

NO. 76577-9-I

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IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION I

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ALEXANDRA BRAATZ,

Appellant,

v.

MICHAEL BRAATZ,

Respondent.

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AMICI CURIAE BRIEF OF LEGAL VOICE, NORTHWEST  
JUSTICE PROJECT, WASHINGTON STATE COALITION  
AGAINST DOMESTIC VIOLENCE, ALLIANCE FOR GUN  
RESPONSIBILITY FOUNDATION, COALITION ENDING  
GENDER-BASED VIOLENCE, AND SEATTLE CITY  
ATTORNEY'S OFFICE

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David Ward, WSBA No. 28707  
Jacqueline Schafer, WSBA No. 49697  
Kim Clark, WSBA No. 51644  
LEGAL VOICE  
907 Pine Street, Suite 500  
Seattle, WA 98101  
(206) 682-9552  
*Attorneys for Amici*

Mark Ferraz, WSBA No. 47298  
NORTHWEST JUSTICE PROJECT  
2731 Wetmore Ave.  
Suite 410  
Everett, WA 98201  
(425) 252-8515  
*Attorney for Amicus  
Northwest Justice Project*

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## I. INTRODUCTION

Domestic violence survivors face enormous, life-threatening risks when their abusers have access to firearms. This case concerns the vital role of the courts in protecting domestic violence survivors and their children from these risks.

Under both Washington State and federal law, domestic violence perpetrators are prohibited from possessing, controlling, or obtaining firearms when they are subject to domestic violence protection orders that satisfy specific criteria. Laws of 2014, ch. 111, 18 U.S.C. § 922(g)(8). In Washington State, abusers who are subject to such orders are required to surrender all firearms and to file proof of surrender promptly with the court. RCW 9.41.800(3), RCW 9.41.804. These requirements, which the Washington State Legislature unanimously adopted in 2014, are consistent with the legislature's long-standing recognition of the "importance of domestic violence as a serious crime against society" and the legislature's promise to "assure the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide." RCW 10.99.010. But laws protecting domestic violence survivors are toothless unless matched with strong enforcement at every point in the legal system.

Accordingly, *amici* urge this Court to hold that the trial court erred by finding that Michael Braatz complied with a firearms surrender order entered after his wife Alexandra Braatz obtained a domestic violence

protection order against him. *Amici* further urge this Court to provide guidance to trial courts to assist them in fulfilling their urgent responsibility to require strict compliance with firearms surrender orders. The stakes could not be higher: proper enforcement of the law is a matter of life or death for domestic violence survivors and their children.

## II. STATEMENT OF INTEREST OF AMICI CURIAE

*Amici* incorporate by reference the statement of interest set forth their Motion for Leave to File *Amici Curiae* Brief, filed herewith.

## III. STATEMENT OF THE CASE

*Amici* adopt Appellant Alexandra Braatz's Statement of the Case.

## IV. ARGUMENT

### A. **Domestic Violence Survivors Face Life-Threatening Risks When Their Abusers Have Access to Firearms.**

A large body of research provides important context for this Court in understanding the immense risks that domestic violence survivors face if their abuser continues to have access to a firearm. "Research shows that when an abusive partner has access to a firearm, the risk the other partner will die increases more than five-fold." The Educational Fund to Stop Gun Violence, *Domestic Violence & Guns in the United States: A Lethal Combination*, at 1 (Oct. 2016).<sup>1</sup> Not surprisingly, research also suggests that "abusers who have access to guns tend to inflict the most severe abuse on their partners." Nat'l Network to End Domestic Violence, *Guns*,

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<sup>1</sup> Available at <http://efsgv.org/wpcontent/uploads/2016/10/Domestic-Violence-Statistics-Fact-Sheet.pdf>.

*Domestic Violence, & Homicide.*<sup>2</sup> Because “abusers are often deadliest when victims wish to leave,” domestic violence survivors like Ms. Braatz who have separated from a partner are in an especially dangerous position. *Id.*

There is such a significant link between guns and fatal domestic violence that “research shows that simply living in a state with a high rate of firearm ownership increases a woman’s risk of being fatally shot in a domestic violence incident.” Kerry Shaw, *Twelve Facts that Show How Guns Make Domestic Violence Even Deadlier*, The Trace, Aug. 22, 2016.<sup>3</sup> On average, one woman in the United States is killed every 16 hours by an abusive intimate partner who uses a gun to commit the murder. Jennifer Mascia, *Once Every 16 Hours, An American Woman is Fatally Shot by a Current or Former Romantic Partner*, The Trace, Feb. 9, 2016.<sup>4</sup>

As a result, domestic violence victims in Washington State face the threat every day of being murdered by their abusers. To cite just one recent tragedy, a man in Lacey, Washington was charged within the past month with killing his wife and her mother with a gun, and fleeing with the couple’s two children. Amelia Dickson & Abby Spegman, *Suspect in Lacey double homicide was ordered to stay away from his wife, children*, The Olympian, Aug. 1, 2017.<sup>5</sup> According to media reports, the suspect

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<sup>2</sup> Available at [http://nmedv.org/downloads/Policy/2013AdvConf\\_GunLegislationBW.pdf](http://nmedv.org/downloads/Policy/2013AdvConf_GunLegislationBW.pdf).

<sup>3</sup> Available at <https://www.thetrace.org/2016/08/15-facts-that-show-how-guns-make-domestic-violence-even-deadlier>.

<sup>4</sup> Available at <https://www.thetrace.org/2016/02/woman-shot-killed-frequency-domestic-violence>.

<sup>5</sup> Available at <http://www.theolympian.com/news/local/article164875347.html>.



had been ordered by a court not to possess firearms, and his wife had recently obtained a protection order against him and had started divorce proceedings. *Id.*

Courts have recognized the research demonstrating the enormous risks that domestic violence survivors face when their abusers have access to firearms. The United States Supreme Court has noted that “[w]hen a gun [i]s in the house, an abused woman [i]s 6 times more likely than other abused women to be killed.” *U.S. v. Castleman*, \_\_ U.S. \_\_, 134 S. Ct. 1405, 1408-09 (2014) (quoting Jacquelyn C. Campbell et al., *Assessing Risk Factors for Intimate Partner Homicide*, DOJ, Nat. Institute of Justice J., No. 250, p. 16 (Nov. 2003)). Similarly, the Ninth Circuit recently emphasized that research demonstrates a “high rate of domestic violence recidivism, the use of firearms in roughly 65% of [domestic violence] murders, and that the use of guns by domestic abusers is more likely to result in the victim’s death.” *Fortson v. L.A. City Attorney’s Office*, 852 F.3d 1190, 1193-94 (9th Cir. 2017) (citing *United States v. Chovan*, 735 F.3d 1127, 1139–41 (9th Cir. 2013)).

It is also important to recognize the risk that children face when a parent who is a domestic violence abuser has access to firearms. More than half of female domestic violence victims live in households with children under twelve years old. Lawrence A. Greenfield et al., *Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouse, Boyfriends, & Girlfriends*, U.S. Dep’t of Just., Bureau of Just. Stats. 5

(Mar. 1998).<sup>6</sup> Children who witness domestic violence involving weapons have an increased likelihood of committing a violent offense with a weapon themselves. John Fantuzzo & Rachel Rusco, *Children's Direct Sensory Exposure to Substantiated Domestic Violence Crimes*, 22 *Violence & Victims* 158, 180 (2007).<sup>7</sup> And adolescents exposed to firearm violence have approximately double the probability that they will perpetrate serious violence over the subsequent two years. J.B. Bingenheimer et al., *Firearm Violence Exposure & Serious Violent Behavior*, *Science*, May 27, 2005, at 1323-26.<sup>8</sup> Failing to prevent access to firearms by domestic violence perpetrators not only puts the children of survivors at risk of potentially lethal harm, but also serves to perpetuate intergenerational cycles of violence.

**B. The Washington Legislature, Washington Voters, and Congress Have Passed Strong Laws to Prevent Access to Firearms By Domestic Violence Abusers -- but Enforcement of Such Laws Has Been Poor.**

Washington State, as well as Congress, has acted decisively to protect domestic violence survivors by restricting their abusers from having access to firearms. However, efforts to enforce compliance with key laws has not been equally strong, leaving survivors and their children at continued risk of harm from abusers.

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<sup>6</sup> Available at <http://bjs.gov/content/pub/pdf/vi.pdf>.

<sup>7</sup> See also Steve Spaccarelli et al., *Exposure to Serious Family Violence Among Incarcerated Boys: Its Association With Violent Offending and Potential Mediating Variables*, 10 *Violence and Victims* 163, 174 (1995).

<sup>8</sup> Available at <https://www.ncbi.nlm.nih.gov/pubmed/15919997>.

## 1. Key State and Federal Laws Protecting Domestic Violence Survivors from Gun Violence

In 2014, the Washington State Legislature unanimously passed a law that restricts access to firearms by persons subject to domestic violence protection orders (DVPOs) that satisfy specific criteria. Laws of 2014, ch. 111. Under the law, courts must order abusers who are subject to qualifying DVPOs to surrender all firearms. RCW 9.41.800(3). Abusers must also file proof with the court that they have surrendered their firearms within five judicial days of the surrender order (or a declaration of non-surrender if they claim to have no firearms). RCW 9.41.804.

This legislation was passed as a result of advocacy by domestic violence survivors like Stephanie Holten of Spokane, whose husband confronted her with a semi-automatic rifle and threatened to kill her just 12 hours after he was served with a DVPO that she had obtained against him in 2012. Michael Luo, *In Some States, Gun Rights Trump Orders of Protection*, N.Y. Times, Mar. 17, 2013.<sup>9</sup> The 2014 Washington law is similar in many ways to a federal law that Congress passed in 1994 to restrict firearms access by domestic violence abusers who are subject to certain civil protection orders.<sup>10</sup> However, Washington's law goes further than federal law by specifically requiring courts to order abusers who are subject to qualifying DVPOs to surrender their weapons and by requiring

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<sup>9</sup> Available at <http://www.nytimes.com/2013/03/18/us/facing-protective-orders-and-allowed-to-keep-guns.html>.

<sup>10</sup> See Violence Against Women Act of 1994, Pub. L. 103-322, § 110401, 108 Stat. 2014-15 (1994), currently codified at 18 U.S.C. § 922(g)(8).

abusers to provide prompt proof of surrender to the court.

In recent years, the Washington Legislature and Washington voters have taken additional actions to help protect domestic violence survivors and others from gun violence. These efforts include:

- Passage of Initiative 594 in 2014, a measure approved by nearly 60 percent of Washington voters, which requires background checks for nearly all purchases or transfers of firearms in the state, including firearms purchased at gun shows or through other private sales. *See* Ballotpedia, *Washington Universal Background Checks for Gun Purchases, Initiative 594 (2014)*.<sup>11</sup>
- Passage of a bill in 2015 that requires law enforcement to establish protocols for notifying survivors when law enforcement returns firearms to persons who had been required to surrender weapons. Laws of 2015, ch. 130.
- Passage of a bill in 2017 to allow domestic violence survivors to be notified if an abuser who is prohibited from possessing firearms is denied the purchase or transfer of a firearm. Laws of 2017, ch. 261. The Legislature also provided funding to implement the provisions of this law. Laws of 2017, 3d Spec. Sess., ch. 1, § 216(8).

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<sup>11</sup> Available at [https://ballotpedia.org/Washington\\_Universal\\_Background\\_Checks\\_for\\_Gun\\_Purchases,\\_Initiative\\_594\\_\(2014\)](https://ballotpedia.org/Washington_Universal_Background_Checks_for_Gun_Purchases,_Initiative_594_(2014)).

**2. Survivors Are Still at Risk Due to Non-Compliance by Perpetrators and Poor Enforcement of the Law.**

Unfortunately, the passage of strong laws to restrict domestic violence perpetrators from having access to firearms has not been matched by equally strong efforts to enforce compliance with such laws. Although federal law has prohibited firearm possession by domestic violence abusers who are subject to qualifying civil protection orders for more than 20 years, there have been relatively few federal prosecutions of perpetrators who violate the law. For instance, an investigation by the New York Times found that the federal law prohibiting firearm possession by domestic violence abusers had resulted in fewer than 50 prosecutions in the year 2012 across the country. *See Luo, supra.*<sup>12</sup>

There also has not been strong compliance with the 2014 Washington state law that restricts abusers' access to firearms. According to a recent media report, 47 percent of abusers in King County ignore orders to surrender firearms. Chris Ingalls, *Guns & Lies: A Day in Court with Domestic Abusers*, KING 5, July 18, 2017.<sup>13</sup>

Even when an abuser swears in court that he or she does not possess firearms, a recent enforcement action in Seattle demonstrates the high risk that the abuser will continue to possess firearms. Prosecutors and law enforcement officials recently investigated three abusers who had each appeared in court in King County on a single day of March 2017 and

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<sup>12</sup> Available at <http://www.nytimes.com/2013/03/18/us/facing-protective-orders-and-allowed-to-keep-guns.html>.

<sup>13</sup> Available at <http://www.king5.com/news/local/investigations/guns-and-lies-a-day-in-court-with-domestic-abusers/457738082>.

who had each claimed not to possess firearms. *Id.* After speaking with the abusers' victims and obtaining and executing search warrants, authorities found that each of the three abusers did in fact possess firearms, and seized 11 guns. *Id.*

As a result, it simply is not enough for the legislature or voters to pass strong laws to restrict firearm access by domestic violence abusers. To fulfill the promise to domestic violence survivors, strong laws must be matched with strong efforts by other participants in the justice system to ensure compliance – including the courts.

**C. The Trial Court Erred By Finding Mr. Braatz Had Complied With the Firearms Surrender Order.**

*Amici* agree with Ms. Braatz that the trial court plainly erred when it found that Mr. Braatz had complied with the firearms surrender order. This finding is contrary to the evidence before the trial court, which showed that Mr. Braatz had failed to account for every firearm listed in a detailed inventory that Ms. Braatz provided to the court – and Mr. Braatz offered no evidence to dispute the accuracy of this detailed list. Nor was it acceptable for the trial court to excuse Mr. Braatz's failure to account for all of his firearms on the grounds that he made "substantial efforts" to comply with the surrender order or otherwise demonstrated "substantial compliance" with the order.

**1. The Finding Is Unsupported By Substantial Evidence.**

*Amici* recognize that appellate courts will not reverse a trial court's factual findings as long as they are supported by substantial evidence,

which is a sufficient quantum of evidence “to persuade a fair-minded person of the truth of the declared premise.” *In re Marriage of Burrill*, 113 Wn. App. 863, 868, 56 P.3d 993 (2002); *In re Marriage of Thomas*, 63 Wn. App. 658, 660, 821 P.2d 1227 (1991). Here, there is not substantial evidence to support the trial court’s finding that Mr. Braatz had complied with the firearms surrender order.

The only evidence before the trial court when it found that Mr. Braatz had complied with the weapons surrender order consisted of declarations and documents submitted by the parties. Specifically, the evidence showed:

- Ms. Braatz submitted a declaration, to which she attached an inventory from the Emerald Valley Armory of 34 firearms, itemized by make, model and serial number, that Mr. Braatz possessed as of November 13, 2014. CP 63-66.
- Mr. Braatz submitted a declaration stating that “all firearms listed in [Ms. Braatz’s] declaration are surrendered except for one [which he asserted was owned by someone else],” to which he attached receipts from the Union County, Oregon Sheriff’s Office. CP 85-91. However, these receipts (along with a receipt that Mr. Braatz had previously submitted to the court) accounted for only 32 of the 34 weapons from the November 2014 inventory list.

The Court heard no witness testimony, despite repeated requests by Ms. Braatz’s counsel to have the opportunity to cross-examine Mr.

Braatz. In addition, Mr. Braatz offered no evidence challenging the accuracy of the inventory list that Ms. Braatz had submitted to the Court. Nevertheless, the trial court found Mr. Braatz to be in compliance with the firearms surrender order, opining that Mr. Braatz had “made substantial efforts to turn in the guns ” and that the court “[did not] have any information that the 2014 list is accurate at this point in time.” RP 91.

However, Mr. Braatz himself effectively vouched for the accuracy of the 2014 list by asserting that “all firearms” on the list had been surrendered, except for one that he claimed was owned and possessed by another person. CP 86. And it is undisputed that the surrender receipts that Mr. Braatz submitted to the court failed to account for each and every firearm on the 2014 inventory list – even taking into account the one unidentified firearm on the list that he asserted was owned and possessed by someone else. As a result, the trial court’s finding that Mr. Braatz complied with the weapons surrender order must be set aside because there is not substantial evidence to support it.

**2. The Court Should Have Required Mr. Braatz To Provide Evidence of What Happened to the Two Missing Guns.**

The trial court did not fulfill its critical oversight responsibility when it was satisfied with incomplete evidence that failed to account for the whereabouts of every specific firearm identified on the detailed inventory list produced by Ms. Braatz. As discussed above, where a domestic violence abuser has access to guns, the risk to the victim increases exponentially, and it only takes one gun for an abuser to cause



devastating or lethal harm. Moreover, it is particularly critical at the outset of legal proceedings involving domestic violence survivors to ensure that the abuser does not have access to a gun, as the end of the relationship is often the most dangerous time for survivors. Laura Lee Gildengorin, Note, *Smoke & Mirrors: How Current Firearm Relinquishment Laws Fail to Protect Domestic Violence Victims*, 67 *Hastings L.J.* 807, 835-36 (April 2016) (citing C. Godsey & R. Robinson, *Post-Separation Abuse Featured in the New Duluth Power and Control Wheel*, 18 *Domestic Violence Rep.* 81, 81 (Aug/Sept 2013)).

To that end, the law requires that the restrained person comply with the firearms surrender order immediately and file paperwork declaring compliance within five judicial days of the issuance of the order, underscoring the intent of the legislature that the abuser should bear the burden of demonstrating strict compliance with a weapons surrender order. RCW 9.41.804. Accordingly, when a court is presented with a discrepancy in the evidence that creates a question as to whether an abuser has surrendered all firearms, the court should require the restrained person to bear the burden of presenting evidence resolving that discrepancy.

In this case, the trial court did the opposite. Rather than require so much as an explanation from Mr. Braatz regarding the firearms from the 2014 inventory list that he had failed to account for, the trial court simply resolved the discrepancy in Mr. Braatz's favor, based on speculation that the inventory that Ms. Braatz submitted might somehow be incorrect. RP 91.

If the trial court was unsure about the accuracy of the gun inventory presented by Ms. Braatz, it should have sought clarity on that point from Mr. Braatz. At a minimum, it should have required evidence from Mr. Braatz demonstrating that he no longer owned, possessed, or otherwise had control over the two guns that were not specifically accounted for. Instead, the trial court *sua sponte* assumed, without any basis, that the 2014 inventory was not accurate, despite Mr. Braatz's own implicit acknowledgment that it was an accurate inventory.

This Court should reject Mr. Braatz's attempt on appeal to discredit the detailed inventory list presented by Ms. Braatz about the guns Mr. Braatz had put in storage after a fire in 2014. Resp. Br. at 29 (characterizing Ms. Braatz's declaration as "self-serving. . . [and] not corroborated by any other evidence," and arguing that the detailed gun storage facility list produced by Ms. Braatz should be disregarded). In evaluating the credibility of witnesses and evidence in connection with a firearms surrender order, courts should recognize and respect the fact that a survivor of violence committed by an intimate partner is likely to have the best knowledge of a partner's access to firearms. It is important for this Court to make clear that a domestic violence survivor's testimony and evidence must be given appropriate weight and respect in a hearing that directly affects the survivor's safety. That includes requiring a domestic violence abuser to at least attempt to account for each and every firearm identified by his or her former partner.

*Amici* recognize that firearms surrender orders can be challenging to enforce. Indeed, “[s]trikingly absent from [most state weapons surrender statutes] are any guidelines as to how to enforce these laws.” *Gildergorin, supra*, at 835-36. However, once a firearms surrender order is entered, the Washington Legislature has expressly put the burden on the restrained party to prove compliance with the order by promptly providing proof of surrender to the court. And when a victim presents evidence that contradicts an abuser’s claim that he or she has surrendered all firearms, the burden should continue to rest with the abuser to prove that all firearms have in fact been surrendered in compliance with the court’s order.

But regardless of which party bears the burden of proof, in this case there plainly is not substantial evidence in the record to support the trial court’s finding that Mr. Braatz had complied with the firearms surrender order. As a result, this finding must be reversed.

**3. “Substantial Compliance” with a Firearms Surrender Order Does Not Protect Survivors and Does Not Meet the Requirements of Washington Law.**

The trial court supported its finding that Mr. Braatz had complied with the firearms surrender order by expressing its view that Mr. Braatz had made “substantial efforts” to comply with the surrender order. RP 91. This Court should make clear that an abuser’s “substantial efforts” to comply with a firearms surrender order is not a legitimate basis to find that an abuser has actually complied with the order. The plain language of the

statute makes it clear that the Legislature requires an abuser to surrender all firearms, not simply to make “substantial efforts” to do so. *See* RCW 9.41.800(3).

Nor can the doctrine of “substantial compliance” be used to excuse Mr. Braatz’s failure to fully comply with the firearms surrender order. “A party substantially complies with a statutory directive when it satisfies the substance essential to the purpose of the statute.” *Humphrey Indus., Ltd. v. Clay St. Assocs., LLC*, 170 Wn.2d 495, 504, 242 P.3d 846 (2010). The party attempting to comply with a statute must not simply make a “bona fide attempt to comply with the law,” but also “must actually accomplish its purpose.” *Id.* (internal quotations and citations omitted).

Here, the clear purpose of Washington law is to ensure that domestic violence abusers surrender all firearms when they are ordered to do so pursuant to RCW 9.41.800(3). As a result, it is not sufficient for an abuser to demonstrate “substantial efforts” to comply with a firearms surrender order. The threat posed to Ms. Braatz and her children is just as great if he only possesses one firearm, rather than 34.

For example, it would obviously be improper if courthouse security were to allow a person who came to court with 34 firearms to enter the courthouse after surrendering all but one of his or her weapons. The risk to courthouse personnel and others in the building would be unacceptable regardless of whether one gun or 34 guns were brought into the courthouse.

Similarly, the risk to domestic violence survivors does not depend

on how many firearms an abuser possesses. The Legislature has made it clear that the law requires abusers to comply strictly with firearms surrender orders entered under RCW 9.41.800(3). Allowing even one gun not to be surrendered undermines the entire purpose of the law.

**D. Domestic Violence Survivors Must Be Able To Rely On Courts To Enforce Firearms Surrender Orders.**

To protect survivors of domestic violence, courts and other government officials must strongly enforce laws that prohibit abusers from possessing firearms. As a report supported by funding from the U.S. Department of Justice's Office on Violence Against Women has noted:

One of the most important ways that the criminal justice and civil legal systems can significantly enhance the safety of domestic violence victims is by enforcing federal, state, and tribal statutes and court orders that prohibit abusers from possessing firearms. If firearm prohibitions are consistently enforced, communities can effectively reduce the threat of lethal violence and serious injuries to victims.

Andrew R. Klein, *Enforcing Domestic Violence Firearm Prohibitions: A Report on Promising Practices*, Office on Violence Against Women & Nat'l Center on Full Faith & Credit, at 3 (Sept. 2006).

It is encouraging that some Washington courts – including the King County Superior Court – hold review hearings to monitor the compliance of domestic violence abusers with firearms surrender orders. This is a best practice for all courts in the state to follow. But review hearings, such as the ones held in this case, are rendered meaningless if courts dismiss evidence of non-compliance presented by survivors and fail

to conduct hearings and fact-finding with the precision and thoroughness needed to ensure full compliance.

When courts dismiss domestic violence survivors' evidence and excuse an abuser's failure to account for all firearms, courts do not only increase the survivors' risk of lethal harm by an abuser. They also further traumatize the survivor and amplify the abuser's ability to continue to control and cause fear to the survivor.

Domestic violence "entails a malevolent course of conduct that subordinates women to an alien will by violating their physical integrity (domestic violence), denying them respect and autonomy (intimidation), depriving them of social connectedness (isolation), and appropriating or denying them access to the resources required for personhood and citizenship (control)." Evan Stark, *Coercive Control: How Men Entrap Women in Everyday Life* 15 (2007). A court's evaluation of whether an abuser has complied with an order to surrender firearms should not further deny the survivor respect and autonomy by dismissing the survivor's evidence that an abuser has failed to comply with a firearms surrender order. As noted above, the survivor is likely in the best position to have evidence that an abuser has failed to comply with a firearms surrender order, and courts must take their evidence seriously in order to enforce the law.

As leading experts on domestic violence (including the National Domestic Violence Hotline, the National Network to End Domestic Violence, and the Battered Women's Justice Project) have explained to the

U.S. Supreme Court, the goal of legislation restricting an abuser's access to firearms is not just physical safety of the victims. It is also to relieve the emotional trauma associated with living in fear:

[T]here are nearly limitless ways in which firearms can be and are used by abusers to further their coercive control over their victims. This does not necessarily entail firing, or even brandishing, a firearm. Consequently . . . the purpose of prohibiting individuals who have abused a domestic partner from possessing firearms is not simply to prevent homicide or other grave physical injury – it is also to allow victims to live without fear of their abusers intentionally using a firearm against them or to threaten them.

Amicus Brief of Nat'l Domestic Violence Hotline, et al., *Voisine v. United States*, U.S. Sup. Ct. case no. 14-10154, at 19 (Jan. 26, 2016).<sup>14</sup> Put simply, many survivors are in a position “where a firearm becomes a symbolic weapon of mass destruction in their relationships – even when the trigger is never pulled.” Melissa Jeltsen, *The Invisible Way Guns Are Used to Keep Women in Abusive Relationships*, Huffington Post, Mar. 3, 2017.<sup>15</sup>

It is important to understand the perspective of survivors who come to court seeking a path to overcome the fear and danger caused by domestic violence. Survivors should be assured that if they seek protection from an abuser in court, their evidence will be taken seriously and the court will help to protect them from violence and fear of violence

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<sup>14</sup> Available at <http://www.scotusblog.com/wp-content/uploads/2016/01/14-10154bsacNationalDomesticViolenceHotline.pdf>; see also Statement of Sen. Lautenberg, 142 Cong. Rec. S10377-01 (1996) (noting “[i]n 150,000 cases of abuse, spousal abuse, a gun is present. That means that perhaps it is put to a woman’s head or put to her face in front of a child, or children, and even though the trigger is not pulled, the trauma is enormous.”).

<sup>15</sup> Available at [http://www.huffingtonpost.com/entry/guns-domestic-violence\\_us\\_58adf010e4b01406012f4f31](http://www.huffingtonpost.com/entry/guns-domestic-violence_us_58adf010e4b01406012f4f31).

by their abusers. But when courts fail to ensure compliance with firearms surrender orders, survivors' fears of harm are amplified, instead of relieved. They are left in a position of even greater danger and fear because the court has failed to hold their abuser accountable, which can only serve to embolden abusers. And understandably, survivors lose trust in a legal system that is supposed to "assure the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide." RCW 10.99.010.

## V. CONCLUSION

For the foregoing reasons, *amici* agree with appellant Alexandra Braatz that the trial court erred by finding that Michael Braatz had complied with the firearms surrender order. *Amici* also urge this Court to provide guidance to trial courts regarding their essential role in ensuring compliance with firearms surrender orders that are so critically important in protecting the safety of domestic violence survivors and their children.

Respectfully submitted this 17<sup>th</sup> day of August, 2017.

By: 

David Ward, WSBA No. 28707

[dward@legalvoice.org](mailto:dward@legalvoice.org)

Jacqueline Schafer, WSBA No. 49697

[jackie.schafer@gmail.com](mailto:jackie.schafer@gmail.com)

Kim Clark, WSBA No. 51644

[kim.clark1022@yahoo.com](mailto:kim.clark1022@yahoo.com)

LEGAL VOICE

907 Pine Street, Suite 500

Seattle, WA 98101

(206) 682-9552

*Attorneys for Amici*



s/Mark Ferraz

Mark Ferraz, WSBA No. 47298

markf@nwjustice.org

NORTHWEST JUSTICE PROJECT

2731 Wetmore Ave.

Suite 410

Everett, WA 98201

(425) 252-8515

*Attorney for Amicus Northwest Justice Project*