN GENDER DISPARITIES IN GUN VIOLENCE?	49
A. <i>Toxic Masculinity: The Social Construct</i>	50
B. <i>Masculinity in Gun Culture</i>	54
C. <i>Toxic Masculinity and Gun Violence</i>	58
1. Toxic Masculinity & Suicide	58
2. Toxic Masculinity & Intimate Partner Violence (IPV)	61
3. Toxic Masculinity & Mass Shootings	62
III. WHAT CAN BE DONE?	65
A. <i>Gun Policy Reforms Aimed at Reducing Suicide, IPV, and Mass Shootings</i> ..	65
1. Reforms Addressing Gun-Based IPV and Mass Shootings	66
a. <i>Prohibition on Possession by Persons Subject to Protective Orders</i>	66
b. <i>Close the “Boyfriend Loophole”</i>	67
c. <i>Requiring the Surrender of Firearms: Case Studies</i>	70
2. Expand Extreme Risk Protection Order Laws	71
IV. CONCLUSION	73

¹ J.D./LL.M., Duke University School of Law, 2021; B.A., University of Virginia, 2016. This paper is dedicated to all women who, like me, have feared for their safety at the hands of an intimate partner. May you find safety, solace, and solidarity, too. A special thanks to Professor Joseph Blocher for his advice and comments, and to my partner, Danny Camacho, for his tireless support and encouragement. I also want to thank the editors of *The Journal of Gender, Race & Justice*, particularly Sidney Holler and Angela Pruitt, for their diligent work on this piece. Any lingering solecisms are entirely my own.

V. APPENDICES 75
Appendix A..... 75
Appendix B..... 76
Appendix C..... 77
Appendix D..... 78
Appendix E 79

INTRODUCTION

Gun violence, and gun culture more broadly, are gendered phenomena in America. Empirically, the relationship between gun violence and gender is clear: men are more likely to own, use, kill with, and die by the gun.² Gun ownership is disproportionately male³: 62% of gun owners in the United States are men.⁴ Only 22% of women report that they own a gun compared to approximately 40% of men,⁵ which means that nearly twice as many men than women own guns. Male gun owners are also more likely than their female counterparts to own multiple guns.⁶

Moreover, men are both the victims and perpetrators of gun violence at a shockingly disproportionate rate. As a general matter, men commit the vast majority of homicides in the United States, regardless of method used: in 2017, “men were responsible for 88.1[%] of all homicides” where the killer was known.⁷ Relatedly, guns are the most common method used in perpetrating homicides. In 2019, 10,258 of the 13,927 homicides in the United States were perpetrated using a firearm, meaning that guns were used in nearly 74% of homicides that year.⁸ Of those homicides, the victims were

² See Craig Rood, *Addressing Gun Violence by Reimagining Masculinity and Protection*, GENDER POLY REP. (Sept. 22, 2020), <https://genderpolicyreport.umn.edu/addressing-gun-violence-by-reimagining-masculinity-and-protection> [<https://perma.cc/76C5-QXPZ>].

³ Matthew Miller et al., *Firearms and Violent Death in the United States*, in REDUCING GUN VIOLENCE IN AMERICA 6 (Daniel W. Webster & Jon. S. Vernick eds., 2013).

⁴ Juliana Menasce Horowitz, *How Male and Female Gun Owners in the U.S. Compare*, PEW RSCH. CTR. (June 29, 2017), <https://www.pewresearch.org/fact-tank/2017/06/29/how-male-and-female-gun-owners-in-the-u-s-compare> [<https://perma.cc/3B8P-XI7Y>].

⁵ Kim Parker et al., *The Demographics of Gun Ownership*, PEW RSCH. CTR. (June 22, 2017), <https://www.pewsocialtrends.org/2017/06/22/the-demographics-of-gun-ownership> [<https://perma.cc/DD6W-BJE9>].

⁶ *Id.*

⁷ Rood, *supra* note 2.

⁸ *Expanded Homicide Data Table 8: Murder Victims by Weapon, 2015–2019*, FBI, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/expanded-homicide-data-table-8.xls> [<https://perma.cc/3FMX-A62J>].

Toxic Masculinity and Gender-Based Gun Violence in America 35

male 78% of the time.⁹ But women face a grim reality, too: of all the women in the world killed by firearms, nearly 92% of them were women in the United States.¹⁰

More specifically, 86% of suicides involve a male victim¹¹, and in suicide deaths, men use a firearm to commit suicide at nearly twice the rate that women do.¹² Intimate partner violence (IPV) is also most often perpetrated by a male partner, even when comparing same-sex couples.¹³ And mass shootings are carried out almost exclusively by men.¹⁴ But why are gun ownership and gun violence predominantly male phenomena? What could explain these stark disparities?

Scholars have explored the statistical disparities of gun violence through various lenses: race,¹⁵ economic dislocation,¹⁶ cultural cognition,¹⁷ special

⁹ *Expanded Homicide Data Table 13: Murder Circumstances by Sex of Victim, 2019*, FBI, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/expanded-homicide-data-table-13.xls> [<https://perma.cc/JEL9-UC9G>]. For 2018 data, see *Fast Facts: Firearm Violence Prevention*, CDC (May 22, 2020), <https://web.archive.org/web/20200525185331/https://www.cdc.gov/violenceprevention/firearms/fastfact.html> [<https://perma.cc/HE4T-Y6BN>].

¹⁰ Erin Grinshteyn & David Hemenway, *Violent Death Rates in the US Compared to Those of the Other High-Income Countries, 2015*, 123 PREVENTATIVE MED. 20, 22 (2019).

¹¹ See *infra* note 37; see also Appendix E.

¹² *Suicide*, NAT'L INST. MENTAL HEALTH (Sept. 2020), <https://web.archive.org/web/20210502054517/https://www.nimh.nih.gov/health/statistics/suicide> [<https://perma.cc/N3MW-N4R8>].

¹³ Michel Martin & Emma Bowman, *Why Nearly All Mass Shooters Are Men*, NPR (Mar. 27, 2021, 6:47 PM), <https://www.npr.org/2021/03/27/981803154/why-nearly-all-mass-shooter-s-are-men> [<https://perma.cc/ZV6X-84PB>] (noting that 98% of mass shootings since 1966 have been perpetrated by men).

¹⁴ See *Number of Mass Shootings in the United States Between 1982 and October 2022, by Shooter's Gender*, STATISTA (Oct. 18, 2022), <https://www.statista.com/statistics/476445/mass-shootings-in-the-us-by-shooter-s-gender> [<https://perma.cc/VL3M-VMU8>].

¹⁵ See, e.g., CAROL ANDERSON, *THE SECOND: RACE AND GUNS IN A FATALLY UNEQUAL AMERICA* (2021) (discussing gun violence and race).

¹⁶ See, e.g., Jennifer Carlson, *Mourning Mayberry: Guns, Masculinity, and Socioeconomic Decline*, 29 GENDER & SOC'Y 386 (2015) (discussing gun violence and economic dislocation).

¹⁷ See, e.g., Dan M. Kahan & Donald Braman, *Cultural Cognition and Public Policy*, 24 YALE L. & POL'Y REV. 149, 149 (2006); Jamal Greene, *Guns, Originalism, and Cultural Cognition*, 13 U. PA. J. CONST. L. 511 (2010) (discussing gun violence and cultural cognition).

interest group involvement,¹⁸ religion,¹⁹ and partisanship.²⁰ Each of these perspectives adds something to our collective understanding. This Article proposes analyzing gun ownership and gun violence from an additional angle—that of toxic masculinity.

Toxic masculinity posits that, generally, gender constructs and social pressures drive men to suppress emotions, internalize trauma, act out to prove their manliness, demonstrate aggression, and subjugate women.²¹ As a result, men may lack peaceful conflict resolution skills or the means to process trauma and negative emotions.²² This may cause them to turn to violence—against others and against themselves. Guns, in turn, make this violence lethal.

Under traditional American conceptions of gender, men are socialized to see themselves as protectors, which may help to explain why men own guns at nearly twice the rate that women do, why more men publicly carry, and why male gun owners own more firearms than their female counterparts. And as noble and valiant as this “protector construct” may seem, this consciousness has a dark side: one that is borne out in gun violence data.

At bottom, this Article examines gender disparities in particular gun violence phenomena—suicide, intimate partner violence, and mass shootings—through the lens of toxic masculinity. At a macro level, toxic masculinity may explain why men perpetrate acts of gun violence at a disproportionate rate, and, as a corollary, help us understand what is to be done about the epidemic of violence. This Article suggests policy reforms to address suicide, IPV, and mass shootings in particular. And although much has been said in the popular press about toxic masculinity and gun violence, no legal academic article has confronted the issue head-on. This Article aims to fill that void.

¹⁸ See, e.g., Noah S. Schwartz, *Called to Arms: The NRA, the Gun Culture & Women*, 15 CRITICAL POL’Y STUD. 74 (2019) (discussing gun violence and special interest group involvement).

¹⁹ See, e.g., Abigail Vegter & Kevin R. den Dulk, *Clinging to Guns & Religion? A Research Note Testing the Role of Protestantism in Shaping Gun Identity in the United States*, 14 J. POL. & RELIGION 809 (2020) (discussing gun violence and religion).

²⁰ See, e.g., Matthew J. Lacombe, *The Political Weaponization of Gun Owners: The National Rifle Association’s Cultivation, Dissemination, and Use of a Group Social Identity*, 81 J. POL. 1342 (2019) (discussing gun violence and partisanship).

²¹ For further discussion on the concept of toxic masculinity, see Maya Salam, *What is Toxic Masculinity?*, N.Y. TIMES (Jan. 22, 2019), www.nytimes.com/2019/01/22/us/toxic-masculinity.html [<https://perma.cc/3U9E-L279>].

²² Stephanie Pappas, *APA Issues First-Ever Guidelines for Practice with Men and Boys*, 50 APA MONITOR ON PSYCH. 34 (2019), <https://www.apa.org/monitor/2019/01/ce-corner> [<https://perma.cc/R4YV-U8UJ>].

Toxic Masculinity and Gender-Based Gun Violence in America 37

Part I explores gun violence statistics and the relationship between gender and gun violence, focusing specifically on suicide, intimate partner violence, and mass shootings. Part II defines toxic masculinity, explores how toxic masculinity has manifested both in broader society and more specifically in American gun culture, and examines whether toxic masculinity can inform our understanding of gender disparities in the data, ultimately concluding that it can. And finally, Part III presents policy proposals to reduce suicide, intimate partner violence, and mass shootings, thereby improving public safety.

I. THE RELATIONSHIP BETWEEN GENDER AND GUN VIOLENCE

This section will analyze gun violence phenomena where the gender disparities are particularly acute: suicide, intimate partner violence, and mass shootings.

A. Suicide

In 2018,²³ 39,740 people in the United States died from firearm related injuries.²⁴ Sixty-one percent—or 24,432—of those deaths were gun suicides,²⁵ and guns were used in over half of the suicides that occurred in 2018.²⁶ Suicide had remained the tenth leading cause of death in the United States since 2008,²⁷ only recently dropping to the twelfth.²⁸ And those numbers only reflect *successful* attempts: it is estimated that nearly 1.4 million people attempted suicide in 2018.²⁹

Firearms, and more specifically handguns,³⁰ are the most consistently lethal method of suicide. Of the seven leading methods, mortality rates

²³ Unless otherwise indicated, data are from 2018.

²⁴ *All Injuries - 2018*, CDC, <https://web.archive.org/web/20201113034029/https://www.cdc.gov/nchs/fastats/injury.htm> [https://perma.cc/8E7C-NHGA].

²⁵ *Suicide and Self-Inflicted Injury - 2018*, CDC, <https://web.archive.org/web/20201112002328/https://www.cdc.gov/nchs/fastats/suicide.htm> [https://perma.cc/46SP-WMAB].

²⁶ *Suicide Statistics - 2018*, AM. FOUND. FOR SUICIDE PREVENTION, <https://web.archive.org/web/20201208234358/https://afsp.org/suicide-statistics> [https://perma.cc/ZB55-7DPZ].

²⁷ KRISTEN PETTRONE & SALLY C. CURTIN, URBAN-RURAL DIFFERENCES IN SUICIDE RATES, BY SEX AND THREE LEADING METHODS: UNITED STATES, 2000–2018, CDC 1 (2020), <https://www.cdc.gov/nchs/data/databriefs/db373-h.pdf> [https://perma.cc/EL7Y-4B8R].

²⁸ *Suicide Statistics - 2020*, AM. FOUND. FOR SUICIDE PREVENTION, <https://afsp.org/suicide-statistics> [https://perma.cc/YR7Q-KL5K].

²⁹ *Violence Prevention*, CDC, <https://web.archive.org/web/20200604025806/https://www.cdc.gov/violenceprevention/suicide/fastfact.html> [https://perma.cc/WC97-Z99Z].

³⁰ Jesse Bering, *Sex and Suicide: Why Do More Men Than Women Kill Themselves?*, SCI. AM. (Nov. 26, 2014), <https://blogs.scientificamerican.com/bering-in-mind/sex-and-suicide-why-do-more-men-than-women-kill-themselves> [https://perma.cc/DQF4-2E53].

(attempts that result in death) are highest for firearms: suicide attempts by firearm result in death approximately 90% of the time, yet only 4% of attempts not involving a gun are fatal.³¹ Why? Although many suicide attempts occur during a short-term crisis,³² guns are the most lethal method because they are inherently deadly, quick, irreversible, and easily accessible.³³ In short, there's no opportunity to second-guess.

Nationally, men are four times more likely than women to die by suicide.³⁴ Comparatively, men comprise approximately 80% of suicides annually.³⁵ Yet women *attempted* suicide more often, which suggests that the method matters.³⁶ From 2015 to 2019, adult men (ages 18–85+) were nearly *seven times more likely* than women to die by gun suicide.³⁷ That year, the crude rate for firearm suicides by adult men (number of suicides per 100,000 people) was 16.57; for women, 2.47.³⁸ Of the suicides committed in 2018, firearms were the most popular method for both men and women; however,

³¹ *The Rise of Firearm Suicide Among Young Americans*, EVERYTOWN RSCH. & POL'Y (June 2, 2022), <https://everytownresearch.org/report/the-rise-of-firearm-suicide-among-young-americans> [https://perma.cc/U6FL-XCLC]; see also *Lethality of Suicide Methods*, HARV. T.H. CHAN SCH. PUB. HEALTH, <https://www.hsph.harvard.edu/means-matter/means-matter/case-fatality> [https://perma.cc/8BKS-REHW] (data from 1989-1997); *Guns and Suicide*, VIOLENCE POL'Y CTR., https://www.vpc.org/fact_sht/Guns%20and%20Suicide.pdf [https://perma.cc/HG M5-FD2X].

³² *Reduce Access to Means of Suicide*, SUICIDE PREVENTION RES. CTR., <https://www.sprc.org/comprehensive-approach/reduce-means> [https://perma.cc/YT5M-K89R].

³³ *Guns and Suicide*, *supra* note 31.

³⁴ Christopher W. Drapeau & John L. McIntosh, *U.S.A. Suicide: 2020 Official Final Data*, SUICIDE AWARENESS VOICES OF EDUC. (2021), <https://save.org/wp-content/uploads/2022/01/2020datagsv1a-3.pdf> [https://perma.cc/2D4E-X9YB].

³⁵ Bering, *supra* note 30.

³⁶ Drapeau & McIntosh, *supra* note 34; see also Table 8.59A, *2018 National Survey on Drug Use and Health*, SUBSTANCE ABUSE & MENTAL HEALTH SERV. ADMIN. (Aug. 20, 2019), <https://www.samhsa.gov/data/report/2018-nsduh-detailed-tables> [https://perma.cc/2ZYS-EXD4] (865,000 women vs. 578,000 men attempted suicide in 2018).

³⁷ *Firearm Suicide in the United States*, EVERYTOWN RSCH. & POL'Y (Aug. 30, 2019), <https://everytownresearch.org/report/firearm-suicide-in-the-united-states> [https://perma.cc/8TD8-T4YB]; see also U.S. CONGRESSIONAL JOINT ECONOMIC COMMITTEE, REPORT: GUNS AND SUICIDE 2 (2019), https://web.archive.org/web/20200307184535/https://www.jec.senate.gov/public/_cache/files/e4c6a3e3-a170-4cee-8218-0167fe4311e9/jec2019-gunsandsuicide-final.pdf. [https://perma.cc/JW6E-GBQ5]. I verified this statistic using the CDC WISQARS Database sorting for firearm suicides committed by people >17 years old, dissected by sex, available at <https://webappa.cdc.gov/sasweb/ncipc/mortrate.html> [https://perma.cc/69GV-BEPJ].

³⁸ CDC, WISQARS: EXPLORE FATAL INJURY DATA VISUALIZATION TOOL (2018), <https://webappa.cdc.gov/sasweb/ncipc/mortrate.html> [https://perma.cc/HS6T-BFKU].

Toxic Masculinity and Gender-Based Gun Violence in America 39

men were far more likely to use a firearm than women.³⁹ Adult males used a firearm in 55.9% of suicides, compared to 31.5% of adult women.⁴⁰ For women, suffocation and poisoning were a close second and third: 29.9% of women's suicides were caused by suffocation, and 29.3% by poisoning.⁴¹ On the other hand, 28.3% of men resorted to suffocation (on par with women's statistics), but only 8.3% of men's suicides involved poisoning.⁴² This delta reflects the higher ratio of suicides carried out with a gun. Thus, men are more likely to commit suicide, and they are more likely to do so using a firearm.

Furthermore, the gender divide in firearm suicides transcends geography, race and ethnicity, and age. Geographically, the firearm suicide rate is 63% higher for men who live in rural areas than those who live in urban areas.⁴³ In 2018, the crude rate of suicides for rural males was 18.7, compared to 11.5 for urban males.⁴⁴ Contrast this to the firearm suicide rate for rural and urban women: 3.0 and 1.7, respectively.⁴⁵ This data shows that rural men are more than six times more likely to commit suicide using a firearm than their female counterparts, and ten times more likely to do so than urban women.⁴⁶ Men in urban areas are nearly seven times more likely to die by firearm suicide than urban women.⁴⁷ A stark contrast, indeed.

This gender-based discrepancy transcends race as well.⁴⁸ In 2018, white men accounted for 79% of all suicides.⁴⁹ Among the Black, American

³⁹ *Suicide*, NAT'L INST. MENTAL HEALTH (Sept. 2020), <https://web.archive.org/web/20210502054517/https://www.nimh.nih.gov/health/statistics/suicide> [<https://perma.cc/N3MW-N4R8>].

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ PETTRONE & CURTIN, *supra* note 27, at 5. Note that the data are grouped based on a male-female binary and does not differentiate for non-binary persons.

⁴⁴ *Id.* at 3.

⁴⁵ *Id.* at 4.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ As a note, this Article does not break out data for the Hispanic/Latinx community because of the way the CDC collects and categorizes data. Specifically, the CDC classifies Hispanic/Non-Hispanic as "ethnicity" rather than "race," so to avoid overinclusion or overrepresentation errors, I have not broken that data out here. I understand this is problematic as it does not allow us to properly account for the effects of gun violence on the Hispanic, Latinx, or Chicano communities, and I do not intend for this omission to be a slight against any of those communities. As always, representation matters.

⁴⁹ See Appendix A.

Indian/Alaska Native, and Asian/Pacific Islander communities, men committed suicide using a firearm at substantially higher rates than the women.⁵⁰ For example, in 2018, 1,382 Black men used a firearm to commit suicide whereas only 187 Black women did.⁵¹ For the American Indian/Alaska Native group, 197 men and only 36 women committed suicide using a gun.⁵² And finally, 316 men and only 58 women of the Asian/Pacific Islander category used a gun to commit suicide.⁵³

At all ages, men are more likely to commit suicide by firearm. Suicide is the third leading cause of death for people ages 10–24 years.⁵⁴ Boys (<18 years old) are between seven and eight times more likely to commit suicide by firearm than their female counterparts.⁵⁵ The highest rates of firearm suicide for men occurred in the 75–85 plus age range, for whom the crude rate was 32.6 firearm suicides per 100,000 people in that demographic.⁵⁶ For women in that age range, the crude rate was only 1.43, which means elderly men are nearly *23 times more likely* to die by firearm suicide than elderly women.⁵⁷ In the middle-aged group, the firearm suicide rate was highest for women ages 50–54, peaking at a crude rate of only 3.39.⁵⁸ Even in the age group in which women's firearm suicide rate was highest, the men's crude rate still outpaced them at 15.87—nearly five times higher.⁵⁹

These trends have remained consistent over time. From 2000 to 2018, suicide rates increased overall, though more pronouncedly so for men. The crude rate for men of all ages and demographics jumped from 10.44 in 2000 to 13.1 in 2018; whereas for women, the crude rate increased marginally, from 1.48 in 2000 to 2.01 in 2018.⁶⁰ And in every racial demographic from 2000 to

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *The Rise of Firearm Suicide Among Young Americans*, EVERYTOWN RSCH. & POL'Y (June 6, 2022), <https://everytownresearch.org/report/the-rise-of-firearm-suicide-among-young-americans> [<https://perma.cc/DWX3-4YMX>].

⁵⁵ *Id.*; see also REPORT: GUNS AND SUICIDE, *supra* note 37, at 12.

⁵⁶ See Appendix B.

⁵⁷ *Id.*

⁵⁸ See Appendix C.

⁵⁹ *Id.*

⁶⁰ See Appendix D.

Toxic Masculinity and Gender-Based Gun Violence in America 41

2018, men committed suicide using a firearm substantially more than women did.⁶¹

Scientists have attempted to explain why men are more likely to choose “violent” suicidal methods than women, but no widely accepted theory has emerged. One theory hypothesized that women used less “violent methods”—like drugs and carbon monoxide poisoning—because women are less intent on dying,⁶² though this theory has been largely disproven.⁶³ But one clear relationship between gun ownership and suicide has emerged: having access to a handgun drastically increases one’s risk of suicide for both genders.⁶⁴ According to a 2020 Stanford study, men who owned a handgun were 8 times more likely to commit suicide using that handgun; whereas, women were 35 times more likely.⁶⁵ Still, the number of men who committed suicide dwarfed the number of women who did so.⁶⁶ This is likely because men are statistically more likely to own a firearm.⁶⁷ In the Stanford study, men accounted for 78.1% of gun owners, and women just 21.8%.⁶⁸ Nationally, the disparities are less stark but nonetheless reflect a male-dominated trend, with men owning guns twice as often as women.⁶⁹

B. Intimate Partner Violence

Intimate partner violence (IPV) refers to “physical violence, sexual violence, stalking, or psychological harm by a current or former partner or spouse.”⁷⁰ In other words, IPV refers to behavior in an intimate relationship

⁶¹ See CDC WISQARS DATABASE, <https://webappa.cdc.gov/sasweb/ncipc/mortrate.html> [<https://perma.cc/6NAS-H3MQ>] (sorting firearm suicides by gender for each year 2000–2020).

⁶² Charles L. Rich et al., *Some Differences Between Men and Women Who Commit Suicide*, 145 AM. J. PSYCHIATRY 718, 718 (1988).

⁶³ Diane G. Denning et al., *Method Choice, Intent, and Gender in Completed Suicide*, 30 SUICIDE & LIFE-THREATENING BEHAV. 282, 284 (2000).

⁶⁴ Beth Duff-Brown, *Handgun Ownership Associated with Much Higher Suicide Risk*, STAN. MED. (June 3, 2020), <https://med.stanford.edu/news/all-news/2020/06/handgun-ownership-associated-with-much-higher-suicide-risk.html> [<https://perma.cc/KL4E-ESZN>].

⁶⁵ David M. Studdert et al., *Handgun Ownership and Suicide in California*, 382 NEW ENG. J. MED. 2220, 2220 (2020).

⁶⁶ *Id.* at 2224 (1,132 men compared to 219 women).

⁶⁷ See Grinshteyn & Hemenway, *supra* note 10 and accompanying text.

⁶⁸ Studdert et al., *supra* note 65, at 2223.

⁶⁹ See Grinshteyn & Hemenway, *supra* note 10 and accompanying text.

⁷⁰ *Intimate Partner Violence*, CDC (Oct. 9, 2020), <https://web.archive.org/web/20201007101325/https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html> [<https://perma.cc/HEA9-L74Y>].

that causes physical, psychological, or sexual harm.⁷¹ Domestic abuse, on the other hand, is broader and can include non-romantic family members (like an uncle or cousin).⁷² This section will focus primarily on gun violence in romantic relationships.

Abusers often harm their partners in order to exert power and control over their victim.⁷³ The perpetrators of such abuse are mostly men and the victims mostly women. Approximately one-in-four women and one-in-seven men experience physical violence at the hands of an intimate partner during their lifetime.⁷⁴ Similarly, about one-in-three women and one-in-six men experience sexual violence in an intimate partner relationship.⁷⁵ Women are victims of approximately 85% of domestic partner violence cases; men, just 15%.⁷⁶ This trend of male-perpetrated intimate partner violence also transcends sexual orientation: “There are more cases of domestic violence among males living with male partners than among males who live with female partners . . . [and] [f]emales living with female partners experience less domestic violence than females living with males.”⁷⁷

Still, the victims of intimate partner homicide (IPH) are disproportionately female. “Intimate partner homicide accounts for approximately 40 to 50% of [United States] femicides.”⁷⁸ Of the 6,348 intimate partner (IP) homicides that occurred from 2003 to 2015, 79% of them (or 4,861) involved a male perpetrator and female victim.⁷⁹ In heterosexual male-female intimate partner relationships, women “are killed

⁷¹ Sarah Dokkedahl et al., *The Psychological Subtype of Intimate Partner Violence and Its Effect on Mental Health: Protocol for A Systematic Review and Meta-Analysis*, 8 SYSTEMATIC REV. 198, 198 (2019).

⁷² *What is Domestic Abuse?*, U. N., <https://www.un.org/en/coronavirus/what-is-domestic-abuse> [<https://perma.cc/7U3N-46YF>].

⁷³ JoAnna Elmquist et al., *Motivations for Intimate Partner Violence in Men and Women Arrested for Domestic Violence and Court Referred to Batterer Intervention Programs*, 5 PARTNER ABUSE 359, 360, 362 (2014); see also *What is Domestic Abuse?*, *supra* note 71; Dokkedahl et al., *supra* note 70.

⁷⁴ Martin R. Huecker et. al, *Domestic Violence*, NAT’L CTR. BIOTECH. INFO. (July 1, 2022), <https://www.ncbi.nlm.nih.gov/books/NBK499891> [<https://perma.cc/NRH2-TP57>].

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 AM. J. PUB. HEALTH 1089, 1089 (2003). *Contra Guns & Domestic Violence*, NAT’L COAL. AGAINST DOMESTIC VIOLENCE (2016), https://assets.speakcdn.com/assets/2497/guns_and_dv0.pdf [<https://perma.cc/T89V-VCDT>] (Only 5.9% of male homicides are committed by an intimate partner).

⁷⁹ Catherine G. Velopulos et al., *Comparison of Male and Female Victims of Intimate Partner Homicide and Bidirectionality—An Analysis of the National Violent Death Reporting System*, 87 J. TRAUMA & ACUTE CARE SURGERY 331, 332 (2019).

Toxic Masculinity and Gender-Based Gun Violence in America 43

by intimate partners (husbands, lovers, ex-husbands, or ex-lovers) more often than by any other type of perpetrator.”⁸⁰ And nearly one-half (48.6%) of women killed by an intimate partner are killed by a *dating* partner—a point worth noting in light of the policy proposals I make later.⁸¹

Moreover, nearly 60% of female IPH victims are killed with a gun.⁸² Guns are the most common weapon-of-choice in all intimate partner homicides,⁸³ with intimate partner homicides by guns increasing by 15% from 2008 to 2017 and intimate partner homicides involving other weapons decreasing over the same period.⁸⁴

Some try to argue that women owning guns reduces the likelihood of IPV and improves their safety, but there is no empirical support for such an argument.⁸⁵ On the contrary, the presence of a firearm significantly *increases* the likelihood that intimate partner violence will escalate to lethal violence. When there’s a gun at home, an abusive male partner is five times more likely to kill his female partner.⁸⁶ And on a macro-level, states with the “highest rates of firearm ownership (i.e., the top quartile of states) have a 65[%] higher rate of [intimate partner] firearm homicide than states with the lowest rates of gun ownership.”⁸⁷

Instances of IPH also correlate with attempted suicide. In intimate partner homicides where the victim was a woman, the male perpetrator attempted suicide 46.5% of the time,⁸⁸ and the perpetrator used a firearm to kill himself in 88% of those cases involving suicide.⁸⁹ Interestingly, this pattern did not extend to same-sex homicides, even where the perpetrator was male.⁹⁰ In short, where the perpetrator of intimate partner homicide is a male and the victim a female, he is likely to take his own life after killing his partner.

⁸⁰ Campbell et al., *supra* note 78.

⁸¹ *Guns & Domestic Violence*, *supra* note 78.

⁸² Velopulos et al., *supra* note 79, at 333. For male victims, guns are used just under one-half of the time, at 47%. *Id.*

⁸³ *Id.*

⁸⁴ *Guns and Violence Against Women*, EVERYTOWN RSCH. & POL’Y (Jan. 26, 2022), <https://everytownresearch.org/report/guns-and-violence-against-women-americas-uniquely-lethal-intimate-partner-violence-problem> [<https://perma.cc/RFA3-FWLJ>].

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Velopulos et al., *supra* note 79, at 333.

⁸⁹ *Id.*

⁹⁰ *Id.* at 334.

There is some disagreement about the extent to which IPH is preceded by past abusive behavior. One study found that in at least one-fifth of the male-perpetrated IPH cases, the perpetrator had a history of abusing his victim.⁹¹ The vast majority of intimate partner homicides involve abuse at the hands of the male partner, regardless of which partner is ultimately killed.⁹² And yet another study found that female IPH victims were more likely to have been abused physically in the month preceding the homicide: seven percent of female IPH victims were abused by the male perpetrator, compared with two percent of male IPH victims.⁹³

Importantly, not all gun uses against an intimate partner result in physical injury or death: abusers often wield guns to coerce or intimidate their partner.⁹⁴ Approximately one million women alive today have had an intimate partner shoot or shoot at her.⁹⁵ And more than four times as many women—an estimated 4.5 million—“have been threatened by an intimate partner with a gun.”⁹⁶ Furthermore, because IPV victims fear escalation or retaliation, it is estimated that most people who experience IPV do not report it or seek help,⁹⁷ which means that the statistics we do have vastly underrepresent the extent of the problem.

What drives people to abuse romantic partners? Men and women who commit intimate partner violence in heterosexual relationships often have different psychological motivations for doing so. In male-female intimate relationships, male partners initiate violence more frequently than the female partner does, and the female partner is more likely to be injured.⁹⁸ Although there is some disagreement among academics, generally, “men . . . tend to use violence to dominate and control their partners.”⁹⁹ Whereas women more often commit IPV as a means of self-defense, other common reasons include: expressing feelings (anger being among the most common), reacting to feelings of powerlessness in the relationship (e.g., preemptive strike), and

⁹¹ *Id.* at 333.

⁹² Campbell et al., *supra* note 78, at 1089.

⁹³ Velopulos et al., *supra* note 79, at 333.

⁹⁴ Susan B. Sorenson & Rebecca A. Schut, *Non-Fatal Gun Use in Intimate Partner Violence: A Systematic Review of the Literature*, 19 *TRAUMA, VIOLENCE, & ABUSE* 431, 431 (2018).

⁹⁵ *Id.* at 437.

⁹⁶ *Id.*

⁹⁷ Megan L. Evans et al., *A Pandemic Within a Pandemic—Intimate Partner Violence During Covid-19*, 383 *NEW ENG. J. MED.* 2302, 2302 (2020).

⁹⁸ L. Kevin Hamberger, *Men's and Women's Use of Intimate Partner Violence in Clinical Samples: Toward a Gender-Sensitive Analysis*, 20 *VIOLENCE & VICTIMS* 131, 144–45 (2005).

⁹⁹ *Id.* at 141.

Toxic Masculinity and Gender-Based Gun Violence in America 45

responding to a partner's abuse (psychological or physical).¹⁰⁰ Although women do use IPV to exert control over an intimate partner, some experts postulate that “women use control to gain autonomy in relationships, whereas men use control to demonstrate authority.”¹⁰¹ However, these relationships and psychological motivations are highly complex, so this data reflects only broad generalizations. Not every instance of IPV perpetrated by a man is motivated by the desire to control; men commit IPV in self-defense, too. But the data supports the notion that the desire to control is a more common motivation for males perpetrating IPV than it is for females, which in turn, reflects macro trends in gender social dynamics.

C. Mass Shootings

Though there is no universally agreed-upon definition of “mass shooting,” it is commonly defined as a single incident in which a shooter is “actively engaged in killing or attempting to kill people in a populated area”¹⁰² and kills or injures four or more other people.¹⁰³ This Article uses that definition in its analysis.

¹⁰⁰ See Megan H. Bair-Merritt et al., *Why Do Women Use Intimate Partner Violence? A Systematic Review of Women's Motivations*, 11 TRAUMA, VIOLENCE, & ABUSE 178, 186 (2010).

¹⁰¹ *Id.* (citing Poco Kernsmith, *Exerting Power or Striking Back: A Gendered Comparison of Motivations for Domestic Violence Perpetration*, 20 VIOLENCE & VICTIMS 173, 173-185 (2005)).

¹⁰² *Active Shooter Resources*, FBI, <https://www.fbi.gov/about/partnerships/office-of-partner-engagement/active-shooter-resources> [<https://perma.cc/P896-7SYS>]. The FBI uses the term “active shooter” rather than “mass shooting” but its definition nonetheless aligns with other gun research definitions. *Id.*

¹⁰³ See, e.g., *Mass Shootings*, GIFFORDS, <https://giffords.org/issues/mass-shootings> [<https://perma.cc/U4B4-R65E>]; *Mass Shootings in America*, EVERYTOWN RSCH. & POL'Y (June 4, 2021), <https://maps.everytownresearch.org/massshootingsreports/mass-shootings-in-america-2009-2019> [<https://perma.cc/BJ2J-PYXI>] (“Everytown defines a mass shooting as any incident in which four or more people are shot and killed, excluding the shooter.”); *General Methodology*, GUN VIOLENCE ARCHIVE, <https://www.gunviolencearchive.org/methodology> [<https://perma.cc/N28F-QCC7>] (“GVA uses a purely statistical threshold to define mass shooting based ONLY on the numeric value of 4 or more shot or killed, not including the shooter.”).

Mass shootings have terrorized us in our places of worship,¹⁰⁴ our schools,¹⁰⁵ our backyards,¹⁰⁶ our hospitals,¹⁰⁷ our gyms,¹⁰⁸ our workplaces,¹⁰⁹

¹⁰⁴ Campbell Robertson et al., *11 Killed in Synagogue Massacre; Suspect Charged With 29 Counts*, N.Y. TIMES (Oct. 27, 2018), <https://www.nytimes.com/2018/10/27/us/active-shooter-pittsburgh-synagogue-shooting.html> [https://perma.cc/MK53-CGWK] (Tree of Life synagogue shooting); Jason Hanna & Holly Yan, *Sutherland Springs Church Shooting: What We Know*, CNN (Nov. 7, 2017, 6:52 AM), <https://www.cnn.com/2017/11/05/us/texas-church-shooting-what-we-know/index.html> [https://perma.cc/4SXR-UPL8]; Robert Costa et al., *Church Shooting Suspect Dylann Roof Captured Amid Hate Crime Investigation*, WASH. POST (June 18, 2015, 9:17 PM), <https://www.washingtonpost.com/news/morning-mix/wp/2015/06/17/white-gunman-sought-in-shooting-at-historic-charleston-african-ame-church> [https://perma.cc/77KN-5HA5].

¹⁰⁵ Elizabeth Chuck et al., *17 Killed in Mass Shooting at High School in Parkland, Florida*, NBC NEWS (Feb. 15, 2018, 9:20 AM), <https://www.nbcnews.com/news/us-news/police-respond-shooting-parkland-florida-high-school-n848101> [https://perma.cc/2HHX-D6L6] (shooting at Marjory Stoneman Douglas High School); Holly Yan et al., *Kentucky School Shooting: 2 students Killed, 18 Injured*, CNN (Jan. 24, 2018, 4:20 PM), <https://www.cnn.com/2018/01/23/us/kentucky-high-school-shooting/index.html> [https://perma.cc/W6AL-Q4RU]; Christine Hauser & Anahad O'Connor, *Virginia Tech Shooting Leaves 33 Dead*, N.Y. TIMES (Apr. 16, 2007), <https://www.nytimes.com/2007/04/16/us/16cnd-shooting.html> [https://perma.cc/D7UY-5N5Z].

¹⁰⁶ Matt Stroud & Christine Hauser, *Shooting That Killed 5 at Party Near Pittsburgh Was Planned, Police Say*, N.Y. TIMES (Mar. 10, 2016), https://www.nytimes.com/2016/03/11/us/mass-shooting-wilkinsburg-pittsburgh.html?_r=0 [https://perma.cc/CWY9-GAKT].

¹⁰⁷ Jeremy Gorner, *Gunman in Mercy Hospital Shooting Fired About 40 Shots Before Dying in Shootout with SWAT Officer*, CHI. TRIB. (Nov. 21, 2018, 8:15 PM), <https://www.chicagotribune.com/news/breaking/ct-met-chicago-mercy-hospital-shooting-details-20181121-story,amp.html> [https://perma.cc/6FXW-SYTQ].

¹⁰⁸ See, e.g., Dina Kesbeh, *Gunman Kills 2, Wounds 5 Others At Florida Yoga Studio*, NPR (Nov. 3, 2018, 6:23 AM), <https://www.npr.org/2018/11/03/663841900/gunman-kills-2-wounds-5-others-at-florida-yoga-studio?t=1541252025814> [https://perma.cc/5WNV-MYLG].

¹⁰⁹ See, e.g., Timothy Williams & Amy Harmon, *Maryland Shooting Suspect Had Long-Running Dispute With Newspaper*, N.Y. TIMES (June 29, 2018), <https://www.nytimes.com/2018/06/29/us/jarrod-ramos-annapolis-shooting.html> [https://perma.cc/UR33-5F8W] (“[U]sed a shotgun to blast his way into the Capital Gazette newsroom . . .”); Ian Cull & Jaxon Van Derbeken, *New Details Emerge About Man Who Fatally Shot UPS Co-Workers*, NBC BAY AREA (June 15, 2017, 8:39 AM), <https://www.nbcbayarea.com/news/local/new-details-emerge-about-man-who-fatally-shot-ups-co-workers/22757> [https://perma.cc/838F-D8PB] (“Investigators raided the home of a United Parcel Service driver who opened fire during a meeting with co-workers at a distribution center in San Francisco.”); Christopher Haxel & Mark Berman, *Kansas gunman served with restraining order just before shooting spree, police say*, WASH. POST (Feb. 26, 2016, 6:38 PM), <https://www.washingtonpost.com/news/post-nation/wp/2016/02/26/kansas-gunman-served-protection-from-abuse-order-shortly-before-shootings-sheriff-says> [https://perma.cc/4CB8-QUW7] (“[W]hen a lone shooter fired for nearly half an hour—first on a highway here in Newton, then at the lawn mower factory in nearby Hesston, where he worked . . .”).

Toxic Masculinity and Gender-Based Gun Violence in America 47

our movie theaters,¹¹⁰ our concerts,¹¹¹ our grocery stores,¹¹² our nightclubs and bars,¹¹³ our baseball games,¹¹⁴ our malls,¹¹⁵ our restaurants,¹¹⁶ and our homes.¹¹⁷ Most mass shooters are men acting alone—the “lone wolf.”¹¹⁸ Of the 202 mass shooters since 1966, *all but five* were men, and *only three* of those were women acting alone.¹¹⁹ Psychologist and former American Psychological Association (APA) President Frank Farley confirmed that “[i]t’s so unusual” for a mass shooter to be a woman.¹²⁰

Domestic violence (particularly intimate partner violence) and mass shootings are closely linked. In 54% of the mass shootings between 2009 and 2018, “the perpetrator shot a current or former intimate partner or family

¹¹⁰ See, e.g., Dan Frosch & Kirk Johnson, *Gunman Kills 12 in Colorado, Reviving Gun Debate*, N.Y. TIMES (July 20, 2012), <https://www.nytimes.com/2012/07/21/us/shooting-at-colorado-theater-showing-batman-movie.html> [<https://perma.cc/3NVJ-DNG7>].

¹¹¹ See, e.g., *Las Vegas Shooting: Chaos at a Concert and a Frantic Search at Mandalay Bay*, N.Y. TIMES (Oct. 2, 2017), <https://www.nytimes.com/interactive/2017/10/02/us/mandalay-bay-vegas-shooting.html> [<https://perma.cc/D8E9-AK6Z>].

¹¹² See, e.g., Tim Gaynor, *Congresswoman Giffords Wounded, Five Killed in Shooting*, REUTERS (Jan. 8, 2011, 12:49 PM), <https://www.reuters.com/article/idUSTRE70711A20110108> [<https://perma.cc/SQ7L-JH7H>].

¹¹³ See, e.g., Ariel Zambelich & Alyson Hurt, *3 Hours in Orlando: Piecing Together an Attack and Its Aftermath*, NPR (June 26, 2016, 5:09 PM), <https://www.npr.org/2016/06/16/482322488/orlando-shooting-what-happened-update> [<https://perma.cc/AT7Z-6S4R>] (covering the shooting at Pulse Nightclub).

¹¹⁴ See, e.g., David Shortell, *Congressional Baseball Shooter Fired at least 70 Rounds, Cased Area for Months*, CNN (Oct. 6, 2017, 5:47 PM), <https://www.cnn.com/2017/10/06/politics/congressional-shooter-70-rounds/index.html> [<https://perma.cc/E6P5-YKVY>].

¹¹⁵ See, e.g., Christopher Mele, *5 Dead in Shooting at Mall in Washington State, Police Say*, N.Y. TIMES (Sept. 23, 2016), <https://www.nytimes.com/2016/09/24/us/mall-shooting-washington-state.html> [<https://perma.cc/PKB8-2N7U>].

¹¹⁶ See, e.g., Steve Keegan, *CORRECTED - UPDATE 4 - Gunman Kills 4 at Nevada Pancake House, Shoots Self*, REUTERS (Sept. 6, 2011, 10:11 PM), <https://www.reuters.com/article/shooting-nevada-idUSN1E78513Q20110907> [<https://perma.cc/T8TQ-C5BY>].

¹¹⁷ Tim Ciesco et al., *8 Killed, 1 Injured at Plano Home; Gunman Killed by Police*, NBC (Sept. 12, 2017, 10:47 AM), <https://www.nbcdfw.com/news/local/8-people-killed-inside-a-plano-home-suspect-killed-by-police/38278> [<https://perma.cc/45QY-5NKM>].

¹¹⁸ JOEL A. CAPELLAN & ALLAN Y. JIAO, DECONSTRUCTING MASS PUBLIC SHOOTINGS: EXPLORING OPPORTUNITIES FOR INTERVENTION 13, ROCKEFELLER INST. OF GOV. (2019) (“Ninety-eight percent of shootings were executed by a lone actor who target[s] a single location [eighty-four] percent of the time.”).

¹¹⁹ Bonnie Berkowitz & Chris Alcantara, *The Terrible Numbers that Grow with Each Mass Shooting*, WASH. POST (May 12, 2021), <https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-america> [<https://perma.cc/9XHD-PCHG>].

¹²⁰ Alana Wise, *When it Comes to Mass Shooters, There’s a Clear Gender Divide*, WAMU (Sept. 21, 2018), <https://wamu.org/story/18/09/21/comes-mass-shooters-theres-clear-gender-divide> [<https://perma.cc/MLU4-CXU4>].

member during the mass rampage.”¹²¹ And of the 194 mass shootings analyzed by Everytown for Gun Safety, 61 perpetrators (nearly one-third) had a known history of domestic violence.¹²² Nine of the ten deadliest mass shootings in American history were perpetrated by men with a history of violence against women.¹²³ The “connection . . . between violence against women and many acts of lone wolf terrorism appears well founded,”¹²⁴ and “violence against women is often a ‘precursor crime’ to lone wolf terrorism.”¹²⁵

For example, the Parkland shooter had previously abused his ex-girlfriend and fought with her new boyfriend.¹²⁶ The Texas church shooter had a prior domestic violence conviction: he had beaten his wife and severely injured his stepson.¹²⁷ The Congressional baseball practice shooter had a record of physically abusing his foster daughter and her friends.¹²⁸ The Pulse nightclub shooter beat his wife routinely and threatened her with further abuse.¹²⁹ He had also abused his first wife.¹³⁰ The man who shot seventeen people at his workplace in Kansas and killed three went on this rampage “only 90 minutes after being served with a restraining order sought by his ex-girlfriend, who said he had abused her.”¹³¹ Though these examples are

¹²¹ *Ten Years of Mass Shootings in the United States*, EVERYTOWN FOR GUN SAFETY (Nov. 21, 2019), <https://web.archive.org/web/20200906190453/https://maps.everytownresearch.org/massshootingsreports/mass-shootings-in-america-2009-2019> [https://perma.cc/4VNM-NKWT].

¹²² *Id.*

¹²³ Juliann Nicholson & Ellen DeVoe, *Violence Against Women and Public Mass Shootings*, B.U. INST. HEALTH SYS. INNOVATION & POLY BLOG (Oct. 19, 2020), <https://web.archive.org/web/20201222022940/https://www.bu.edu/ihsip/2020/10/19/violence-against-women-and-public-mass-shootings> [https://perma.cc/4RQ2-FJCP].

¹²⁴ Jude McCulloch et al., *Lone Wolf Terrorism Through a Gendered Lens: Men Turning Violent or Violent Men Behaving Violently?*, 27 CRITICAL CRIMINOLOGY J. 437, 443 (2019).

¹²⁵ *Id.* (citing MARK S. HAMM & RAMÓN SPAAIJ, *THE AGE OF LONE WOLF TERRORISM* 11 (2017)).

¹²⁶ Haley Britzky, *Most Mass Shooters Have a History of Violence Against Women. The California Shooter Did Too*, AXIOS (Nov. 9, 2018), <https://www.axios.com/mass-shooters-history-of-violence-against-women-dfc6cfd4-7452-4198-b4d4-ba356bf9cbe7.html> [https://perma.cc/QX2E-4MWR].

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Amanda Taub, *Control and Fear: What Mass Killings and Domestic Violence Have in Common*, N.Y. TIMES (June 15, 2016), <https://www.nytimes.com/2016/06/16/world/americas/control-and-fear-what-mass-killings-and-domestic-violence-have-in-common.html> [https://perma.cc/24P2-DV5E].

Toxic Masculinity and Gender-Based Gun Violence in America 49

anecdotal, they are part of a broader trend of male-dominated intimate partner violence.

Indeed, misogyny or sexism is an increasingly prominent motivation for mass shootings. Between 2015 and 2019, for those shootings where a motive was known, 21% of shooters were explicitly motivated by misogyny—compared to a mere 7% for mass shooters between 1966 and 2000.¹³²

Though there is no single mass shooter psychological profile, researchers have identified a few common threads. Most pertinent here is the trend that most mass shooters had demonstrated suicidal tendencies at some point before carrying out mass murder. In an analysis of mass shootings from 1966 to 2018, researchers determined that approximately 80% of perpetrators were suicidal before or during the shooting.¹³³ Of the 183 mass shooters analyzed by the Washington Post, 101 of them died at the scene of the attack, with many of them committing suicide before they could be taken into custody.¹³⁴ Others estimate that of the active shooter incidents in which the shooter's identity was known from 1966 to 2010, the shooter killed himself after perpetrating mass homicide about 50% of the time.¹³⁵

Thus, the psychologies of mass shootings, suicide, and intimate partner violence are all interrelated. Taken together, they paint a grim picture of men's mental wellbeing and the role of guns in enabling violent outbursts. Their interconnectedness, however, also offers an interesting lens for analysis and a clear path forward.

II. CAN TOXIC MASCULINITY EXPLAIN GENDER DISPARITIES IN GUN VIOLENCE?

Based on the data above, it's hard to refute the notion that gun violence is a gendered phenomenon. The concept of toxic masculinity may help

¹³² Leah Scott, *What Makes a Mass Shooter? New Study Stresses the Need for Prevention*, MITU (Nov. 20, 2019, 2:01 PM), <https://web.archive.org/web/20210228100303/https://wearemitu.com/things-that-matter/what-makes-a-mass-shooter-new-study-stresses-the-need-for-prevention> [https://perma.cc/WCP7-QQSR] (citing Violence Project statistics).

¹³³ Lauren Dunn, *How Suicide Prevention May Help Stop Mass Killers Before They Start Shooting*, NBC NEWS (Aug. 11, 2019, 4:13 PM), <https://www.nbcnews.com/health/health-news/how-suicide-prevention-may-help-stop-mass-killers-they-start-n1040836> [https://perma.cc/WU4X-UFXN]; see also *Researchers: Suicidal Behavior Precedes Mass Shootings, But No Real Pattern*, VIOLENCE PROJECT (Nov. 10, 2018), <https://www.theviolenceproject.org/research/researchers-suicidal-behavior-precedes-mass-shootings-but-no-real-pattern> [https://perma.cc/Q42J-THGU].

¹³⁴ Berkowitz & Alcantara, *supra* note 119.

¹³⁵ Tricia Wang & An Xiao Mina, *Why Spree Killers Kill Themselves*, WIRED (Dec. 18, 2012, 6:30 AM), <https://www.wired.com/2012/12/why-spree-killers-kill-themselves> [https://perma.cc/6N2R-CGRF].

explain why we see such wide statistical disparities and provides a helpful frame of analysis for the psychological motivations of gun violence. At bottom, toxic masculinity hypothesizes that traditional gender constructs induce men to suppress emotions, rather than express them in a healthy way, to demonstrate physical dominance through aggression or violence, and to subjugate all women and those men who do not conform to the dominant social construct. Taken together, these factors can help us understand why men are more likely to commit suicide, lash out against intimate partners, and commit mass shootings.

A. Toxic Masculinity: The Social Construct

Unlike sex, which is defined by a person's biological attributes, gender, and by extension, conceptions of masculinity, are social constructs.¹³⁶ Conceptions of gender roles and gender identities vary across demographic groups.¹³⁷ Traditionally, gender has been viewed as a binary: masculinity has been perceived as the opposite of femininity, and vice versa.¹³⁸ Since the late twentieth century, however, we have come to understand gender as being a fluid construct, one that fits better on a sliding scale rather than as a binary identity. Thus, there is no universal definition of "masculinity," but there are common threads—in other words, there are traits viewed as traditionally masculine. The APA has identified "stoicism, competitiveness, dominance and aggression" as the characteristics defining traditional conceptions of masculinity.¹³⁹ Various schools of thought have emerged within the social science community. For example, the Brannon Masculinity Scale relies on four norms of traditional masculinity: "that men should not be feminine ('no sissy stuff'), that men should strive to be respected for successful achievement ('the big wheel'), that men should never show weakness ('the sturdy oak'), and that men should seek adventure and risk, even accepting violence if necessary ('give 'em hell')." ¹⁴⁰ Ronald Levant, a notable psychologist and researcher, determined that traditional norms of masculinity transcend social status and consistently include "the emphasis on dominance, aggression, extreme self-reliance, and restrictive emotionality."¹⁴¹ He also noted that "certain problems prevalent among men (such as the devaluation

¹³⁶ Krista Conger, *Of Mice, Men and Women: Making Research More Inclusive*, 44 STAN. MED. 6, 9 (2017).

¹³⁷ Ronald F. Levant, *Research in the Psychology of Men and Masculinity Using the Gender Role Strain Paradigm as a Framework*, 66 AM. PSYCH. 765, 768 (2011).

¹³⁸ Anne Constantinople, *Masculinity-Femininity: An Exception to a Famous Dictum?*, 80 PSYCH. BULL. 389, 389–407 (1973), reprinted in 15 FEMINISM & PSYCH. 385, 388 (2005).

¹³⁹ Pappas, *supra* note 22.

¹⁴⁰ Levant, *supra* note 137, at 769.

¹⁴¹ *Id.* at 766.

Toxic Masculinity and Gender-Based Gun Violence in America 51

of women, detachment from relationships, disdain of sexual minorities, neglect of health needs, and violence) [are] unfortunate but predictable results of male gender role socialization processes informed by traditional masculinity ideologies.”¹⁴²

Most recently, the APA published updated guidelines for psychologists and therapists treating men. In those guidelines, the APA defined quintessentially masculine traits as including, “anti-femininity, achievement, eschewal of the appearance of weakness, and adventure, risk, and violence.”¹⁴³ Men are constantly pressured to prove their manhood by demonstrating physical and mental toughness, by being aggressive or by taking risks, and by rejecting traditionally feminine traits. Although not all “traditionally masculine” traits are inherently problematic (men often feel the need to be independent and self-reliant, for example),¹⁴⁴ problems arise when men are socialized to believe that conforming to the expectation is the *only* option—that to react emotionally, to express vulnerabilities, would violate long-held and deeply entrenched gender expectations.¹⁴⁵ Because this binary conception of masculinity requires that men reject all feminine characteristics, and because women are allowed (and indeed, expected) to emote, to do so as a man would be to emasculate or feminize oneself. This is where the toxicity arises.

Toxic masculinity as a sociocultural phenomenon has existed for decades (arguably centuries), but it has only recently made its debut in the popular lexicon.¹⁴⁶ To be clear, toxic masculinity is not the demonization of *all* traits deemed quintessentially male or masculine.¹⁴⁷ Rather, toxic masculinity is the

¹⁴² *Id.*

¹⁴³ AMERICAN PSYCHOLOGICAL ASSOCIATION, *APA GUIDELINES FOR PSYCHOLOGICAL PRACTICE WITH BOYS AND MEN 3* (2018).

¹⁴⁴ Monica Hesse, *How ‘Traditional Masculinity’ Hurts the Men Who Believe In It Most*, WASH. POST (Jan. 13, 2019, 6:00 AM), https://www.washingtonpost.com/lifestyle/style/how-traditional-masculinity-hurts-the-men-who-believe-in-it-most/2019/01/12/22d2518a-14fd-11e9-90a8-136fa44b80ba_story.html [<https://perma.cc/FG43-FX96>].

¹⁴⁵ *Id.*

¹⁴⁶ Michael Salter, *The Problem with a Fight Against Toxic Masculinity*, ATLANTIC (Feb. 27, 2019), <https://www.theatlantic.com/health/archive/2019/02/toxic-masculinity-history/583411> [<https://perma.cc/D89U-GPCQ>] (“Despite the term’s recent popularity among feminists, *toxic masculinity* did not originate with the women’s movement. It was coined in the mythopoetic men’s movement of the 1980s and ’90s, motivated in part as a reaction to second-wave feminism.”).

¹⁴⁷ American Psychological Association (@APA), TWITTER (Jan. 7, 2019, 4:21 PM), <https://twitter.com/APA/status/1082401926174703616?s=20> [<https://perma.cc/9U59-EPEQ>] (American Psychological Association notes that there are positive aspects of “‘traditional masculinity,’ such as courage & leadership” and does not encourage abandoning such ideals).

combination of a few masculine traits taken to their extremes: at its base, toxic masculinity is predicated on dominance and control.¹⁴⁸ It stands for the idea that gender constructs for men require them to “[suppress] emotions or [mask] distress . . . [maintain] an appearance of hardness,” and use violence “as an indicator of power.”¹⁴⁹ In other words, there is no room in society for men to express emotions typically perceived as vulnerable: sadness, fear, shame.¹⁵⁰ Men that do are perceived as weaker and more feminine.¹⁵¹ It is a worldview that both relies on and perpetuates insecurity and fear.¹⁵² To psychologists, toxic masculinity refers to “an extreme form of stoicism, dominance, violence, and aggression.”¹⁵³

This is the 10,000-foot view. On the ground, toxic masculinity is a “constellation of socially regressive male traits that serve to foster domination, the devaluation of women, homophobia, and wanton violence.”¹⁵⁴ Put differently, “[i]t’s a manhood that views women and [LGBTQ+] people as inferior, sees sex as an act not of affection but domination, and which valorizes violence as the way to prove [oneself] to the world.”¹⁵⁵ Toxic, indeed.

How do those behaviors manifest in everyday life? Because gender is a social construct, it is lived and experienced socially. In other words, it frames our behavior and perception in social interactions. In interactions between cisgender, heterosexual men or boys, these men feel a social pressure to conform to conceptions of masculinity. Additionally, they may feel pressured to prove their masculinity—prove their “alpha”-ness. In America, “manhood generally has to be earned and maintained through actions in a way that womanhood doesn’t.”¹⁵⁶ Further, men are socialized to “earn” or “prove”

¹⁴⁸ Amanda Marcotte, *Overcompensation Nation: It’s Time to Admit That Toxic Masculinity Drives Gun Violence*, SALON (June 13, 2016, 4:16 PM), https://www.salon.com/2016/06/13/overcompensation_nation_its_time_to_admit_that_toxic_masculinity_drives_gun_violence [<https://perma.cc/MA5L-NJFP>].

¹⁴⁹ Salam, *supra* note 21.

¹⁵⁰ Marcotte, *supra* note 147 (“Toxic masculinity aspires to toughness but is, in fact, an ideology of living in fear: The fear of ever seeming soft, tender, weak, or somehow less than manly. This insecurity is perhaps the most stalwart defining feature of toxic masculinity.”).

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ Amanda Mull, *Psychology Has a New Approach to Building Healthier Men*, ATLANTIC (Jan. 10, 2019), <https://www.theatlantic.com/health/archive/2019/01/traditional-masculinity-american-psychological-association/580006> [<https://perma.cc/T9MD-WL5T>].

¹⁵⁴ Salter, *supra* note 146.

¹⁵⁵ Marcotte, *supra* note 148.

¹⁵⁶ Mull, *supra* note 153.

Toxic Masculinity and Gender-Based Gun Violence in America 53

their manhood by acting in risky, aggressive, or violent manners and by “shaming and bullying [] men who don’t fit the masculine mold.”¹⁵⁷ That breeds one socially acceptable conception of manliness—one that leaves little to no room to cope with stress or trauma in healthy ways, and one that pressures men to subjugate women and anyone who does not conform to that standard.¹⁵⁸

To be clear, masculinity norms are harmful to men. Men who adhere to or were raised to conform with traditional norms of masculinity are at higher risk of experiencing stress, depression, body image issues, substance abuse, and negative social functioning, compared to their female and gender non-conforming counterparts.¹⁵⁹ Those negative health impacts are more pronounced in men who exhibit “toxic” masculine norms—specifically self-reliance, showing dominance over women, and being a “playboy.”¹⁶⁰ These men are also far less likely to seek preventive healthcare for either physical or psychological issues.¹⁶¹ Scientists have also found a positive correlation between adhering to these masculine norms and engaging with other risky health behaviors like drinking heavily, using tobacco, and developing less healthy dietary habits.¹⁶²

Psychologists believe that these unhealthy reactions are a result of the pressure that men feel to be “the ‘ideal’ American man” leaving them “without the ability to cope properly with the stresses of life.”¹⁶³ The normative male alexithymia (NMA) hypothesis supports this view and “posits that men reared to conform to traditional masculine norms will have

¹⁵⁷ *Id.* See also David French, *The New Right’s Strange and Dangerous Cult of Toughness*, ATLANTIC (Dec. 1, 2021), <https://www.theatlantic.com/ideas/archive/2021/12/the-new-rights-strange-and-dangerous-cult-of-toughness/620861> [<https://perma.cc/PC58-6J6T>] (commenting on the role of “toughness” as a sociocultural ideal in members of the political right and noting that this “toughness” is why we see, for example, more AR-15s at public protests).

¹⁵⁸ Pappas, *supra* note 22.

¹⁵⁹ Y. Joel Wong et al., *Meta-Analyses of the Relationship Between Conformity to Masculine Norms and Mental Health-Related Outcomes*, 64 J. COUNSELING PSYCH. 80, 85–86 (2017).

¹⁶⁰ *Id.* at 87. See also Ben Panko, *Sexism Sucks for Everybody, Science Confirms*, SMITHSONIAN MAG. (Nov. 22, 2016), <https://www.smithsonianmag.com/science-nature/sexism-sucks-everybody-science-confirms-180961178> [<https://perma.cc/J5PH-RNJK>] (synthesizing the results of Wong’s study).

¹⁶¹ Kristen W. Springer & Dawne M. Mouzon, “*Macho Men*” and Preventive Health Care: Implications for Older Men in Different Social Classes, 52 J. HEALTH & SOC. BEHAV. 212, 218 (2011).

¹⁶² James R. Mahalik et al., *Masculinity and Perceived Normative Behaviors as Predictors of Men’s Health Behaviors*, 64 SOC. SCI. & MED. 2201, 2207 (2007).

¹⁶³ Panko, *supra* note 160 (quoting Michael Addis, academic research psychologist).

difficulty putting their emotions into words.”¹⁶⁴ For instance, a child attempting to deal with instability at home may turn to fighting his peers as the only “manly” response for processing those emotions.¹⁶⁵ A college-aged man may turn to binge drinking to cope with the stress of higher education; likewise, an adult man struggling at work “might turn to abusing his spouse and children instead of risking appearing ‘weak’ by seeking their support.”¹⁶⁶ In short, toxic masculinity is not only harmful to women but to men as well—a claim that is borne out by the data.¹⁶⁷

B. Masculinity in Gun Culture

Owning a gun is an accessible and popular way of demonstrating one’s strength, independence, and self-reliance. Gun owners, the majority of whom are men,¹⁶⁸ tend to view their social role as that of the sheepdog: bound by duty to protect the defenseless herd of sheep against menacing wolves.¹⁶⁹ Many of these people view themselves as fulfilling some sort of civic duty by carrying a firearm in public spaces.¹⁷⁰ This sense of duty is fueled in part by people’s perception that the world is a dangerous place.¹⁷¹ For example, at the height of the pandemic and civil unrest in the summer of 2020, firearm sales skyrocketed, driven in large part by first time buyers citing “uncertainty and unrest.”¹⁷² Coupled with perceptions of a declining or ineffectual police force,¹⁷³ people now feel vulnerable unless they take protection of

¹⁶⁴ Levant, *supra* note 137, at 767.

¹⁶⁵ Panko, *supra* note 160 (quoting Michael Addis, academic research psychologist).

¹⁶⁶ *Id.*

¹⁶⁷ Pappas, *supra* note 22.

¹⁶⁸ About 40% of men and 22% of women report owning a firearm, meaning that there are twice as many men with a gun than women with a gun. Furthermore, men are more likely than women to own multiple firearms—about 75% of male gun owners but 53% of women gun owners report owning more than one firearm. Parker et al., *supra* note 5.

¹⁶⁹ Jennifer Carlson, *The Right to Self-Defense, the Duty to Protect*, in *CITIZEN-PROTECTORS: THE EVERYDAY POLITICS OF GUNS IN AN AGE OF DECLINE* 85, 86 (2015).

¹⁷⁰ *Id.* at 87.

¹⁷¹ Parker et al., *supra* note 5 (“Overall, 69% of all U.S. adults—and 75% of those who own a gun—say the world has become a more dangerous place.”).

¹⁷² Chris Arnold, *Pandemic and Protests Spark Record Gun Sales*, NPR (July 16, 2020, 11:03 AM), <https://www.npr.org/2020/07/16/891608244/protests-and-pandemic-spark-record-gun-sales> [https://perma.cc/S9P3-TJ9B].

¹⁷³ Glenn Harlan Reynolds, *Opinion: Riots of 2020 Have Given the Second Amendment a Boost*, USA TODAY (Oct. 8, 2020, 4:00 AM), <https://www.usatoday.com/story/opinion/2020/10/08/riots-2020-have-given-boost-second-amendment-column/5901798002> [https://perma.cc/7J58-FE9W] (commenting that a common saying among gun owners is that “when seconds count, the police are only minutes away”).

Toxic Masculinity and Gender-Based Gun Violence in America 55

themselves, their family, and their community into their own hands.¹⁷⁴ This squares neatly with Wayne LaPierre's famous statement that "[t]he only thing that stops a bad guy with a gun, is a good guy with a gun."¹⁷⁵ Such is the rise of the Citizen-Protector.¹⁷⁶

This is where the Sheep-Wolves-Sheepdog analogy, popularized by the film *American Sniper*, is helpful. In the film, before the protagonist Chris Kyle is deployed, his father tells him that "there are three types of people in the world: wolves, sheep, and sheepdogs."¹⁷⁷ This line was inspired by the words, often recited in the gun community, of a former Lieutenant Colonel, who said:

If you have no capacity for violence then you are a healthy productive citizen: a sheep. If you have a capacity for violence and no empathy for your fellow citizens, then you have defined an aggressive sociopath—a wolf. But what if you have a capacity for violence, and a deep love for your fellow citizens? Then you are a sheepdog, a warrior, someone who is walking the hero's path.¹⁷⁸

Furthermore, what differentiates the sheep from the sheepdog is that "[t]he sheep pretend the wolf will never come, but the sheepdog lives for that day."¹⁷⁹ Sheep, out of fear, live in denial that wolves are all around them, and they do not much like the sheepdog because the dogs "look[] a lot like the wolf"—fanged and capable of violence—and because they are a reminder that the wolves exist.¹⁸⁰ Under this construct, perhaps it is no surprise that most gun owners are men. Male gun carriers that adhere to traditional gender norms often carry guns for security: they view themselves as the sheepdog, entrusted with protecting the otherwise defenseless flock of sheep. Without them, the wolves would make quick work of the herd. Moreover, the wolf is always lurking—he could strike at any time. The sheepdog must be ever vigilant: "If you are a warrior who is legally authorized to carry a weapon and

¹⁷⁴ Carlson, *supra* note 169, at 89.

¹⁷⁵ Peter Overby, *NRA: 'Only Thing That Stops a Bad Guy with a Gun is a Good Guy with a Gun'*, NPR (Dec. 21, 2012, 3:00 PM), <https://www.npr.org/2012/12/21/167824766/nra-only-thing-that-stops-a-bad-guy-with-a-gun-is-a-good-guy-with-a-gun> [<https://perma.cc/Y529-XJTE>] (errant comma aside).

¹⁷⁶ See generally Carlson, *supra* note 169 (The term was coined by author and professor, Jennifer Carlson).

¹⁷⁷ *American Sniper* (Warner Bros. 2014).

¹⁷⁸ Dave Grossman, *On Sheep, Wolves and Sheepdogs*, in *ON COMBAT*, 171, 172 (1995).

¹⁷⁹ *Id.* at 174.

¹⁸⁰ *Id.* at 173.

you step outside without that weapon, then you become a sheep, pretending that the bad man will not come today.”¹⁸¹

What is fascinating about this narrative is that it purports not to pass moral or normative judgment on the so-called “sheep.” Yet, this is exactly the sort of “prove yourself,” “prove your toughness” type language that fuels toxic masculinity: if you are not strong enough to handle violence, to shoot someone if need be, then you are a meek, passive sheep clinging to the safety of the flock. The more desirable—honorable even—sheepdog fears not; he is ready at a moment’s notice to kill.¹⁸² Furthermore, the sheep is in denial, so debilitated by fear, the sheep dies twice: first when he is “not physically prepared” and second when, “even if [he] do[es] physically survive,” he is “psychologically shattered by *fear, helplessness, horror and shame* at [his] moment of truth.”¹⁸³ By any reading, the sheep suffers a worse fate, but the sheepdog is a hero worthy of praise.

This intersection of masculinity and gun ownership is consistent with the work of gender scholar Iris Marion Young, who defined this social phenomenon as “masculinist protection.”¹⁸⁴ Men are perceived as “good” or more valuable based on their willingness and ability to protect others.¹⁸⁵ This empowers men to use physical force for a purportedly “moral” cause. So, when men buy a gun to protect their family or carry one to protect their fellow patrons in a bar, they see themselves as fulfilling a social duty.¹⁸⁶

At an even simpler level, guns are a source of maximal physical power. Even if one is not the strongest or most physically intimidating in the room, having a gun changes the power dynamic: it is an equalizer of sorts. That should make guns especially useful for women who are often perceived as the less physically dominant sex. Yet, it is more often men that feel compelled to carry firearms. Firearms allow people—men specifically—to demonstrate their toughness or inviolability with a mere glint of silver at the hip.

To be clear, women own and carry firearms for self-protection too. In fact, 71% of female gun owners cite protection as the primary reason they own a gun.¹⁸⁷ Roughly the same proportion of men and women gun owners

¹⁸¹ *Id.* at 177.

¹⁸² *Id.* at 202.

¹⁸³ *Id.* at 176 (emphasis added).

¹⁸⁴ Iris Marion Young, *The Logic of Masculinist Protection: Reflections on the Current Security State*, 29 SIGNS 1, 4 (2003).

¹⁸⁵ *Id.* See also Carlson, *supra* note 169, at 96.

¹⁸⁶ *Id.* at 96–97.

¹⁸⁷ Parker et al., *supra* note 5, at 20.

Toxic Masculinity and Gender-Based Gun Violence in America 57

say that owning a gun is “very important to their identity.”¹⁸⁸ And men and women public carry firearms at roughly the same rate.¹⁸⁹ But what distinguishes male and female gun owners is that: (1) men are almost twice as likely to own a gun, (2) men are more likely to socialize among other gun owners, and (3) for many men, being a gun owner imposes social responsibilities. In other words, gun ownership is socialized for men in a way that it is not for women.¹⁹⁰

The gun lobby feeds into this gendered construct. Perhaps the most famous example of the relationship between guns and perceived masculinity is the Bushmaster “Man Card” Campaign. The 2010 promotional campaign provided a Bushmaster-sanctioned “Man Card,” certifying the carrier’s manhood, to any man who could correctly answer a series of questions about what it means to be a man.¹⁹¹ The recipient’s “Man Card” was valid for one year, and he could “even revoke the Man Card of friends [he felt] ha[d] betrayed their manhood. The man in question [would] then have to defend himself, and [his] Man Card, by answering a series of questions geared towards proving indeed, [he is] worthy of retaining [his] card.”¹⁹²



Figure 1: Advertisement for the Bushmaster AR-15 semiautomatic rifle, circa November 2010.

¹⁸⁸ *Id.* at 31.

¹⁸⁹ *Id.* at 36.

¹⁹⁰ See *supra* Part I.

¹⁹¹ *Proof of Your Manhood—The Man Card . . . Do You Have What It Takes?*, BUSHMASTER FIREARMS (May 7, 2010), <https://web.archive.org/web/20101202061940/http://www.bushmaster.com/press-release-050710.asp> [<https://perma.cc/BX9W-YVJX>].

¹⁹² *Id.*

This ad evinces that many male gun owners view firearms as a badge of masculinity.¹⁹³ As a result, they feel personally attached to their arms—that gun ownership is not only a means of protecting themselves and others around them but also a part of their social identity.¹⁹⁴ Because society pressures men to constantly *prove* their toughness—their inviolability—it is no surprise that men turn to external, and lethal, means.

Thus, the psychology behind the “citizen-protector” narrative is deeply intertwined with societal conceptions of masculinity. This notion of the man as a protector is so entrenched in our understanding of traditional gender roles that it may as well go without saying. And of course, protecting people is not in and of itself a problem, but the social impositions of this gender role are. This framing is toxic to men. Society imposes a social duty on men to protect the herd, and in traditional gender constructs, this job falls solely on men. As a result, men must suppress fear, remain vigilant, and prepare themselves for violence. As the APA’s studies have shown, this gives rise to violence in other areas of their lives, destructive health behaviors, and worse physical and mental health.¹⁹⁵

C. Toxic Masculinity and Gun Violence

Toxic masculinity and gun violence present a sort of “chicken-egg” problem: it’s hard to pinpoint which comes first. As a result, it is difficult to establish direct causality between toxic masculinity and gun violence. However, the concept of toxic masculinity presents a new way to think about why gun violence is perpetrated by men at an alarmingly disproportionate rate. Even if one rejects the concept of toxic masculinity out of hand, that gender and gun violence are deeply interrelated is indisputable. Toxic masculinity merely offers a lens through which to frame that discussion.

1. Toxic Masculinity & Suicide

As detailed above, firearm suicide is an overwhelmingly male phenomenon. Before examining how toxic masculinity and male suicide rates may be linked, we must understand why people commit suicide. Of course, this task is first complicated by the fact that experts cannot interview those whose attempt is successful; instead, they must rely on testimony of those who attempt suicide and survive to understand the psychology of suicide. Second, it is difficult to paint in broad strokes because every suicide is

¹⁹³ Natalie Nanasi, *Disarming Domestic Abusers*, 14 HARV. L. & POL’Y REV. 559, 572 (2020).

¹⁹⁴ *Id.* at 593.

¹⁹⁵ See Mahalik et al., *supra* note 162; Panko, *supra* note 160 (quoting Michael Addis, academic research psychologist).

Toxic Masculinity and Gender-Based Gun Violence in America 59

different.¹⁹⁶ People have different motivations, and certain risk factors increase certain people's tendency towards self-harm (e.g., family history of suicide, history of substance abuse),¹⁹⁷ so it is impossible to assign a single cause-effect relationship between social dynamics and suicide. Accordingly, this Article relies solely on general social trends and does not purport to undertake the Sisyphean task of tying *all* male suicides to toxic masculinity.

Although the majority of people who have depression do not commit suicide,¹⁹⁸ multiple studies have confirmed that uncomplicated Major Depressive disorder is present in about half of suicides.¹⁹⁹ Women experience Major Depression at nearly twice the rate men do but are far less likely to end their lives. Why? Scientists posit that this difference is a product of the way men and women are socialized. First, in men's platonic relationships, they "interact socially around external matters—sports, business, politics, hobbies. Feelings are not considered a fit subject for discussion."²⁰⁰ That is because revealing one's feelings—particularly feelings of depression, sadness, hopelessness—is tantamount to exposing one's vulnerabilities.²⁰¹ Men are socialized to believe that confessing vulnerabilities is a demonstration of weakness and confers a potential advantage to other men.²⁰² This belief is so deeply engrained that men will go so far as to withhold the extent of their mental anguish from psychiatrists and counselors, instead resorting to self-harm and suffering alone.²⁰³ As a result, men are less likely to ask for help in the first place because they perceive the act of asking for help as an admission of inadequacy or incompetence—that they cannot handle or control their emotions.²⁰⁴ Finally, men are socialized to value decisiveness, to handle problems themselves, and to act on their emotions, potentially driving them toward irreversible acts of violent self-harm.²⁰⁵

¹⁹⁶ Patrick J. Skerrett, *Suicide Often Not Preceded by Warnings*, HARV. HEALTH BLOG (Sept. 24, 2012), <https://www.health.harvard.edu/blog/suicide-often-not-preceded-by-warnings-201209245331> [<https://perma.cc/Y3JV-BVF3>].

¹⁹⁷ *Risk and Protective Factors*, CDC (Aug. 5, 2022), <https://www.cdc.gov/violenceprevention/suicide/riskprotectivefactors.html> [<https://perma.cc/AK7V-KHHR>].

¹⁹⁸ *Does Depression Increase the Risk of Suicide?*, DEP'T OF HEALTH & HUM. SERV. (Sept. 16, 2014), <https://www.hhs.gov/answers/mental-health-and-substance-abuse/does-depression-increase-risk-of-suicide/index.html> [<https://perma.cc/7BLF-73NY>].

¹⁹⁹ George E. Murphy, *Why Women Are Less Likely Than Men to Commit Suicide*, 39 COMPREHENSIVE PSYCHIATRY 165, 165 (1998).

²⁰⁰ *Id.* at 169.

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.* at 170.

²⁰⁵ Murphy, *supra* note 199, at 169–70.

On the other hand, women are socialized to be interdependent—to rely on female social networks for emotional support.²⁰⁶ Indeed, female platonic relationships are more likely to involve an emotional element. Women devote more of their interactions to discussing feelings, and they ask for, offer, and receive emotional support from female friends far more often than men do from their male friends.²⁰⁷ Relatedly, society does not perceive women as weak for asking for help, so they are more likely to seek medical and psychological support in times of crisis.²⁰⁸

These trends are consistent with traditional gender norms, and, concomitantly, the concept of toxic masculinity. Suppressing one's emotions, maintaining a hard exterior, and using violence as a proxy for power are quintessential manifestations of toxic masculinity.²⁰⁹ Furthermore, because men who conform to these constructs are less likely to seek help²¹⁰ and more likely to act out violently, toxic masculinity may well play a role in men's suicide.

However, because more women attempt suicide than men do, men's inability to express or cope with emotions cannot be the only explanatory factor for the higher rate of suicide. Importantly, men's attempts are successful far more often.²¹¹ So why the difference? Men are almost twice as likely to use firearms,²¹² suggesting that because men are socialized to be decisive, once they have decided, they will not only follow through, but they will also choose a rapid, effective, and irreversible method: the firearm. Using a gun reduces the opportunity for second-guessing, which may explain the higher mortality rates among men than among women.²¹³ Toxic masculinity may not fully explain the driving factors of male suicide, but it may help explain why men feel suicide is the only option and why men use guns to commit suicide more than women do.

²⁰⁶ *Id.* at 170.

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ Salam, *supra* note 21.

²¹⁰ See Springer & Mouzon, *supra* note 161 and accompanying text.

²¹¹ Konstantinos Tsirigotis et al., *Gender Differentiation in Methods of Suicide Attempts*, 17 MED. SCI. MONITOR 65, 67 (2011).

²¹² See *Suicide*, NAT'L INST. MENTAL HEALTH (June 2022), <https://www.nimh.nih.gov/health/statistics/suicide> [<https://perma.cc/V8TB-JH63>].

²¹³ Murphy, *supra* note 199, at 170.

Toxic Masculinity and Gender-Based Gun Violence in America 61

2. Toxic Masculinity & Intimate Partner Violence (IPV)

Several traits associated with toxic masculinity may also explain the prevalence of male-on-female intimate partner violence—particularly the use of firearms to threaten an intimate partner. To reiterate, social constructs pressure men to prove their manhood through physical dominance. The “male dominance” aspect of toxic masculinity, and particularly the pressure to “womanize,” breeds misogyny and a general lack of respect for women. It also frames relationships not in terms of equality or interdependence, but rather in terms of control. Men who are domestic abusers often admit that they act violently against a romantic partner in order to control them. Additionally, because society generally denies men the tools to manage heated situations or heightened emotions (which are often the catalyst for IPV incidents), they may lack the communication skills to express feelings of dissatisfaction, disappointment, or fear in a nonviolent way or to deescalate the situation.²¹⁴ This is exacerbated by social pressures to prove their manhood through physical acts. Taken together, these constructs increase the likelihood that partner disputes will turn violent.

The number of women in the United States who report being threatened with a gun by their partner is a staggering 4.5 million.²¹⁵ Moreover, intimate partner violence involving a firearm is experienced most often by women with a male partner.²¹⁶ When an abuser has access to a gun, an IPV incident is *five times more likely* to result in the female partner’s death.²¹⁷ Why? Guns amplify an already asymmetrical power dynamic between male abuser and female victim. Guns make men feel more powerful, more in control over their partner, and allow an abuser to coerce or threaten his victim into submission, all without ever laying hand on her or pulling the trigger. Ultimately, guns enable physical dominance and psychological manipulation, both of which play into toxically masculine behaviors: dominating others, exerting control—particularly over women, who are viewed as inferior—and perpetuating existing power imbalances.

²¹⁴ For an example on how this might manifest, see Assael Romanelli, *Why So Many Men Struggle With Their Emotions*, PSYCH. TODAY (Mar. 11, 2022), <https://www.psychologytoday.com/us/blog/the-other-side-relationships/202203/why-so-many-men-struggle-their-emotions> [https://perma.cc/GR52-PSKZ] (Men are often “forced to separate from their feelings and their mothers on the way to becoming ‘men.’ They learn to turn away from their fathers and their own pain toward . . . distractions. They covertly experience depression, which manifests mostly as numbness, boredom, apathy, limited emotional range, and cynicism.”).

²¹⁵ *Guns and Violence Against Women*, *supra* note 84.

²¹⁶ *Id.*

²¹⁷ *Id.* and accompanying text.

3. Toxic Masculinity & Mass Shootings

Relatedly, mass shooters mirror much of the toxically masculine conduct described in the context of firearm suicides and intimate partner violence. Again, no two mass shooters are the same, nor are their motives. For some mass shooters like Sandy Hook shooter Adam Lanza, we may never know why they perpetrate such atrocities.²¹⁸ None of this is to say that toxic masculinity is the sole and exclusive cause of mass violence; what motivates mass murder is a deeply complicated inquiry. However, this section will explore how mass shooters often demonstrate toxically masculine behaviors, and how toxic gender constructs may relate to the vast gender disparities in mass shootings.

Many of the mass shooters over the past 20 years exhibited traits or espoused philosophies that qualify as toxically masculine. For example, Elliot Rodger, the Isla Vista, California shooter who killed six people and injured 16 more, was a member of the incel community. Incels, short for “involuntarily celibates,” were originally a welcoming community “where men who didn’t know how to talk to women could ask the community’s female members for advice (and vice versa).”²¹⁹ But now, the incel community, which congregates online, espouses “a fundamental rejection of women’s sexual emancipation,” and “label[s] women shallow, cruel creatures who will choose only the most attractive men if given the choice.”²²⁰ Incels are “overwhelmingly young men and boys with a history of isolation and rejection; they turn to the internet to make sense of their pain.”²²¹ Elliot Rodger fit that bill: before planning his massacre near the UC Santa Barbara campus, he had long advocated for a violent revolution against women. He chronicled this deep-seated misogyny and toxic masculinity in a 141-page manifesto, which opens with, “Humanity . . . All of my suffering on this world has been at the hands of humanity, particularly women.”²²² Rodger had planned his shooting months in advance, describing beforehand,

I wanted answers. I wanted to know why it had to come to this. If only *one* pretty girl had shown some form of

²¹⁸ Matt Smith, *Sandy Hook Killer Took Motive to His Grave*, CNN (Nov. 26, 2013, 7:33 AM), <https://www.cnn.com/2013/11/25/justice/sandy-hook-shooting-report/index.html> [<https://perma.cc/KCF9-D7RY>].

²¹⁹ Zack Beauchamp, *Our Incel Problem*, VOX (Apr. 23, 2019, 7:58 AM), <https://www.vox.com/the-highlight/2019/4/16/18287446/incel-definition-reddit> [<https://perma.cc/FV5F-EMKB>].

²²⁰ *Id.*

²²¹ *Id.*

²²² *The Manifesto of Elliot Rodger*, N.Y. TIMES (May 25, 2014), <https://www.nytimes.com/interactive/2014/05/25/us/shooting-document.html> [<https://perma.cc/WGQ5-ZFD6>].

Toxic Masculinity and Gender-Based Gun Violence in America 63

attraction to me, the Day of Retribution would never happen The Day of Retribution is mainly my war against women for rejecting me and depriving me of sex and love. If only one girl had given me a chance, tried to get to know me, let me take her out on a date . . . [n]one of this would have to happen.²²³

Rodger had shown signs of violence towards women before. At a college party the summer before his “Day of Retribution,” he tried to push several girls off a ten-foot ledge, enraged that they had not paid romantic attention to him.²²⁴ Ultimately, he would target “the very girls who represent everything [he hated] in the female gender: the hottest sorority of UCSB.”²²⁵ Rodger’s plan also involved domestic violence: he had also planned to kill his younger brother and stepmother, though thankfully, this plan never came to fruition.²²⁶

Omar Mateen, the Orlando Pulse Nightclub shooter, also demonstrated controlling and abusive tendencies, according to his ex-wife.²²⁷ A colleague said that he frequently used racial and sexual epithets, and regularly talked about killing people.²²⁸ Others described him as openly homophobic.²²⁹ Mateen had *two* concealed carry licenses²³⁰ and on June 12, 2016, he perpetrated the deadliest attack on LGBTQ+ people in U.S. history, killing 49.²³¹ The fact that Mateen regularly exhibited homophobia²³² and chose to attack the LGBTQ+ community is a manifestation of toxic masculinity: that gay men are inferior to straight men and that this dominance must be proven through violence.

²²³ *Id.* at 119.

²²⁴ *Id.* at 122.

²²⁵ *Id.* at 132.

²²⁶ *Id.* For the purposes of this paper, domestic violence and intimate partner violence are distinct concepts: domestic violence can involve family members and friends (e.g., roommates), whereas intimate violence refers exclusively to the violence perpetrated by a person against their intimate (i.e., romantic) partner.

²²⁷ Marcotte, *supra* note 148.

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ Mark Joseph Stern, *The Long, Tragic History of Violence at LGBTQ Bars and Clubs in America*, SLATE (June 12, 2016, 12:50 PM), <https://slate.com/human-interest/2016/06/pulse-nightclub-shooting-and-tragic-history-of-violence-at-lgbtq-clubs-in-u-s.html> [<https://perma.cc/5BYS-WQ36>].

²³² *Id.*

Though Rodger's and Mateen's examples are anecdotal, they are part of a greater pattern. It is no coincidence that *all but four* mass shooters since 1966 have been men.²³³ Of course, mass shooters are not always explicitly misogynistic. But even when shooters do not carry out their attack as a means of punishing women, toxic masculinity may nevertheless drive men to mass violence and may explain why we see a landscape of almost exclusively male mass shooters.

Furthermore, mass shootings are frequently intertwined with intimate partner violence and suicide: 54% of mass shootings also involve intimate partner violence²³⁴ and about half involve suicide.²³⁵ They are symptoms of the same disease. In the same way that domestic abusers use violence to demonstrate physical superiority, mass shooters use guns and public violence to “prove” their manhood—physical invincibility. Mass shooters exemplify the “go it alone” mentality associated with toxic masculinity: 95–98% of mass shootings are committed by solo perpetrators.²³⁶ Many mass shooters also have a history of childhood trauma,²³⁷ which suggests that they have not dealt with that trauma in a healthy or productive way; instead, as is consistent with toxic masculinity, they may have suppressed their emotional response to such trauma, only for it to manifest in aggressive and violent behavior as an adult. Similarly, witnessing or suffering domestic abuse as a child is also a risk factor for becoming a violent partner in adulthood.²³⁸

Together, trauma, suppressed emotions, and the need to “prove” one's manliness through physical force may explain their drive to perpetrate mass attacks on the public. According to researchers, many mass shooters perpetrate mass violence in search of validation and notoriety.²³⁹ For example, Omar Mateen Google searched “Pulse Orlando” in the midst of

²³³ See Berkowitz & Alcantara, *supra* note 119 and accompanying text.

²³⁴ *Ten Years of Mass Shootings in the United States*, *supra* note 121.

²³⁵ Wang & Mina, *supra* note 135, at 120.

²³⁶ Adam Lankford, *Confirmation That the United States Has Six Times Its Global Share of Public Mass Shooters, Courtesy of Lott and Moody's Data*, 16 *ECON J. WATCH* 69, 70 (2019).

²³⁷ *Violence Project Seeks to Shift Focus From Reaction to Prevention in Mass Shootings*, CBS MINN. (Aug. 6, 2019, 5:13 PM), <https://www.cbsnews.com/minnesota/news/violence-project-seeks-to-shift-focus-from-reaction-to-prevention-in-mass-shootings> [<https://perma.cc/9XHX-W9KL>].

²³⁸ *Risk and Protective Factors for Perpetration*, CDC (Nov. 2, 2021), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/riskprotectivefactors.html> [<https://perma.cc/8SZ7-MK7Q>].

²³⁹ Mary Papenfuss, *Mass Shooters Seek 'Validation' for Their Murderous Attacks, Say Experts for DOJ*, HUFFPOST (Aug. 5, 2019, 11:33 AM), https://www.huffpost.com/entry/mass-shooter-research-validation_n_5d47c394e4b0acb57fcec46f?guccounter=1 [<https://perma.cc/78NZ-5YTP>].

Toxic Masculinity and Gender-Based Gun Violence in America 65

the onslaught and called news stations to report that he was the shooter.²⁴⁰ Though this might be a product of increasing societal desire for celebrity and fame,²⁴¹ it may also connect to toxic masculinity. Researchers postulate that some mass “shooters attempt to compensate for their failures in life by creating legacies that will persist long after their deaths.”²⁴² The media’s intense coverage of mass shootings, and more specifically mass shooters, perpetuates this fame-seeking behavior, and many researchers have noted that it drives a “contagion”-like effect, creating copycats.²⁴³ And “[b]ecause these perpetrators are often competing for fame, attention, and legacy, many of them also *view body counts as a competition*, and therefore, they may attempt to surpass the death tolls of previous attackers.”²⁴⁴ That is quintessential toxic masculinity: using physical and psychological violence to demonstrate one’s dominance, not only over fellow men, but over society as a whole.

III. WHAT CAN BE DONE?

Gun violence is a public health crisis. We must enact legal reform to combat the effects of toxic masculinity in society and to reduce the incidence of suicide, intimate partner violence, and mass shootings.

A. Gun Policy Reforms Aimed at Reducing Suicide, IPV, and Mass Shootings

Recall that intimate partner violence is regularly a precursor crime to mass shootings,²⁴⁵ that a large portion of mass shootings end in the shooter’s suicide, and that the majority of mass shootings involve the killing of an intimate partner or family member.²⁴⁶ Although mass shootings comprise less than one percent of homicides in the United States,²⁴⁷ the statistical connection between mass shootings and IPV and between mass shootings

²⁴⁰ Ariel Zambelich & Alyson Hurt, *3 Hours in Orlando: Piecing Together an Attack and Its Aftermath*, NPR (June 26, 2016, 5:09 PM), <https://www.npr.org/2016/06/16/482322488/orlando-shooting-what-happened-update> [<https://perma.cc/8UZ6-QY5G>].

²⁴¹ Adam Lankford & James Silver, *Why Have Public Mass Shootings Become More Deadly?*, 19 CRIMINOLOGY & PUB. POL’Y 37, 41 (2020).

²⁴² *Id.* at 42.

²⁴³ *Id.* at 45; *see also id.* at 51 (noting that “from 2010 to 2019, at least 50% of high-fatality public mass shootings were committed by perpetrators who were specifically influenced by a previous attacker or attackers.”).

²⁴⁴ *Id.* at 45 (emphasis added).

²⁴⁵ Nanasi, *supra* note 193, at 565.

²⁴⁶ *Mass Shootings*, GIFFORDS, *supra* note 103.

²⁴⁷ Bruce Drake, *Mass Shootings Rivet National Attention, but Are a Small Share of Gun Violence*, PEW RES. CTR. (Sept. 17, 2013), <https://www.pewresearch.org/fact-tank/2013/09/17/mass-shootings-rivet-national-attention-but-are-a-small-share-of-gun-violence> [<https://perma.cc/LP3H-3VK6>].

and suicide suggests that policies aimed at curbing intimate partner violence and suicide may concomitantly decrease the likelihood of mass shootings.

1. Reforms Addressing Gun-Based IPV and Mass Shootings

Attempting to leave an abusive relationship was a precipitating factor in nearly half of male-on-female intimate partner homicides. As discussed above, abusers use guns to control and coerce their partner and often, partners are afraid to leave the relationship because they fear this will enrage their abuser and his threats will turn to reality. Because “many abusers follow a common pattern of predetermined threats against and intimidation of their partners,” tailoring gun control efforts to address intimate partner violence is likely to be effective.²⁴⁸ Removing the gun from any interactions between abuser and partner drastically decreases the likelihood that he will kill her.

I propose (a) enacting a broad prohibition on the purchase and possession of firearms by persons subject to a protective order, (b) closing the “boyfriend loophole,” and (c) enacting laws mandating the transfer or sale of a convicted abuser’s firearms upon conviction.

a. Prohibition on Possession by Persons Subject to Protective Orders

In the current landscape, many states do not prohibit abusers subject to protective orders from purchasing or possessing firearms.²⁴⁹ This is a problem. Because past intimate partner violence is the “strongest predictor” for intimate partner homicide,²⁵⁰ and because the presence of a gun increases the likelihood that intimate partner violence escalates to homicide,²⁵¹ states should prohibit abusers subject to a long-term or permanent protective order from purchasing or possessing a firearm for a period of years post-conviction.²⁵²

Though the ultimate length of time should be determined by the sentencing judge and depend on the facts and circumstances of the case, I propose that any person subject to a protective order—short-term, long-term, or permanent—should be prohibited from purchasing or possessing any firearms for the duration of the order. For long-term orders (e.g., a year or longer), judges should have discretion to extend the prohibition for a

²⁴⁸ *Guns and Violence Against Women*, *supra* note 84.

²⁴⁹ *Id.*

²⁵⁰ Sharon G. Smith et al., *Intimate Partner Homicide and Corollary Victims in 16 States: National Violent Death Reporting System, 2003–2009*, 104 AM. J. PUB. HEALTH 461, 461 (2014).

²⁵¹ *Guns and Violence Against Women*, *supra* note 84.

²⁵² Iowa mandates that a defendant sell or transfer his firearms upon a misdemeanor domestic violence conviction. Nanasi, *supra* note 193, at 579.

Toxic Masculinity and Gender-Based Gun Violence in America 67

period of time beyond the end of the protective order depending on the circumstances of the case and the needs of the abused. This element is important because the current structure of the law in most states makes it incumbent on the abused to seek periodic renewal of the protective order.²⁵³ However, because the renewal process is resource-and time-intensive (e.g., it requires the abused to seek legal counsel, file a motion, appear in court, etc.), and thus may preclude a victim from renewing an otherwise justified extension of the protective order, judges should have discretion to extend the possession ban, subject, of course, to the mandates of the due process clause.

b. Close the “Boyfriend Loophole”

At the federal level, 18 U.S.C. § 922(g)(8) prohibits possession of a firearm by any person subject to a court order that restrains that person from “harassing, stalking, or threatening an intimate partner of such person . . . or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner.”²⁵⁴ The court order must be issued after a hearing during which that person “received actual notice” and where that person “had an opportunity to participate” (in other words, protective orders issued *ex parte* do not count),²⁵⁵ and the order must either “include[] a finding that such person represents a credible threat to the physical safety of such intimate partner” or “by its terms explicitly prohibit[] the use, attempted use, or threatened use of physical force against such intimate partner . . . that would reasonably be expected to cause bodily injury.”²⁵⁶ The statute defines an intimate partner as “the spouse of the person [subject to the protective order], a former spouse of the person, an individual who is a parent of a child

²⁵³ See, e.g., VIRGINIA COURT SYSTEM, DISTRICT COURT PROTECTIVE ORDER INFORMATION SHEET (July 2012), https://www.vacourts.gov/forms/district/info_sheet_protective_order_stalking.pdf [<https://perma.cc/5NGN-MFRS>] (“If you need protection for a longer period of time, you *must* ask the court for a Preliminary Protective Order.”); *Restraining Orders: Oregon*, WOMENSLAW.ORG (Mar. 22, 2022), <https://www.womenslaw.org/laws/or/restraining-orders/family-abuse-prevention-act-restraining-orders/after-hearing/how-do-i> [<https://perma.cc/6SLV-57D5>] (“Before your current order expires, you can go back to the court where you originally filed the Family Abuse Prevention Act restraining order and request a renewal (extension) for another year.”); *Restraining Orders: Illinois*, WOMENSLAW.ORG (Mar. 17, 2022), <https://www.womenslaw.org/laws/il/restraining-orders/orders-protection/after-hearing#node-35910> [<https://perma.cc/HLU3-U4QB>] (“If you want to extend your order of protection, you must apply for an extension (a motion to modify the order) before your original order expires.”).

²⁵⁴ 18 U.S.C. § 922(g)(8) (2022).

²⁵⁵ *Id.* § 922(g)(8)(A). Although this topic exceeds the scope of this Article, it’s worth noting that many states grant emergency protective orders *ex parte*. It is counterintuitive that *emergency* protection orders granted *ex parte* do not trigger this provision, considering an emergency order suggests that protection is necessary to protect against immediate threats to the protectee’s wellbeing or safety.

²⁵⁶ *Id.* § 922(g)(8)(B)(i)–(ii).

of the person, and an individual who cohabitates or has cohabited with the person.”²⁵⁷

The subsequent provision, 18 U.S.C. § 922(g)(9), prohibits anyone “convicted in any court of a misdemeanor crime of domestic violence” from possessing a firearm.²⁵⁸ A misdemeanor crime of domestic violence means a misdemeanor offense that involves:

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.²⁵⁹

At first blush, those provisions seem to do what I have otherwise proposed above, but there is a critical hole in this statutory scheme: the statutory definition of “intimate partner” refers only to spouses, current or former, co-parents, or someone who is cohabitating or has cohabited with the victim.²⁶⁰ Critically, it does not include non-cohabitating dating partners without a child in common.²⁶¹ Likewise, the domestic violence conviction provision did not, until recently, cover dating partners. Together, this is commonly referred to as the “boyfriend loophole.”

On June 25, 2022, President Biden signed into law the Bipartisan Safer Communities Act (BSCA),²⁶² comprehensive gun safety legislation that, in part, expanded the protections of § 922(g). Congress sought to close the boyfriend loophole, so they expanded the definition of “misdemeanor crime of domestic violence” in § 921(a)(33)(A)(ii) to include current and recent former dating relationships, in addition to spousal, co-parental, or co-habitational relationships. Dating relationship is now defined as “relationship between individuals who have or have recently had a continuing serious relationship of a romantic or intimate nature” considering the “length [and] nature of the relationship” and “the frequency and type of interaction between the individuals involved in the relationship.”²⁶³ Importantly,

²⁵⁷ 18 U.S.C. § 921(a)(32).

²⁵⁸ 18 U.S.C. § 922(g)(9).

²⁵⁹ 18 U.S.C. § 921(a)(33)(A)(ii) (emphasis added).

²⁶⁰ *Id.* § 921(a)(32).

²⁶¹ *Id.* § 921(a)(32).

²⁶² Bipartisan Safer Communities Act of 2022, Pub. L. No. 117-159, § 12005, 136 Stat. 1313, 1332–33.

²⁶³ 18 U.S.C. § 921(a)(37)(A)–(B).

Toxic Masculinity and Gender-Based Gun Violence in America 69

Congress specified that “[a] casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a dating relationship” and that the provision would not apply retroactively—that is, to any conviction entered before June 25, 2022.²⁶⁴ Finally, for persons with only one misdemeanor domestic violence conviction, the prohibition in § 922(g)(9) expires after five years, meaning that, after five years since the entry of the conviction, that person could lawfully purchase firearms again.²⁶⁵

Although this amendment is an important step forward, there is still a critical hole: the BSCA did not redefine “*intimate partner*” to include dating relationships. Recall that § 922(g)(8) generally prohibits possession of a firearm by any person subject to a restraining order that prohibits them from harassing, stalking, or threatening their “intimate partner.” Recall also that “intimate partner,” as the statute defines it, includes only spouses, former spouses, co-parents, or present or past against cohabitating partners. Congress only expanded the definition of “misdemeanor crime of domestic violence” to include current and recent former dating partners—Congress did not, however, alter the definition of “intimate partner.” That is important because it means that a restraining order alone does not trigger the possession ban.²⁶⁶ In other words, a restraining order is not enough—only a *conviction* will preclude the abuser from purchasing or possessing a firearm. So, unless the definition of “intimate partner” is amended to include dating relationships, people with restraining orders for stalking, harassing, or threatening a dating partner can still lawfully purchase and possess a gun under federal law.

At the risk of stating the obvious, this is a problem. First, 48.6% of women killed by intimate partners are killed by *dating* partners.²⁶⁷ Second, the BSCA amendment only helps if the dating partner perpetrator has been convicted of a misdemeanor involving domestic violence. Because we know that most IPV goes unreported,²⁶⁸ and because victims often have many reasons not to report incidents of IPV,²⁶⁹ let alone prosecute them, the BSCA amendment captures only a fraction of the problem.

Because the scope of § 922(g)(8) remains the same, in that “intimate partner” does not include dating relationships and any person subject to a

²⁶⁴ Bipartisan Safer Communities Act, Pub. L. No. 117-159, 136 Stat. 1332 § 12005(a)–(b) (2022) (amending 18 U.S.C. § 921(a)).

²⁶⁵ 18 U.S.C. § 921(a)(33)(C) (2022).

²⁶⁶ Please forgive the pun.

²⁶⁷ *Guns & Domestic Violence*, *supra* note 78, at 1.

²⁶⁸ See Evans et al., *supra* note 97, at 2303.

²⁶⁹ For example, criminal proceedings may force the victim to relive trauma. The process may be long and protracted. The victim may fear retaliation, they may worry about the effects of such conviction on their child. They may worry that they won’t be believed. The list goes on.

restraining order against them from possessing a firearm, further amendment is needed. We know that intimate partner violence occurs in all forms of intimate relationships²⁷⁰—regardless of co-parenting, co-habitation, and marriage—which is why it is critically important that the legal definition of intimate partner include dating relationships, in addition to those already covered. Congress must further amend § 922(g)(8) to include dating partners.

c. Requiring the Surrender of Firearms: Case Studies

As this Article has proposed, state and federal law should prohibit persons subject to protective orders from possessing and purchasing firearms for at least the duration of the protective order. Federal law (18 U.S.C. § 922(g)(9)) and the laws of many states forbid persons with domestic violence convictions, felony and misdemeanor, from possessing or purchasing firearms, but the problem becomes actually *enforcing* that prohibition. That is why this Article proposes that state and federal law should require that persons subject to protective orders and convicted of domestic violence offenses must turn over their firearms at the time of issuance of the protective order or the entry of the guilty verdict/judgment.

States provide examples of failures and successes that prove instructive. In Rhode Island, for example, judges may, at their discretion, require that abusers turn in their firearms when they have been served with a protective order.²⁷¹ However, a study found that Rhode Island judges required an abuser to turn over his firearms *less than 13%* of the time.²⁷² In contrast, King County in Washington state has the Regional Domestic Violence Firearms Enforcement Unit that includes staff from law enforcement, prosecutors, and members of the City Attorney's Office responsible for ensuring that persons subject to a domestic violence protective order turn over their firearms.²⁷³ As a result, in 2018, more than four times as many firearms were turned over in King County domestic violence protective order cases as were surrendered in 2016.²⁷⁴

Furthermore, these prohibitions should require the temporary seizure of an abuser's firearms at the time they are served with a temporary protective order, either until a permanent order is entered or until the temporary order is expired. Police should check the recovered firearms against those registered

²⁷⁰ Deanna L. Wilkinson & Susan J. Hamerschlag, *Situational Determinants in Intimate Partner Violence*, 10 *AGGRESSION & VIOLENT BEHAV.* 333, 345 (2005) (“Violence affects many types of intimate relationships, ranging from unrequited interest to remarried to divorced.”).

²⁷¹ Nanasi, *supra* note 193, at 581.

²⁷² *Id.* (emphasis added).

²⁷³ *Id.* at 597.

²⁷⁴ *Id.*

Toxic Masculinity and Gender-Based Gun Violence in America 71

under the abuser's profile on the National Instant Criminal Background Check System (NICS) to ensure that he indeed turned over all firearms in his possession. Statistically, these prohibitions work: "Cities in states that prohibit firearm possession by abusers subject to domestic violence restraining orders have seen a 25[%] reduction in intimate partner firearm homicide rates."²⁷⁵ This reform is necessary to prevent thousands of intimate partner homicides every year.

Existing deficiencies in state and federal law mean that reform is necessary. The seizures and prohibitions that this Article proposes are critically important to protect the safety of IPV victims. Furthermore, the time of surrender is essential to this law's efficacy: often the service of a protective order can trigger the abuser to lash out violently against his partner, which is why it is critical to remove any firearms from his home at that time.

However, because many victims of intimate partner violence do not report their abuse, these protections will not help everyone.²⁷⁶ Unless law enforcement diligently checks NICS and ensures the abuser has turned over all firearms in his possession, he may go on to threaten or harm his partner who sought prosecution or the protective order. Furthermore, these prohibitions present difficult questions about the rights of others living with the abuser (a parent, adult child, etc.) to keep a firearm in the home—ones that will not be resolved in this Article.

2. Expand Extreme Risk Protection Order Laws

Finally, because suicide is such a prominent public health problem and because mass shooters are often suicidal, all states should adopt Extreme Risk Protection Order laws (ERPOs). These laws allow family members or cohabitators, law enforcement, and certain community members to directly petition a court, asking it to temporarily restrict a person's access to firearms if they demonstrate a "significant risk of harming themselves or others."²⁷⁷ ERPOs are temporary, but they present an effective solution to reducing suicide: people often commit suicide in a short-term, crisis state. Getting them help during that crisis state and removing guns saves lives. So, why are ERPOs a good option? The vast majority (nearly 80%) of people actively considering suicide communicate that in some way to others.²⁷⁸ Take Elliot

²⁷⁵ *Guns and Violence Against Women*, *supra* note 84.

²⁷⁶ *Id.*

²⁷⁷ *Extreme Risk Protection Orders*, GIFFORDS LAW CTR., <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/extreme-risk-protection-orders> [<https://perma.cc/X8DZ-4QY7>].

²⁷⁸ *Id.*

Rodger for example. In the month before killing himself and six others, Elliot Rodger posted YouTube videos of himself threatening violence.²⁷⁹ His mother found the videos and reported them to law enforcement, who visited his apartment shortly thereafter.²⁸⁰ In his manifesto, Rodger bragged that he had managed to convince the police that there was nothing to worry about and removed the videos, which he would post again days before his “Day of Retribution.”²⁸¹ “The sheriff acknowledged that deputies had visited Rodger’s apartment on April 30, but said he had appeared courteous and polite, and did not meet the conditions that would have permitted them to confine him.”²⁸² If an ERPO had been sought against Rodger, perhaps six innocent college students and Rodger himself could have been saved.

ERPOs are gaining popularity at the state level: nineteen states and the District of Columbia have enacted some form of an ERPO law.²⁸³ Research supports the claim that ERPOs (more commonly referred to as “red flag laws”) reduce suicides. For example, ten years after Indiana enacted an ERPO law, the state “saw a 7.5[%] reduction in firearm suicides.”²⁸⁴ Similarly, Connecticut’s “red flag law was associated with a 13.7[%] reduction in firearm suicides between 2007 and 2015.”²⁸⁵

Additionally, having more expansive ERPO coverage may also reduce mass shootings. When researchers interviewed school shooters, they found that school shooters “feel very strongly about two things: [t]hey have to carry out the violence, they have no options left, but they also don’t want to do it and hope someone will stop them.”²⁸⁶ An FBI study of 30 mass shooters from 2000 to 2013 found that 90% of them showed signs of suicidal ideation and nearly a quarter had actually attempted suicide before carrying out the

²⁷⁹ Ian Lovett & Adam Nagourney, *Video Rant, Then Deadly Rampage in California Town*, N.Y. TIMES (May 24, 2014), <https://www.nytimes.com/2014/05/25/us/california-drive-by-shooting.html> [<https://perma.cc/HY26-HC59>].

²⁸⁰ *Id.*

²⁸¹ *Id.*

²⁸² *Id.*

²⁸³ *Extreme Risk Protection Orders*, *supra* note 277.

²⁸⁴ Maggie Koerth, *Can We Prevent Mass Shootings By Preventing Suicide?*, FIVETHIRTYEIGHT (Aug. 22, 2019, 5:58 AM), <https://fivethirtyeight.com/features/can-we-prevent-mass-shootings-by-preventing-suicide> [<https://perma.cc/E25G-K3RC>].

²⁸⁵ *Id.*

²⁸⁶ *Id.* (quoting Marisa Randazzo, former chief psychologist for the Secret Service).

Toxic Masculinity and Gender-Based Gun Violence in America 73

mass shooting.²⁸⁷ This shows that preventing self-harm may also prevent suicidal shooters from escalating their suicide plans to include homicide.

Several states have already used ERPOs to temporarily disarm individuals who have credibly threatened mass violence. California's ERPO law has been used at least twenty-one times to disarm people who threatened mass shootings, thwarting all of them.²⁸⁸ In Maryland, at least four people who had threatened to carry out school shootings were disarmed in just the first three months since the law's enactment.²⁸⁹ Law enforcement has used ERPOs in Vermont and Florida as well, intervening in cases where the gun owner had fantasized about mass murder.²⁹⁰ In short, ERPOs can potentially prevent tens of thousands of suicides each year *and* reduce the number of mass shootings. All states should adopt similar ERPO schemes.

IV. CONCLUSION

The data is indisputable: gun violence is extraordinarily harmful to men of all ages, races, sexual orientations, and geographies, and, by extension, to women of all demographics, too. The concept of toxic masculinity helps us to understand how social norms influence male behavior and explain why we see such disparate statistics when it comes to gun violence. Furthermore, toxically masculine traits are embedded in American gun culture and manifest in what I term the "protector construct." Taken together, toxic masculinity helps explain why particular gun violence phenomena—suicides, intimate partner violence, and mass shootings—are perpetrated disproportionately by men.

More broadly, the safety of all members of society—our friends, parents, partners, spouses, relatives, and children—demands comprehensive reform: an approach that acknowledges how deeply intertwined our notions of gender roles are with firearms, and how significantly those gender roles impact social behaviors. Our policy solutions must focus on the root causes of gun violence, in particular, oppressive and harmful gender norms, and their manifestations: suicide, intimate partner violence, and mass shootings. We must empower men to break free from those constructs and give them the tools to manage conflict and negative emotions. We must destigmatize

²⁸⁷ JAMES SILVER ET AL., FBI, STUDY OF THE PRE-ATTACK BEHAVIORS OF ACTIVE SHOOTERS IN THE UNITED STATES BETWEEN 2000 AND 2013 24 (2018), <https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf/view> [<https://perma.cc/2HHC-8B43>].

²⁸⁸ *Extreme Risk Protection Orders*, *supra* note 277.

²⁸⁹ *Id.*

²⁹⁰ *Id.*

and facilitate men's access to mental health services. Until those broader, social changes take hold, we must enact meaningful gun control reform.

Because mass shootings sit at the nexus between intimate partner violence and suicide, this suggests that gun control targeting IPV and suicide will also reduce the incidence of mass shootings. To target IPV, and more specifically to reduce intimate partner homicide, states should prohibit persons who are the subject of protective orders from possessing and purchasing firearms for at least the duration of the protective order. States should also require that at the time a person becomes subject to a domestic violence protective order they must surrender all firearms in their possession at the time the protective order takes effect. Finally, to reduce the incidence of suicide, all states should adopt Emergency Risk Protection Order laws to enable the state to intervene in a person's moment of crisis. These solutions are by no means the end-all-be-all: they are not perfect, and they will not solve these problems entirely. But, they are a start. Even if they only reduce suicide or intimate partner violence by ten percent, that percentage equals thousands of lives saved every single year. That is a path forward to a safer nation.

V. APPENDICES

Appendix A

2018, United States
Suicide Firearm Deaths and Rates per 100,000
 All Races, Both Sexes, All Ages
 ICD-10 Codes: X72-X74

Race	Sex	Number of Deaths	Population	Crude Rate	Age-Adjusted Rate**
White	Males	19,206	126,179,208	15.22	14.20
	Females	3,050	128,385,028	2.38	2.25
		22,256	254,564,236	8.74	
Black	Males	1,382	22,217,244	6.22	6.29
	Females	187	24,045,602	0.78	0.76
		1,569	46,262,846	3.39	
Am Indian/AK Native	Males	197	2,375,990	8.29	8.48
	Females	36	2,363,298	1.52	1.54
		233	4,739,288	4.92	
Asian/Pac Islander	Males	316	10,356,237	3.05	2.92
	Females	58	11,244,827	0.52	0.50
		374	21,601,064	1.73	
		24,432	327,167,434	7.47	

Figure 2: Suicide Firearm Deaths by Race and Gender (2018)²⁹¹

²⁹¹ CDC WISQARS DATABASE, <https://webappa.cdc.gov/sasweb/ncipc/mortrate.html> [https://perma.cc/6NAS-H3MQ].

Appendix B

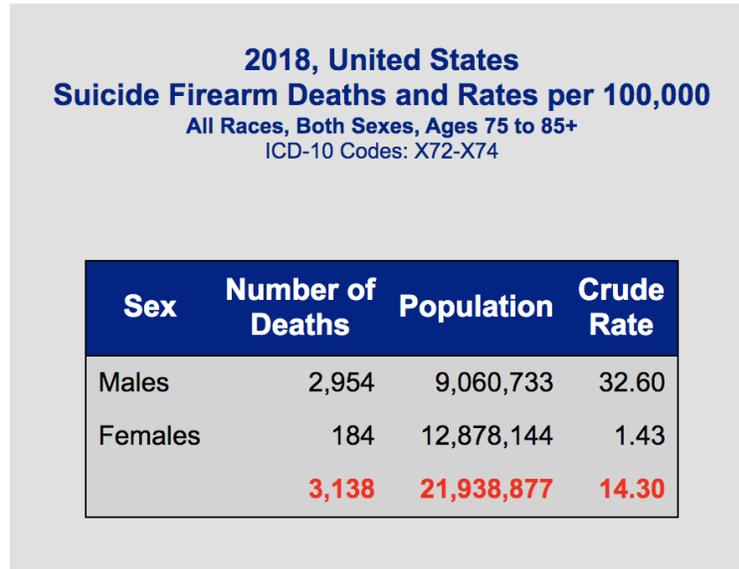


Figure 3: Firearm Suicide Rates by Sex for Ages 75+ (2018)

Toxic Masculinity and Gender-Based Gun Violence in America 77*Appendix C*

2018, United States
Suicide Firearm Deaths and Rates per 100,000
 All Races, Both Sexes, Ages 20 to 74
 ICD-10 Codes: X72-X74

Sex	Age Group	Number of Deaths	Population	Crude Rate
Males	20-24	1,681	11,201,547	15.01
	25-29	1,570	12,018,838	13.06
	30-34	1,360	11,191,871	12.15
	35-39	1,411	10,790,190	13.08
	40-44	1,292	9,797,410	13.19
	45-49	1,472	10,263,995	14.34
	50-54	1,631	10,277,207	15.87
	55-59	1,968	10,669,327	18.45
	60-64	1,771	9,729,536	18.20
	65-69	1,534	8,034,813	19.09
	70-74	1,329	6,211,272	21.40
		17,019	110,186,006	15.45
Females	20-24	220	10,672,032	2.06
	25-29	266	11,542,918	2.30
	30-34	233	10,944,147	2.13
	35-39	270	10,773,397	2.51
	40-44	249	9,916,891	2.51
	45-49	324	10,483,140	3.09
	50-54	360	10,607,357	3.39
	55-59	372	11,271,658	3.30
	60-64	310	10,602,115	2.92
	65-69	209	9,052,080	2.31
	70-74	165	7,194,151	2.29
		2,978	113,059,886	2.63
		19,997	223,245,892	8.96

Figure 4: Firearm Suicide Rate by Sex, U.S. Adults (2018)

Appendix D

2000 - 2018, United States
Suicide Firearm Deaths and Rates per 100,000
 All Races, Both Sexes, All Ages
 ICD-10 Codes: X72-X74

Sex	Year	Number of Deaths	Population***	Crude Rate	Age-Adjusted Rate**
Males	2000	14,454	138,458,150	10.44	10.98
	2001	14,758	139,891,492	10.55	11.04
	2002	15,045	141,230,559	10.65	11.12
	2003	14,827	142,428,897	10.41	10.78
	2004	14,523	143,828,012	10.10	10.41
	2005	14,916	145,197,078	10.27	10.54
	2006	14,734	146,647,265	10.05	10.25
	2007	15,181	148,064,854	10.25	10.40
	2008	15,931	149,489,951	10.66	10.72
	2009	16,307	150,807,454	10.81	10.82
	2010	16,962	151,788,777	11.17	11.13
	2011	17,320	153,211,825	11.30	11.18
	2012	17,910	154,396,283	11.60	11.40
	2013	18,241	155,514,347	11.73	11.50
	2014	18,383	156,697,642	11.73	11.42
	2015	18,910	157,910,775	11.98	11.62
	2016	19,647	159,088,102	12.35	11.95
	2017	20,615	160,125,630	12.87	12.41
	2018	21,101	161,128,679	13.10	12.53
			319,765	2,855,905,772	11.20
Females	2000	2,132	143,713,786	1.48	1.47
	2001	2,111	145,077,463	1.46	1.44
	2002	2,063	146,394,634	1.41	1.39
	2003	2,080	147,679,036	1.41	1.38
	2004	2,227	148,977,286	1.49	1.47
	2005	2,086	150,319,521	1.39	1.35
	2006	2,149	151,732,647	1.42	1.37
	2007	2,171	153,166,353	1.42	1.38
	2008	2,292	154,604,015	1.48	1.43
	2009	2,428	155,964,075	1.56	1.50
	2010	2,430	156,969,328	1.55	1.49
	2011	2,670	158,368,184	1.69	1.62
	2012	2,756	159,477,935	1.73	1.67
	2013	2,934	160,543,380	1.83	1.74
	2014	3,003	161,688,779	1.86	1.78
	2015	3,108	162,831,898	1.91	1.83
	2016	3,291	163,983,240	2.01	1.93
	2017	3,239	165,021,491	1.96	1.89
	2018	3,331	166,038,755	2.01	1.91
			48,501	2,952,551,806	1.64
		368,266	5,808,457,578	6.34	-

Figure 5: Firearm Suicides by Sex, 2000-2018

Toxic Masculinity and Gender-Based Gun Violence in America 79

Appendix E

CDC Wonder, Gun Suicides by Gender from 2015-2020.

Gender	Deaths	Population	Crude Rate Per 100,000	Age Adjusted Rate Per 100,000
Female	19,297	992,398,047	1.94448	1.87056
Male	122,178	962,758,544	12.69041	12.22358
Total	141,475	1,955,156,591	7.23599	6.83640