



N E W M E X I C O

Risk-Based Firearm Policy Recommendations for New Mexico

Prepared by:
The Educational Fund to Stop Gun Violence



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**The Educational Fund to Stop Gun Violence
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Additional Resources:

The Consortium for Risk-Based Firearm Policy State Report: *Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Firearm Policy*
<http://www.efsgv.org/wp-content/uploads/2014/10/Final-State-Report.pdf>

The Educational Fund to Stop Gun Violence: <http://www.efsgv.org/>

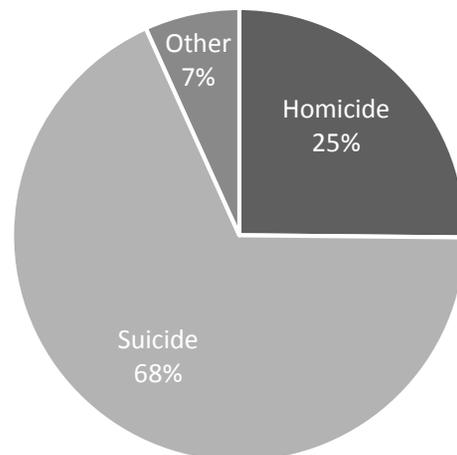
Introduction

Firearm violence takes a tragic toll on society. Recent data shows there are more than 84,000 nonfatal firearm injuries¹ and 33,000 deaths²—nearly two-thirds of which are suicides³—per year in the United States. Effective solutions to reduce gun violence demand a comprehensive, evidence-based strategy. The Consortium for Risk-Based Firearm Policy (Consortium), a group of the nation’s leading experts in public health, mental health, and gun violence prevention, came together in March 2013 to address this complex issue. These esteemed researchers, practitioners, and advocates developed evidence-based gun violence prevention policy recommendations to reduce access to firearms by people who are at an increased risk of dangerous behavior. This analysis from the Educational Fund to Stop Gun Violence (Ed Fund) examines how New Mexico law compares to the Consortium’s recommendations, and outlines steps New Mexico can take to prohibit individuals at increased risk of dangerous behavior from accessing firearms. The evidence supporting these recommendations is presented in the full Consortium Report: *Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Firearm Policy*.⁴

I. Firearm Deaths in New Mexico

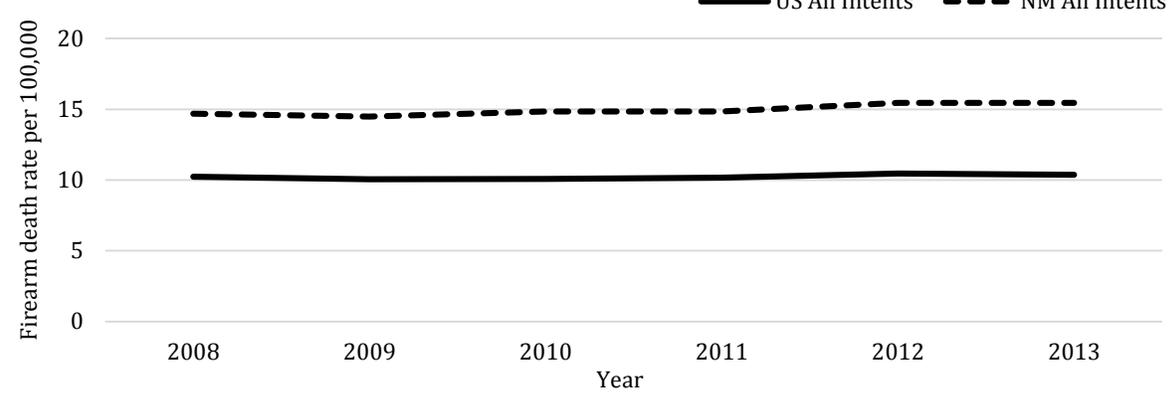
Almost every day in New Mexico, someone dies from firearm related injuries (326 total deaths in 2013).⁵ Similar to national data, the majority of gun deaths in New Mexico are suicides⁶ (see Figure 1), which accounted for 68% of all firearm deaths in 2013. ⁷ In recent years, New Mexico’s overall firearm death rate (including all intents), the firearm suicide rate, and the firearm homicide rate, exceeded the national rate (see Figures 2, 3, and 4). In 2013, the state firearm suicide rate was more than 60 percent higher than the national rate (10.28 deaths per 100,000 in New Mexico compared to 6.38 deaths per 100,000 nationally; see Figure 3).⁸

Figure 1. 2013 New Mexico Firearm Deaths



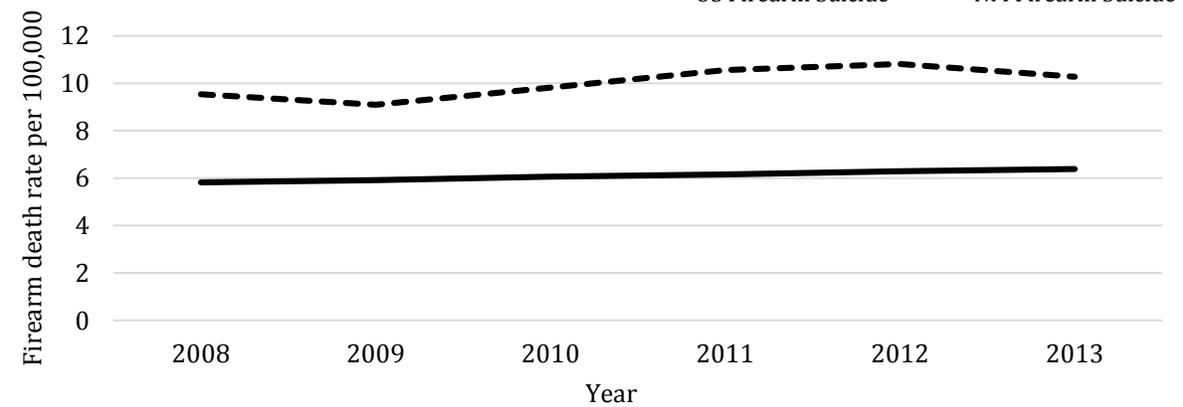
Source: CDC’s WISQARS™ (Web-based Injury Statistics Query and Reporting System). Fatal Injury Reports, 1999-2013, for National, Regional, and States

Figure 2. Firearm Death Rates US and NM: **all intents**



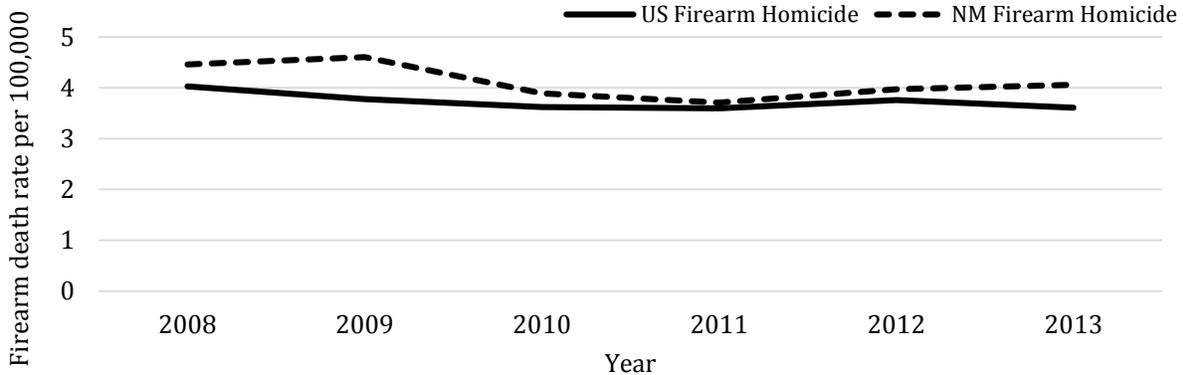
Source: CDC's WISQARS™ (Web-based Injury Statistics Query and Reporting System).
Fatal Injury Reports, 1999-2013, for National, Regional, and States

Figure 3. Firearm Death Rates US and NM: **suicide**



Source: CDC's WISQARS™ (Web-based Injury Statistics Query and Reporting System).
Fatal Injury Reports, 1999-2013, for National, Regional, and States

Figure 4. Firearm Death Rates US and NM: **homicide**



Source: CDC's WISQARS™ (Web-based Injury Statistics Query and Reporting System).
Fatal Injury Reports, 1999-2013, for National, Regional, and States

II. Consortium Recommendation Summary

The discourse after horrific mass shootings often centers on the link between gun violence and mental illness. While research shows mental illness is strongly associated with suicide,^{9,10} the majority of mentally ill individuals will never be violent toward others.¹¹⁻¹³ There are certain times when mentally ill persons are at increased risk of interpersonal violence, such as the time period surrounding an involuntary hospitalization,^{14, 15} but most people with common mental illnesses are not more violent than the general population without mental illness.¹⁶ Mental illness alone accounts for a very small proportion of societal violence (about 4%),¹⁷ therefore policies must address other risk factors for dangerousness in order to reduce overall violence in society.^{18, 19} Aside from mental illness on its own, stronger predictors for interpersonal violence—including homicide—are a history of violence (violent misdemeanor crime convictions²⁰ and domestic violence²¹⁻²³), drug abuse,²⁴ and alcohol abuse.^{25,26} The Consortium recommends states expand current federal firearm prohibitions to include these broader risk factors for dangerousness. Policies addressing these criteria provide a comprehensive approach to gun violence prevention that is true to the evidence and does not stigmatize mental illness alone as the root cause of violence.

1. Mental Health Risk Factors for Dangerousness

Evidence shows that while mental illness on its own is not a strong predictor for violent behavior toward others, there are circumstances when mental illness makes an individual more prone to violence. The first episode of psychosis, and the time period just before and after an involuntary hospitalization, for example.^{27, 28} Mental illness *is* strongly associated with self-harm, and common mental illnesses such as depression can increase risk of suicide.^{29, 30} Risk of suicide and access to firearms is particularly dangerous; 90% of attempted suicides by firearm are fatal.³¹ More than two-thirds of New Mexico firearm deaths were by suicide in 2013 (see Figure 1) and evidence informed policies restricting access to firearms during these periods of crisis may be effective. See below for the Consortium’s recommendations regarding mental health risk factors for dangerousness.

Recommendation #1: Current state law should be strengthened to temporarily prohibit individuals from purchasing or possessing firearms after a short-term involuntary hospitalization. Concurrently, the process for restoring firearm rights should be clarified and improved.

- 1.1 States should enact new legislation temporarily prohibiting individuals from purchasing or possessing firearms after a short-term involuntary hospitalization. This prohibition should be predicated on a clinical finding of danger to self or danger to others.

- 1.2 Restoration of an individual's ability to purchase or possess a firearm following a firearm disqualification due to mental illness should be based on an evaluation by a qualified clinician and a finding that the petitioner is unlikely to relapse and present a danger to self or others in the foreseeable future.

2. Other Risk Factors for Dangerousness

As the majority of violence is related to factors other than mental illness alone, the Consortium recommends a risk-based approach to reducing violence, looking at other risk factors for dangerousness. A history of violence,^{32, 33} including violent misdemeanor convictions³⁴ and perpetration of domestic violence,³⁵⁻³⁷ is the strongest predictor of violence toward others. Individuals who abuse alcohol are at increased risk of homicide and suicide,³⁸ and research also shows that firearm owners are more likely to abuse alcohol.³⁹⁻⁴² Studies also show that illegal use of controlled substances is related to an increased risk of violence.⁴³⁻⁴⁷ The cognitive impairment associated with drug use also makes it difficult to avoid violent conflict.⁴⁸⁻⁵⁰ See below for the Consortium's recommendations regarding these other risk factors for dangerousness.

Recommendation #2: States should enact new prohibitions on individuals' ability to purchase or possess a firearm that reflect evidence-based risk of dangerousness.

- 2.1 Individuals convicted of a violent misdemeanor should be prohibited from purchasing or possessing firearms for at least ten years.
- 2.2 Individuals who are subject to temporary domestic violence restraining orders should be prohibited from purchasing and possessing firearms for the duration of the temporary order.
- 2.3 Individuals convicted of two or more DWI or DUIs in a period of five years should be prohibited from purchasing and possessing firearms for at least five years.
- 2.4 Individuals convicted of two or more misdemeanor crimes involving controlled substances in a five-year period should be prohibited from purchasing or possessing firearms for at least five years.

3. Periods of Crisis

Law enforcement and concerned family members need tools to temporarily suspend firearms access during periods of crisis. Connecticut⁵¹ and Indiana⁵² have discretionary gun-removal tools for law enforcement, and California⁵³ became the first state in the country to pass a law providing family members with a similar option. See below for the Consortium's recommendations regarding these periods of crisis.

Recommendation #3: Develop a mechanism to authorize law enforcement officers to remove firearms when they identify someone who poses an immediate threat of harm to self or others. States should also provide law enforcement with a mechanism to request a warrant authorizing gun removal when the risk of harm to self or others is credible, but not immediate. In addition, states should create a new civil restraining order process to allow family members and intimate partners to petition the court to authorize removal of firearms and temporarily prohibit firearm purchase and possession based on a credible risk of physical harm to self or others, even when domestic violence is not an issue.

- 3.1: Authorize law enforcement to remove guns from any individual who poses an immediate threat of harm to self or others. Law enforcement officers are well versed in the “use of force” continuum, and may also use risk/lethality assessments to judge the risk of particular situations. In emergency situations, this authority can be exercised without a warrant.
- 3.2: Create a new civil restraining order process to allow private citizens to petition the court to request that guns be temporarily removed from a family member or intimate partner who poses a credible risk of harm to self or others. This process should mirror the restraining order process in most states and include a temporary *ex parte* order as well as a long-term order issued after a hearing in which the respondent had an opportunity to participate. Respondents to an order issued through this process (Gun Violence Restraining Order or GVRO) will be prohibited from purchasing and possessing guns for the duration of the order and required to relinquish all firearms in their possession for the duration of the order. Law enforcement officers should be able to request a warrant through this process to remove guns when there is a credible risk of harm that is not immediate.
- 3.3: Include due process protections for affected individuals. Specifically, provide respondents with an opportunity to participate in a hearing after having their guns removed by law enforcement (3.1) or through the GVRO process (3.2) and assure processes are in place for returning all removed guns at the conclusion of the temporary prohibition.

III. Opportunities for New Mexico

New Mexico state law does not mirror most of the federal firearm prohibitions.⁵⁴ Nor does New Mexico meet any of the Consortium’s recommendations. In addition to creating state laws to, at minimum, correspond to the federal firearm prohibitions, New Mexico should take the following steps to meet the Consortium’s recommendations:

Consortium Recommendation #1: Mental Health Risk Factors for Dangerousness

- Prohibit individuals following a short-term involuntary hospitalization from purchasing or possessing a firearm for five years.
- Develop a restoration process to include evidence from a clinician that the petitioner is unlikely to be a danger to themselves or others in the foreseeable future.

Consortium Recommendation #2: Other Risk Factors for Dangerousness

- Prohibit individuals convicted of a violent misdemeanor from purchasing or possessing a firearm for at least ten years.
- Prohibit respondents to temporary domestic violence restraining orders from purchasing or possessing firearms for the duration of the order.
- Prohibit individuals convicted of two or more DUI or DWIs within a five year period from purchasing or possessing firearms for at least five years.
- Prohibit individuals convicted of two or more misdemeanor crimes involving controlled substances in a five-year period from purchasing or possessing firearms for at least five years.

Consortium Recommendation #3: Periods of Crisis

- Create a Gun Violence Restraining Order (GVRO) mechanism to enable law enforcement, family members, and intimate partners to petition the court to temporarily prohibit an individual in crisis from purchasing or possessing firearms.

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⁴ Consortium for Risk-Based Firearm Policy. (2013). *Guns, Public Health and Mental Illness: An Evidence-Based Approach for State Policy*. Retrieved from <http://www.efsgv.org/wp-content/uploads/2014/10/Final-State-Report.pdf>

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