



Risk-Based Firearm Policy Recommendations for New York

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 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/>

New Yorkers Against Gun Violence: <http://nyagv.org/>

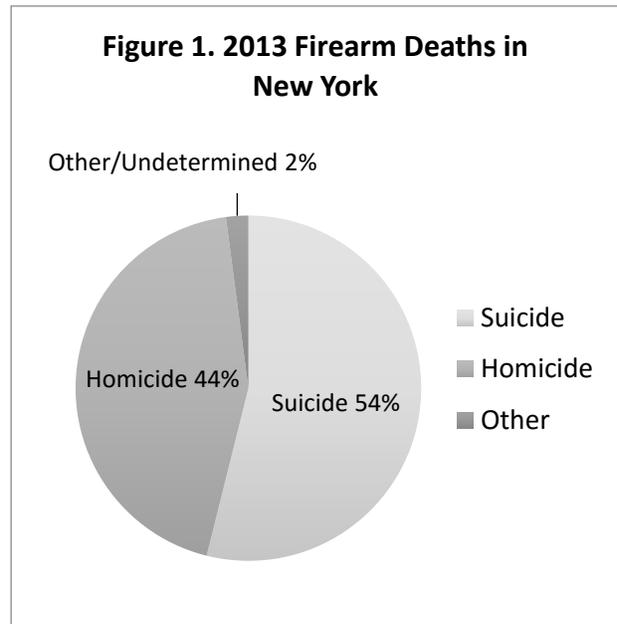
Introduction

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 York law compares to the Consortium’s recommendations, and outlines steps New York 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 Policy*.⁴

I. The Data: Firearm Deaths in New York

There are more than two firearm related deaths every day in New York State (863 total deaths in 2013).⁵ Similar to national data, the majority of gun deaths in New York are suicides⁶ (see Figure 1), which accounted for 54% of all firearm deaths in New York in 2013.⁷ New York’s overall firearm death rate (including all intents), firearm suicide rate, and firearm homicide rate are lower than the national rate (see Figures 2, 3 and 4).⁸



Source: CDC’s WISQARS™ (Web-based Injury Statistics Query and Reporting)

“There are more than two firearm related deaths every day in New York State...”

Figure 2. Age-adjusted All Intents Firearm Death Rate per 100,000: United States vs. New York 2003-2013

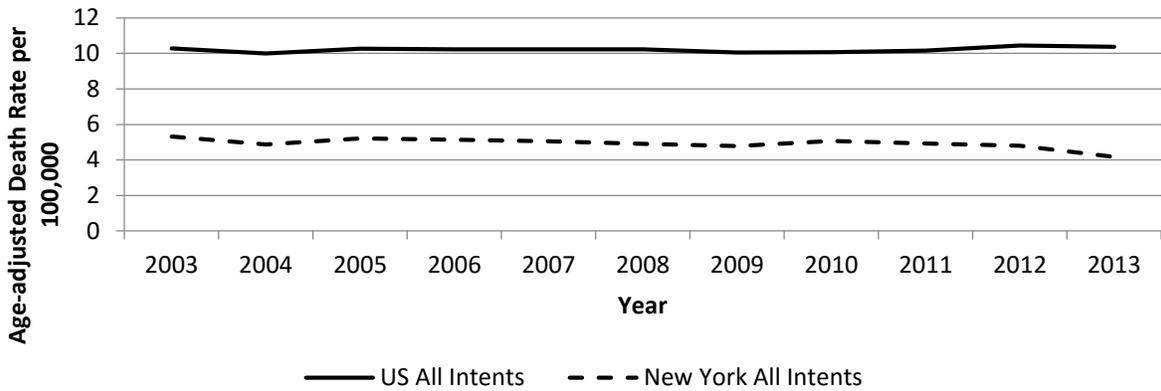


Figure 3. Age-adjusted Suicide Firearm Death Rate per 100,000: United States vs. New York 2003-2013

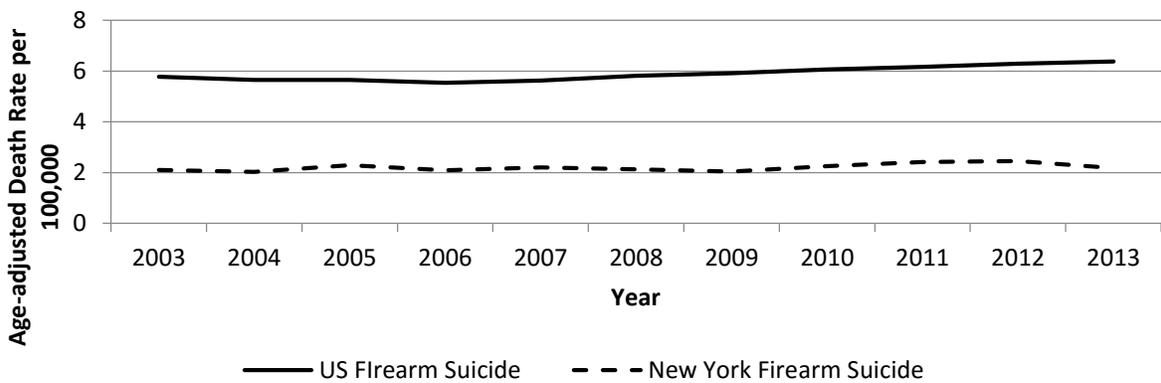
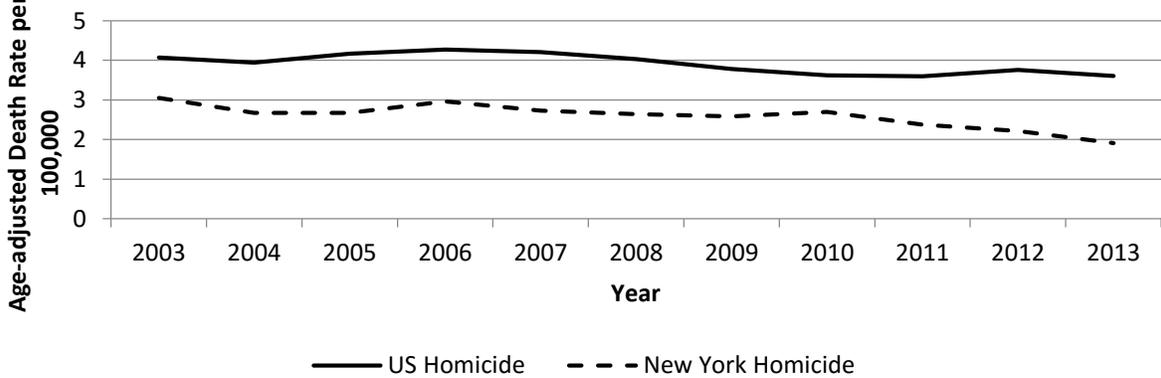


Figure 4. Age-adjusted Homicide Firearm Death Rate per 100,000: United States vs. New York 2003-2013



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 half of New York firearm deaths were by suicide in 2013 (see Figure 1) and evidence informed policies restricting access to firearms during these periods of crisis might 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.
- 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 are 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. Policy Opportunities for New York

While New York state law exceeds federal firearm prohibitions in many ways,⁵⁴ New York does not meet all the Consortium's risk-based firearm prohibitions. New York should take the following steps to clarify their firearm-related laws and to meet the Consortium's recommendations:

To clarify state law, New York should...

- Ensure that its firearms purchase and possession restrictions apply equally to handguns and long guns.

To address other risk factors for dangerousness, New York should...

- Prohibit individuals convicted of any violent misdemeanor, such as assault, from purchasing or possessing a firearm for at least ten years.
- Prohibit those with two or more drug-related misdemeanor crimes from purchasing or possessing a long gun for at least five years.
- Prohibit individuals convicted of two or more DUI or DWIs within a five-year period from purchasing or possessing a firearm for at least five years.

To assist people during periods of crisis, New York should...

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

Local governments in New York have the authority to regulate firearms and ammunition and may meet Consortium recommendations even though state law does not.

IV. Policy Analysis

An analysis of current New York law and the corresponding Consortium recommendations is provided in the table below.

Consortium Recommendation #1: Mental Health Risk Factors for Dangerousness
1.1: Prohibit individuals following a short-term involuntary hospitalization from purchasing or possessing a firearm.
Summary of Current Statute & Recommendation
<ul style="list-style-type: none">• Handguns: NY prohibits those who have been involuntarily hospitalized from possessing a handgun.• Long guns: Under the SAFE Act, mental health professionals are required to enter persons into NICS if the “person is likely to engage in conduct that would result in serious harm to self or others”, and those that are involuntarily hospitalized fall into this category. Thus these persons are prohibited from purchasing or possessing long guns.• Recommendation: NY meets or exceeds the Consortium recommendations.
Current Statute
<p style="text-align: center;">License to carry, possess, repair, and dispose of firearms <i>N.Y. Penal Law § 400.00 (McKinney)</i></p> <p>1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant...</p> <p>(j) who has not been involuntarily committed to a facility under the jurisdiction of an office of the department of mental hygiene pursuant to article nine or fifteen of the mental hygiene law, article seven hundred thirty or section 330.20 of the criminal procedure law, section four hundred two or five hundred eight of the correction law, section 322.2 or 353.4 of the family court act, or has not been civilly confined in a secure treatment facility pursuant to article ten of the mental hygiene law.</p> <p style="text-align: center;">§ 9.46 Reports of substantial risk or threat of harm by mental health professionals <i>N.Y. Mental Hyg. Law § 9.46 (McKinney)</i></p> <p>(a) For purposes of this section, the term “mental health professional” shall include a physician, psychologist, registered nurse or licensed clinical social worker.</p> <p>(b) Notwithstanding any other law to the contrary, when a mental health professional currently providing treatment services to a person determines, in the exercise of reasonable professional judgment, that such person is likely to engage in conduct that would result in serious harm to self or others, he or she shall be required to report, as soon as practicable, to the director of community services, or the director's designee, who shall report to the division of criminal justice services whenever he or she agrees that the person is likely to engage in such conduct. Information transmitted to the division of criminal justice services shall be limited to names and other non-clinical identifying information, which may only be used for determining whether a license issued pursuant to section 400.00 of the penal law should be suspended or revoked, or for determining whether a person is ineligible for a license issued pursuant to section 400.00 of the penal law, or is no longer permitted under state or federal law to possess a firearm.</p> <p>(c) Nothing in this section shall be construed to require a mental health professional to take any action which, in the exercise of reasonable professional judgment, would endanger such mental health professional or increase the danger to a potential victim or victims.</p> <p>(d) The decision of a mental health professional to disclose or not to disclose in accordance with this section, when made reasonably and in good faith, shall not be the basis for any civil or criminal liability of such mental health professional.</p>

1.2: Refine the 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.

Summary of Current Statute & Recommendation

- NY commissioner has the authority to require a petitioner seeking relief from disability to undergo a clinical evaluation and risk assessment.
- **Recommendation:** NY meets or exceeds the Consortium recommendations for risk factors for dangerousness.

Current Statute

Powers of the office and commissioner; how exercised

N.Y. Mental Hyg. Law § 13.09 (McKinney)

(2) The commissioner shall establish within the office for people with developmental disabilities an administrative process to permit a person who has been or may be disqualified from possessing such a firearm pursuant to 18 USC 922(4)(d), or who has been or may be disqualified from continuing to have a license to carry, possess, repair, or dispose of a firearm under section 400.00 of the penal law because such person was involuntarily committed or civilly confined to a facility under the jurisdiction of the commissioner, to petition for relief from that disability where such person's record and reputation are such that such person will not be likely to act in a manner dangerous to public safety and where the granting of the relief would not be contrary to public safety. The commissioner shall promulgate regulations to establish the relief from disabilities program, which shall include, but not be limited to, provisions providing for: (i) an opportunity for a disqualified person to petition for relief in writing; (ii) the authority for the agency to require that the petitioner undergo a clinical evaluation and risk assessment; and (iii) a requirement that the agency issue a decision in writing explaining the reasons for a denial or grant of relief. The denial of a petition for relief from disabilities may be reviewed de novo pursuant to the proceedings under article seventy-eight of the civil practice law and rules.

Consortium Recommendation #2: Other Risk Factors for Dangerousness

2.1: Prohibit individuals convicted of a violent misdemeanor from purchasing or possessing a firearm for at least ten years.

Summary of Current Statute & Recommendation

- Handguns: NY prohibits people who have committed serious offenses from possessing a handgun.
- Long guns: NY does not prohibit people who have committed violent misdemeanors from purchasing or possessing long guns.
- **Recommendation:** Recommend implementing Consortium recommendation 2.1 to include a ten-year prohibition for all violent misdemeanants, including those convicted of misdemeanor assault. Recommend extending the same prohibitions to long guns.

Current Statute

License to carry, possess, repair, and dispose of firearms

N.Y. Penal Law § 400.00 (McKinney)

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant...

(c) who has not been convicted anywhere of a felony or a serious offense;

Definition of Serious Offense

N.Y. Penal Law § 265.00 (McKinney)

17. "Serious offense" means (a) any of the following offenses defined in the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven: illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding escape from prison; that kind of disorderly conduct defined in subdivisions six and eight of section seven hundred twenty-two of such former penal law; violations of sections four hundred eighty-three, four hundred eighty-three-b, four hundred eighty-four-h and article one hundred six of such former penal law; that kind of criminal sexual act or rape which was designated

as a misdemeanor; violation of section seventeen hundred forty-seven-d and seventeen hundred forty-seven-e of such former penal law; any violation of any provision of article thirty-three of the public health law relating to narcotic drugs which was defined as a misdemeanor by section seventeen hundred fifty-one-a of such former penal law, and any violation of any provision of article thirty-three-A of the public health law relating to depressant and stimulant drugs which was defined as a misdemeanor by section seventeen hundred forty-seven-b of such former penal law.

(b) [As amended by L.1999, c. 635, § 11. See, also, par. (b) below.] any of the following offenses defined in the penal law: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; endangering the welfare of a child; the offenses defined in article two hundred thirty-five; issuing abortional articles; permitting prostitution; promoting prostitution in the third degree; stalking in the fourth degree; stalking in the third degree; the offenses defined in article one hundred thirty; the offenses defined in article two hundred twenty.

(b) [As amended by L.1999, c. 635, § 15. See, also, par. (b) above.] any of the following offenses defined in the penal law: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; endangering the welfare of a child; the offenses defined in article two hundred thirty-five; issuing abortional articles; permitting prostitution; promoting prostitution in the third degree; stalking in the third degree; stalking in the fourth degree; the offenses defined in article one hundred thirty; the offenses defined in article two hundred twenty.

2.2: Prohibit individuals subject to a temporary domestic violence restraining order from purchasing or possessing a firearm for the duration of the order.

Summary of Current Statute & Recommendation

- Under NY law, the respondent to a temporary order of protection shall have his or her firearm license suspended, shall be ineligible for a firearm license and shall be required to surrender all firearms owned or possessed by the respondent. Although ineligibility for a firearm license only applies to handguns, respondents must turn in all firearms (including long guns).
- **Recommendation:** NY meets or exceeds the Consortium recommendation for the temporary restraining order.

Current Statute

§ 842-a. Suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms pursuant to section 400.00 of the penal law and ineligibility for such a license; order to surrender firearms

N.Y. Fam. Ct. Act § 842-a (McKinney)

1. Suspension of firearms license and ineligibility for such a license upon the issuance of a temporary order of protection. Whenever a temporary order of protection is issued pursuant to section eight hundred twenty-eight of this article, or pursuant to article four, five, six, seven or ten of this act:

(a) the court shall suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms owned or possessed where the court receives information that gives the court good cause to believe that: (i) the respondent has a prior conviction of any violent felony offense as defined in section 70.02 of the penal law; (ii) the respondent has previously been found to have willfully failed to obey a prior order of protection and such willful failure involved (A) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (B) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (C) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iii) the respondent has a prior conviction for stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law; and

(b) the court shall where the court finds a substantial risk that the respondent may use or threaten to use a firearm unlawfully against the person or persons for whose protection the temporary order of protection is

issued, suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms owned or possessed.

2. Revocation or suspension of firearms license and ineligibility for such a license upon the issuance of an order of protection. Whenever an order of protection is issued pursuant to section eight hundred forty-one of this part, or pursuant to article four, five, six, seven or ten of this act:

(a) the court shall revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms owned or possessed where the court finds that the conduct which resulted in the issuance of the order of protection involved (i) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; and

(b) the court shall, where the court finds a substantial risk that the respondent may use or threaten to use a firearm unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms owned or possessed.

3. Revocation or suspension of firearms license and ineligibility for such a license upon a finding of a willful failure to obey an order of protection or temporary order of protection. Whenever a respondent has been found, pursuant to section eight hundred forty-six-a of this part to have willfully failed to obey an order of protection or temporary order of protection issued pursuant to this act or the domestic relations law, or by this court or by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to section eight hundred forty-six-a of this part:

(a) the court shall revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms owned or possessed where the willful failure to obey such order involves (i) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iv) behavior constituting stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law; and

(b) the court shall where the court finds a substantial risk that the respondent may use or threaten to use a firearm unlawfully against the person or persons for whose protection the order of protection was issued, (i) revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, whether or not the respondent possesses such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms owned or possessed or (ii) suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender of any or all firearms owned or possessed.

4. Suspension. Any suspension order issued pursuant to this section shall remain in effect for the duration of the temporary order of protection or order of protection, unless modified or vacated by the court.

5. Surrender. (a) Where an order to surrender one or more firearms has been issued, the temporary order of protection or order of protection shall specify the place where such firearms shall be surrendered, shall specify a date and time by which the surrender shall be completed and, to the extent possible, shall describe such firearms to be surrendered and shall direct the authority receiving such surrendered firearms to immediately notify the court of such surrender.

(b) The prompt surrender of one or more firearms pursuant to a court order issued pursuant¹ this section shall be considered a voluntary surrender for purposes of subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law. The disposition of any such firearms shall be in accordance with the provisions of subdivision six of section 400.05 of the penal law.

(c) The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all pistols, revolvers, rifles, shotguns or other firearms owned or possessed by a respondent pursuant to this act.

6. Notice. (a) Where an order of revocation, suspension or ineligibility has been issued pursuant to this section, any temporary order of protection or order of protection issued shall state that such firearm license has been suspended or revoked or that the respondent is ineligible for such license, as the case may be.

(b) The court revoking or suspending the license, ordering the respondent ineligible for such license, or ordering the surrender of any firearm shall immediately notify the statewide registry of orders of protection and the duly constituted police authorities of the locality of such action.

(c) The court revoking or suspending the license or ordering the defendant ineligible for such license shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

(d) Where an order of revocation, suspension, ineligibility, or surrender is modified or vacated, the court shall immediately notify the statewide registry of orders of protection and the duly constituted police authorities of the locality concerning such action and shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

7. Hearing. The respondent shall have the right to a hearing before the court regarding any revocation, suspension, ineligibility or surrender order issued pursuant to this section, provided that nothing in this subdivision shall preclude the court from issuing any such order prior to a hearing. Where the court has issued such an order prior to a hearing, it shall commence such hearing within fourteen days of the date such order was issued.

8. Nothing in this section shall delay or otherwise interfere with the issuance of a temporary order of protection.

2.3: 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.

Summary of Current Statute & Recommendation

- NY has no specific alcohol-related prohibitions on possessing firearms for those who have been committed to a treatment facility or for those who have been defined as chemically dependent.
- **Recommendation:** Recommend implementing Consortium recommendation 2.3 to prohibit individuals convicted of two or more DUI/DWI offenses within a five-year period for purchasing or possessing a firearm for five years.

Current Statute

n/a

2.4: Prohibit individuals convicted of two or more misdemeanor drug crimes within a five-year period from purchasing or possessing firearms for at least five years.

Summary of Current Statute & Recommendation

- Handgun: NY has a drug-related misdemeanor handgun prohibition following a conviction.
- Long gun: NY has no drug-related misdemeanor long gun prohibition following a conviction.
- **Recommendation:** NY should prohibit those with two or more misdemeanor drug crimes from purchasing or possessing a long gun for at least five years.

Current Statute

License to carry, possess, repair, and dispose of firearms

N.Y. Penal Law § 400.00 (McKinney)

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant...

(c) who has not been convicted anywhere of a felony or a serious offense;

Definition of Serious Offense

N.Y. Penal Law § 265.00 (McKinney)

17. "Serious offense" means... any violation of any provision of article thirty-three of the public health law relating to narcotic drugs which was defined as a misdemeanor by section seventeen hundred fifty-one-a of such former penal law, and any violation of any provision of article thirty-three-A of the public health law relating to depressant and stimulant drugs which was defined as a misdemeanor by section seventeen hundred forty-seven-b of such former penal law...

Consortium Recommendation #3: Periods of Crisis

3.1-3.3: 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.

Summary of Current Statute & Recommendation

- There is no mechanism for law enforcement to apply for a warrant to remove firearms in New York based on risk of dangerousness.
- There is no civil mechanism for private citizens to petition the court to remove firearms. Nor is there a mechanism for private citizens to contact law enforcement to petition the removal of guns for the broader dangerous behaviors we identify in the state report.
- **Recommendation:** Recommend implementing Consortium recommendations 3.1, 3.2, and 3.3.

Current Statute

n/a

¹ National Center for Injury Prevention and Control, CDC. (2013). Overall Firearm Gunshot Nonfatal Injuries and Rates per 100,000, United States. *Nonfatal Injury Reports, 2001 - 2013*. Retrieved February 27, 2015, from <http://www.cdc.gov/injury/wisqars/nonfatal.html>

² National Center for Injury Prevention and Control, CDC. (2015). 2002 - 2013, United States Firearm Deaths and Rates per 100,000. *Fatal Injury Reports 1999-2013, for National, Regional, and States (RESTRICTED)*. Retrieved March 4, 2015, from http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html

³ National Center for Injury Prevention and Control, CDC. (2015). 2002 - 2013, United States Suicide Firearm Deaths and Rates per 100,000. *Fatal Injury Reports 1999-2013, for National, Regional, and States (RESTRICTED)*. Retrieved January 28, 2015, from http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html

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