

Improving Firearm Safety in Virginia

By the Firearms Safety Committee League of Women Voters of the Fairfax Area

In 2011, for the third year in a row, more Virginians died due to firearms than traffic accidents.^{1,2} While no law can prevent every firearm death, there are key areas in which Virginia's laws could be improved to help significantly lower the risk of death by firearm.

First, Virginia's laws lack key measures to help protect victims of domestic violence from firearm injury or death at the hands of their abusers. The risk of homicide in a domestic violence situation increases by 500 percent when a firearm is present.³ Moreover, domestic violence has been shown to be a contributing factor to active shooter incidents and mass shootings, which are on the rise.⁴ Therefore, it is essential that Virginia's laws be strengthened to help prevent known abusers from accessing firearms. Second, Virginia's firearm child access prevention laws are weak at best. In the United States, as many as two children die each week in unintentional shootings due to unsecured guns. However, accidental shootings are not the only risk due to child access to firearms. Children who get access to unsecured guns also use them in suicides and school shootings.⁵ Again, while no one law or policy is a panacea for gun violence, evidence-based research has shown that specific laws result in substantial decreases in gun deaths.

There is momentum at the State level to pass laws to prevent gun violence. This is a result of a number of factors including an increase in the rate of active shooter incidents and a rise in the public's consciousness that gun violence is

a public health crisis following the Sandy Hook elementary school mass shooting. Over the past year, six states have passed, and the governors have signed (including Republican governors), laws banning the possession of firearms by those convicted of misdemeanor domestic abuse, those served protection orders, or those deemed by the court to pose a physical threat to their families.⁶ According to the Law Center to Prevent Gun Violence, 13 states considered proposals this year to adopt or strengthen child access prevention laws. Eleven states considered legislation that

would require locking devices, the safe storage of firearms, or both.⁷ And recently on November 4th, voters in Washington State approved ballot Initiative 594 to expand background checks on nearly all gun sales. The measure passed handily with 60 percent of the vote.⁸

The League has recently reaffirmed strong GVP positions at the state level. For instance, the LWV-Washington publicly endorsed I-594.⁹ It therefore seems timely and appropriate for the LWV of Virginia to give strong consideration to giving its support and endorsement at the state level for reasonable proposals. Preventing domestic abusers and

children from accessing firearms are narrow and modest yet meaningful measures, proven to receive bipartisan support and to save lives.

LWVUS Statement of Position on Gun Control

The League of Women Voters of the United States believes that the proliferation of handguns and semi-automatic assault weapons in the United States is a major health and safety threat to its citizens. The League supports strong federal measures to limit the accessibility and regulate the ownership of these weapons by private citizens. The League supports regulating firearms for consumer safety.

Adopted by 1990 Convention and amended by the 1994 and 1998 Conventions

Therefore, the committee proposes the following actions by LWV-VA:

- 1) Support measures concerning domestic abuser access to firearms that:
 - Include dating partners, misdemeanor-level stalking, and other violent misdemeanor crimes within the firearms prohibitions.
 - Provide a mechanism or authorization at the Virginia state level to remove firearms that are already in possession of an abuser.
- 2) Support measures regarding child access laws that at a minimum:

- Require safe storage of firearms;
- Provide for criminal penalties if a gun is stored negligently, a child gains access to the firearm, and some harm results.



Background

Domestic Abuser Access to Firearms

According to an FBI Report released in September of this year, “active shooter incidents”¹⁰ are becoming more common.¹¹ The study looked at 160 active shooter incidents in the U.S. over 14 years from 2000 – 2013. (Incidents that resulted from gang or drug violence were excluded.) The study found that we averaged 6.4 incidents annually in the first seven years (2000- 2006). But this number more than doubled in the following seven years (2007 – 2013) to an average of 16.4 active shooter incidents per year – that’s roughly one every 3 weeks.

One of the most disturbing findings of the report was the nexus between active shooter incidents and domestic violence. In 16 of the incidents (10 percent), the shooters targeted current, estranged or former wives as well as current or former girlfriends. Three-fourths of the women were killed.¹² But death of the intimate partner was not the only risk. Access to a firearm in a domestic violence situation also presented a significant threat to children, friends, colleagues, and the community. Just those 16 incidents resulted in death or harm to 70 additional people (42 were killed and 28 were injured).



Virginia is not spared the deadly combination of domestic abusers and firearms. Tragically, on February 25, 2014, Glade Springs, a community in Virginia, witnessed first-hand the devastating effects when firearms are part of the equation in a domestic abuse situation.

According to records, Kristen Palmer, a teacher, suffered years of abuse from her husband, Kevin Palmer, including a broken nose and black eyes. On February 24, 2014, Kristen filed for an order of protection. Palmer was served with the order. Under the protective order, Palmer was not allowed to have weapons, but in Virginia there is no system in place to remove existing weapons. On February 25, Palmer drove to the home of Kristen’s parents, where Kristen and her son, Griffin, were staying. It was there that Kevin Palmer shot and killed his wife Kristen, his 17-year-old son, Griffin, and his mother-in-law Nancy, and injured his father-in-law, Terry, before turning the gun on himself. Subsequent reports revealed that Palmer owned nearly 50 firearms.¹³ But according to a local ABC affiliate, “*The Sheriff said*

FIREARMS AND DOMESTIC VIOLENCE

under the protective order, Palmer wasn’t allowed to have weapons, but there’s no system in place to search the home or make sure the person doesn’t keep their weapons.”¹⁴

It is difficult to overstate how critical a role firearms play in domestic abuse. Studies show that the risk of homicide skyrockets in cases of domestic violence when a firearm is present. One study found that the risk of homicide for women increases by 500 percent when a firearm is involved.¹⁵ Also, in 2011, more than half (53 percent) of American women who were murdered with a firearm were killed by intimate partners or family members.¹⁶ Another recent study found that mass shootings (four or more people are killed in the same incident) include the shooting of a current or former spouse, intimate partner, or family member 57 percent of the time.¹⁷ Harvard researchers with the Harvard School of Public Health recently published data showing that mass shootings are becoming more frequent, finding that the rate has tripled since 2011.¹⁸

Child Access to Firearms

When it comes to gun violence, children are among the most vulnerable. Guns pose a significant risk of injury and death to children in the United States each year. And sadly, most of these deaths could be easily prevented. Researchers have found that millions of children live in homes with easily accessible guns. Approximately 1 in 3 handguns is kept loaded and unlocked. The presence of unlocked guns in the home vastly increases the risk of unintentional shootings.

Far too often, we read about a tragic “accident” that takes a child’s life when the reality is that an adult was negligent in handling or storing firearms. The *New York Times* ran a piece called “Children and Guns: The Hidden Toll,”¹⁹ which exposed that the firearm shootings of innocent child victims are underreported by the media because of how authorities classified the deaths. To better quantify the real toll unsecured guns take on our children, Everytown for Gun Safety conducted analysis of publicly reported gun deaths in the 12 months after the mass shooting in Newtown, Connecticut.²⁰ That analysis shows that federal data substantially undercount these deaths: The data showed:

- From December 2012 to December 2013, at least 100 children were killed in unintentional shootings – approximately two each week, or 61 percent higher than federal data reflects.
- About two-thirds of these unintended deaths – 65 percent – took place in a home or vehicle that belonged to the victim’s family, most often with guns that were legally owned but not secured. Another 19 percent took place in the home of a relative or

friend of the victim.

- More than two-thirds of these tragedies could have been avoided if gun owners had stored their guns responsibly and prevented children from accessing them.



Virginia is likewise no stranger to the tragedy of unintentional shooting deaths at the hands of children who had access to a firearm due to the negligence of an adult. On April 21, 2014, in Rocky Mount, a small town in Virginia, known for its

historic charm, 7-year-old Shane Nichols and his 12-year-old brother went to a neighbor's house to play. The 12-year-old boy found an unsecured handgun and accidentally fired the gun, hitting his brother. Shane Nichols died immediately.²¹ Shane Nichols is just one of a number of children lost each year in Virginia from unintentional shootings.

However, unintended shootings caused by adult negligence are not the only risk presented by unsecured firearms. Children who gain access to unsecured guns also use them in suicides and school shootings. An analysis of school shootings in the 14 months following the Sandy Hook elementary school shooting showed that 20 were perpetrated by minors. Of those shootings where the source of the firearm was known, three-quarters obtained their guns from home.²² This recent analysis validates similar findings that were published a decade ago in July 2004 by the U.S. Secret Service and U.S. Department of Education. In that study, 37 school shootings from 1974 – 2000 were examined.²³ That study found that in 65 percent of the cases, the attacker obtained the gun from his or her own home or that of a relative. Child access prevention (CAP) laws work to limit a child's access to guns in and around their home and are viewed by many experts in the field as a way to decrease the number of children injured and killed by accidental as well as intentional shootings.

Current Federal and Virginia Law on Domestic Violence and Child Access Prevention

Domestic Violence

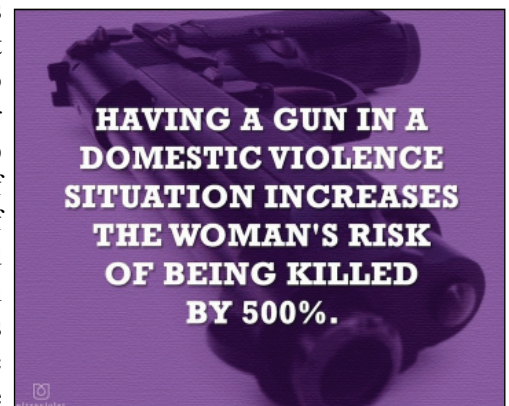
Federal law currently includes provisions to help keep guns

out of the hands of abusers who are convicted of domestic violence crimes and who are subject to domestic violence restraining orders. But critical gaps in federal law exist.

Dating partners: Intimate partner homicides are increasingly being committed by current and former dating partners. But only couples that are married, actively cohabitate with one another or have a child in common are covered by federal firearms prohibitions.

Stalking: Federal firearms prohibitions triggered by domestic abuse do not include individuals convicted of misdemeanor stalking crimes even when the conviction arises in an intimate partner context. Data show that there is a strong connection between stalking and future escalating violence against women. One study of female murder victims in 10 cities found that 76 percent of women murdered and 85 percent who survived a murder attempt by current or former intimate partner experienced stalking in the year preceding the murder.²⁴

There is momentum at the state level to enact stronger laws to keep guns out of the hands of abusers and stalkers. In 2014, six states passed domestic violence prevention



laws. These states were Louisiana, Minnesota, New Hampshire, Washington, Wisconsin and Vermont. The measures passed by state houses with bipartisan support and were signed into law by governors of both parties, including Wisconsin Governor Scott Walker and Louisiana Governor Bobby Jindal. These laws banned the possession of firearms by those convicted of misdemeanor domestic abuse, those served protection orders, or those deemed by the court to pose a physical threat to their families.²⁵

Virginia has a number of serious legal omissions that, if addressed, could offer considerable protection for its victims of domestic abuse. For example, when a person is convicted of the misdemeanor crime of stalking, sexual battery, or family abuse, punishable by up to a year in prison, there is no legal mechanism requiring the separation of such a person from their firearms. Federal law prohibits those convicted

of domestic abuse from purchasing firearms from federally licensed dealers (commonly known as the “Lautenberg Amendment”), and the Supreme Court this year (2014) held in a 9-0 decision that this restriction on firearm possession applies to misdemeanor domestic abuse.²⁶

However, Virginia law does not properly address firearms that are already in the possession of a convicted perpetrator of misdemeanor domestic abuse. Earlier this year, bills were introduced in both the Virginia House of Delegates and the Virginia Senate requiring that three-time convicts of stalking, sexual battery, or family abuse be prohibited from possessing guns for a few years. That bill passed the Senate but failed to reach a full committee in the House of Delegates. Ironically, the United States Supreme Court issued its 9-0 ruling clarifying that federal law indeed prohibits one-time misdemeanor convicts of domestic abuse from purchasing and possessing guns about a month later.

Child Access Prevention Laws

There are no child access prevention laws at the Federal level. However, protecting children from gun violence has risen to the fore in the wake of Sandy Hook. As with car seats, childproof safety caps, alcohol, and cigarettes, once awareness created a national consensus that protecting our children was in our nation’s interest, safety measures were implemented. The issue of children’s safety around guns is beginning to follow the same trajectory.



Twenty-eight states and the District of Columbia have CAP laws. The laws vary substantially between jurisdictions. The strongest laws impose criminal liability when a minor gains access to a negligently stored firearm. Of the states with any law governing child access to guns, the 14 least-strict states, which include Virginia, merely prohibit persons from directly giving a firearm to a minor; mere careless storage is not criminalized, even if a minor finds the gun and causes injury or death. There is a wide range of laws that fall somewhere between these. The jurisdictions with CAP laws fall into the three categories as shown in Table 1.²⁷

There is renewed momentum to enact or improve CAP laws among the states with no or inadequate laws. According to the Law Center to Prevent Gun Violence, 13 states considered proposals in 2014 to adopt or strengthen child access prevention laws. Eleven states considered legislation that would require locking devices, the safe storage of firearms, or both.²⁸

Although Virginia has a child access prevention law, it is among the states with the weakest legal restrictions. Moreover, within this group of states, Virginia imposes yet a weaker standard by making a technical distinction that the law only applies to loaded firearms. Additionally, while



many states define *minor* as those under 18 years of age, Virginia law defines the age at “under 14”.

The American Academy of Pediatrics supports safe storage and CAP laws.²⁹

Research shows CAP laws are effective at reducing firearm deaths among children. One study found that in 12 states where such laws had been in effect for at least one year, unintentional firearm deaths fell by 23 percent from 1990 – 1994 among children under 15 years of age.³⁰ A 2004 study evaluating the association between CAP laws and suicides among youth found that such laws were associated with an 8.3 percent decrease in suicides among 14 -17 year olds.³¹

Critical elements of an effective CAP law include:

- Removing a weapon from a child’s ready access. Safe-storage laws place an affirmative obligation on gun owners to prevent tragedies, rather than just holding them liable after something has already occurred.
- The authorization of criminal penalties if a gun is stored negligently, a child gains access to the firearm, and some harm results.
- The law should define *minor* as a person under 18 for long guns, and a person under 21 for handguns.

Recommendations for Virginia: Stronger Domestic Violence and Child Access Prevention Laws

Domestic Violence and Firearms - While current federal law prohibits the purchase and possession of firearms and ammunition by persons who have been convicted in any court of a “misdemeanor crime of domestic violence” or who are subject to a protective order, these gaps remain in Virginia.

- Dating partners are not within the federal prohibitions.
- Misdemeanor-level stalking and other violent misdemeanor crimes are not within the federal prohibitions.
- There is no mechanism or authorization at the Virginia

Table 1 - Status and Penalties of Child Access Prevention Laws By State

Charges if Child “May” or is “Likely To”		
State	Charges Can Be Brought Even In Absence of Harm or Injury	Available Penalty
CA	✓	Misdemeanor or Felony
DC	✓	Misdemeanor or Felony
MA	✓	Felony
MN	✓	Misdemeanor
Charges If A Child Accesses a Carelessly Stored Gun		
State	Charges Can Be Brought Even In Absence of Harm or Injury	Available Penalty
CT		Felony
FL		Misdemeanor or Felony
IL		Misdemeanor
IA		Misdemeanor
HI	✓	Misdemeanor
MD	✓	Misdemeanor
NH		Misdemeanor
NJ	✓	Misdemeanor
NC		Misdemeanor
RI		Misdemeanor
TX	✓	Misdemeanor
Charges Only If Owner Intentionally, Knowingly, Or Recklessly Gives A Gun To A Child		
State	Charges Can Be Brought Even In Absence of Harm or Injury	Available Penalty
CO	✓	Felony
DE		Misdemeanor
GA	✓	Felony
IN	✓	Felony
KY	✓	Felony
MS	✓	Misdemeanor
MO	✓	Misdemeanor
OK	✓	Misdemeanor
NV	✓	Misdemeanor or Felony
PA	✓	Felony
TN	✓	Misdemeanor
UT	✓	Misdemeanor or Felony
VA	✓	Misdemeanor
WI		Misdemeanor
No Child Access Prevention Statute		
AL, AK, AZ, AR, ID, KS, LA, ME, MI, MT, NE, NM, NY, ND, OH, OR, SC, SD, VT, WA, WV, WY		

state level to remove firearms that are already in possession of an abuser.

- Define a minor as being under 18 years for long guns and under 21 for handguns.

Child Access Prevention - Features of a comprehensive CAP law would include the following:

- Require that all firearms be stored with a locking device.
- Impose a criminal liability on people who negligently store firearms where a minor could gain access, even if the firearm is unloaded and the minor doesn't gain access or use the firearm.

What Can the League of Women Voters of Virginia Do?

The LWVUS has had a long-standing favorable position on GVP that dates back to 1990. Moreover the LWV in other states, such as Washington, have recently endorsed strong GVP positions at the state level.³² For these reasons,

it seems timely and appropriate for the League of Women Voters of Virginia to give strong consideration to providing its support and endorsement at the state level to the following specific measures:

- 1) laws that more effectively prevent domestic abusers and stalkers from accessing firearms;
- 2) laws that require adults to bear the burden for the injury, death, and damage that results when a child accesses an unsecured or improperly secured firearm.

These are targeted narrowly to improve Virginia's laws concerning domestic violence and child access. They are reasonable and meaningful measures proven to receive bipartisan support and have been shown to save lives.

Endnotes

- 1 Violence Policy Center
- 2 <http://mobile.nytimes.com/blogs/takingnote/2014/07/16/gun-deaths-versus-car-deaths/>
- 3 J. C. Campbell, D; Webster, J; Koziol McLain, C. R; et al. 2003. Risk Factors For Femicide in Abusive Relationships: Results From A Multi-Site Case Control Study. American Journal of Public Health. 93(7)
- 4 "A Study of Active shooter Incidents in the United States between 2003 and 2013" <http://www.fbi.gov/news/stories/2014/september/fbi-releases-study-on-active-shooter-incidents/pdfs/a-study-of-active-shooter-incidents-in-the-u.s.-between-2000-and-2013>
<http://www.washingtonpost.com/blogs/wonkblog/wp/2014/09/25/fbi-u-s-now-has-one-active-shooter-incident-every-three-weeks/>
- 5 See "The Final Report And Findings of the Safe School Initiative"; United States Secret Service and United States Department of Education; Published July 2004 at <https://www2.ed.gov/admins/lead/safety/preventingattacksreport.pdf>
Law Center to Prevent Gun Violence "Child Access Prevention Policy Summary" <http://smartgunlaws.org/child-access-prevention-policy-summary/>
"Innocents Lost – A Year of Unintentional Child Gun Deaths" June 2014 http://www.minnpost.com/sites/default/files/attachments/Innocents_Lost.pdf
- 6 "The NRA Quietly Backs Down on Domestic Violence" http://www.huffingtonpost.com/2014/04/22/nra-domestic-violence_n_5191555.html
- 7 Child-access prevention bills were proposed in 13 states (Arizona, Illinois, Michigan, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Washington, and Vermont). Eleven states considered legislation that would require locking devices, the safe storage of firearms, or both (California, Florida, Illinois, Iowa, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, and Rhode Island). See "Kids and Safety" and the American Bar Association at <http://apps.americanbar.org/litigation/committees/childrights/content/articles/spring2014-0414-kids-gun-safety.html> For more on the legislation pending in the states, read the [Law Center to Prevent Gun Violence's legislative tracking summary](#).
- 8 <http://projects.seattletimes.com/2014/election/#KeyRaces>
<http://www.nytimes.com/2014/11/05/opinion/election-2014-gun-sense.html?smprod=nytcore-ipad&smid=nytcore-ipad-share&r=0>
- 9 LWVWA endorsed Initiative 594. On November 4, 2014, voters passed I-594 requiring that currently used background checks by licensed dealers apply to all firearm sales and transfers, including gun show and online sales, with specific exceptions. <http://www.lwvwa.org/>
- 10 FBI Report; The study defined "active shooter incident" as one involving "an individual or individuals actively engaged in killing or attempting to kill people in a populated area."
- 11 A Study of Active shooter Incidents in the United States between 2003 and 2013" <http://www.fbi.gov/news/stories/2014/september/fbi-releases-study-on-active-shooter-incidents/pdfs/a-study-of-active-shooter-incidents-in-the-u.s.-between-2000-and-2013>
<http://www.washingtonpost.com/blogs/wonkblog/wp/2014/09/25/fbi-u-s-now-has-one-active-shooter-incident-every-three-weeks/>
- 12 Id
- 13 <http://www.wjhl.com/story/24853718/reports-give-details-background-on-glade-spring-va-murders>
- 14 <http://www.wate.com/story/24814426/glade-spring-va-man-accused-of-abuse-prior-to-early-morning-shooting>
- 15 J. C. Campbell, D; Webster, J; Koziol McLain, C. R; et al. 2003. Risk Factors For Femicide in Abusive Relationships: Results From A Multi-Site Case Control Study. American Journal of Public Health. 93(7)
- 16 "Guns and Violence Against Women – America's Uniquely Lethal Domestic Violence Problem" <http://everytown.org/wp-content/uploads/2014/10/Guns-and-Violence-Against-Women-Everytown-for-Gun-Safety.pdf>
- 17 Law Center to Prevent Gun Violence; "Domestic Violence & Firearms Policy Summary" http://smartgunlaws.org/domestic-violence-firearms-policy-summary/#footnote_5_5684
- 18 Harvard School of Public Health <http://www.hsph.harvard.edu/news/hsph-in-the-news/mass-shootings-becoming-more-frequent/>
<http://www.motherjones.com/politics/2014/10/mass-shootings-increasing-harvard-research>
- 19 <http://www.nytimes.com/2013/09/29/us/children-and-guns-the-hidden-toll.html?pagewanted=all&r=0>
- 20 "Innocents Lost – A Year of Unintentional Child Gun Deaths" June 2014 http://www.minnpost.com/sites/default/files/attachments/Innocents_Lost.pdf
- 21 <http://www.wdjb7.com/news/local/7-year-old-killed-by-gun-fire-in-franklin-county/25592038>
- 22 "Innocents Lost – A Year of Unintentional Child Gun Deaths" June 2014 http://www.minnpost.com/sites/default/files/attachments/Innocents_Lost.pdf
- 23 See "The Final Report And Findings of the Safe School Initiative"; United States Secret Service and United States Department of Education; Published July 2004 at <https://www2.ed.gov/admins/lead/safety/preventingattacksreport.pdf>
- 24 Judith M. McFarland and others, "Stalking and Intimate Partner Femicide," Homicide Studies 3 (4) (1999): 300-316
- 25 <http://momsdemandaction.org/in-the-news/new-report-explores-weak-laws-allow-domestic-abusers-stalkers-buy-keep-guns-calls-political-leaders-close-loop-holes-save-womens-lives/>
- 26 US Supreme Court Decision <http://www.justice.gov/ovw/blog/supreme-court-decision-limits-batterers-access-guns>
- 27 "Innocents Lost – A Year of Unintentional Child Gun Deaths" June 2014 http://www.minnpost.com/sites/default/files/attachments/Innocents_Lost.pdf
- 28 Child-access prevention bills were proposed in 13 states (Arizona, Illinois, Michigan, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Washington, and Vermont). Eleven states considered legislation that would require locking devices, the safe storage of firearms, or both (California, Florida, Illinois, Iowa, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, and Rhode Island). See "Kids and Safety" and the American Bar Association at <http://apps.americanbar.org/litigation/committees/childrights/content/articles/spring2014-0414-kids-gun-safety.html> For more on the legislation pending in the states, read the [Law Center to Prevent Gun Violence's legislative tracking summary](#).
- 29 http://www.aap.org/en-us/advocacy-and-policy/federal-advocacy/Documents/AAPGunViolencePreventionPolicyRecommendations_Jan2013.pdf
- 30 <http://smartgunlaws.org/child-access-prevention-policy-summary/>
- 31 Id
- 32 LWVWA endorsed Initiative 594. On November 4, 2014, voters

passed I-594 requiring that currently used background checks by licensed dealers apply to all firearm sales and transfers, including gun show and online sales, with specific exceptions. <http://www.lwwva.org/>

Discussion Questions

1. Did any of the statistics on guns and domestic violence/school shootings surprise you?
 2. How effective are gun restrictions already enacted or being considered in preventing gun violence before incidents?
 3. What are the key areas in which Virginia laws could be improved to help reduce death by firearms?
 4. Are the recommendations being considered for Virginia's domestic violence and child access prevention laws strong enough? What, if any, would you change or add?
 5. How can the League promote proactive gun control policies and methods of enforcement without running afoul of other civil rights?
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