



NEW JERSEY **GUN VIOLENCE** **IMPACT ANALYSIS AND** **POLICY AUDIT**

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For 25 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America by researching, drafting, and defending the laws, policies, and programs proven to save lives from gun violence. Founded in the wake of a 1993 mass shooting in San Francisco, in 2016 the Law Center joined with former Congresswoman Gabrielle Giffords to form a courageous new force for gun safety that stretches coast to coast.

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EXECUTIVE SUMMARY

New Jersey has the second strongest gun laws and one of the lowest gun death rates in the nation. In many ways, New Jersey's record on gun violence prevention serves as a model for other states to emulate. The state has enacted strong laws regarding background checks, concealed carry permitting, and domestic violence. Yet the work of New Jersey legislators is far from over. Between 2010 and 2016, gun violence claimed the lives of more than 3,000 New Jersey residents. If legislators are committed to improving the health and wellbeing of the residents of their state, they must do more to protect vulnerable groups from gun violence.

In states around the country, racial and ethnic minorities are disproportionately affected by gun violence, and New Jersey is no exception. Though black persons make up less than 16% of the population in New Jersey, they account for nearly 50% of the state's gun death victims. New Jersey's gun homicides tend to be concentrated in a small number of urban areas, cities which also face a lack of employment opportunities and declining property values. Making our criminal justice system more punitive fails to address the systemic injustices within these communities.

Persons with mental illness, children and young adults, and the elderly also face a heightened risk of gun violence, particularly gun suicide. As guns are by far the most lethal means of suicide, easy access to guns greatly increases the risk that a suicide attempt will be fatal. Most individuals who survive a suicide attempt do not attempt suicide again, thus making it even more important that people in crisis have access to mental health resources—not deadly weapons.

None of these problems are intractable, and no form of gun violence is inevitable. New Jersey can and must do more to address the crisis of gun violence.

The first part of this report highlights the segments of New Jersey's population that face a heightened risk of gun violence. The second part examines nine policy areas in which New Jersey should further strengthen its gun laws, and provides specific recommendations for each policy area. Our policy recommendations for New Jersey are as follows:

1. **Community-based violence prevention and intervention:** Giffords Law Center's *Investing in Intervention* report identifies six best practices utilized by states like Massachusetts, which cut its gun homicide rate among black residents in half in the span of six years. In order to invest in community-based violence prevention and intervention at a similar scale, New Jersey would need to spend \$2 per capita, or \$18 million total, on a grant program implementing these evidence-based strategies.
2. **Extreme Risk Protection Order Implementation:** New Jersey's Extreme Risk Protection Order (ERPO) law, which allows family members or law enforcement officers to petition for the temporary removal of guns from individuals in crisis, may be an effective tool in preventing suicides, particularly among the elderly. New Jersey should encourage implementation of this law by directing funding and resources to government and nonprofit entities allowing them to educate community organizations, members of the public, law enforcement agencies, courts, and others.

3. **Incentives for smart gun technology:** New Jersey is the only state that requires all new guns be replaced by smart guns—which can only be fired by authorized users—within a few years of the technology becoming commercially available. Unfortunately, the gun lobby has responded with boycotts and has stalled progress on smart gun development. We recommend exploring another approach that involves implementing targeted economic incentives designed to help bring these new technologies to market.
4. **Safe storage laws:** Over 4.6 million children in the United States live in homes with unlocked and loaded firearms. These unsecured guns pose a risk for curious children who know where these guns are kept and people for in crisis. New Jersey should enact a safe storage law along the lines of the safe storage law in Massachusetts, which requires all guns to be either securely locked or stored, or “kept under the immediate control” of an authorized user.
5. **Child Access Prevention:** New Jersey is one of 27 states that has enacted a child access prevention (CAP) law to hold parents or guardians accountable if a minor gains access to a firearm. Unfortunately, New Jersey’s CAP law is riddled with exceptions. We recommend amending the existing law so that it holds parents or guardians liable when firearms are left accessible to children, expanding the definition of minors to include anyone under the age of 18, and removing the provision that a firearm can be stored anywhere a “reasonable person” believes it to be secure.
6. **Unsafe handgun regulation:** Low-quality handguns, or “junk guns,” have no place in our homes, streets, or public spaces. California, Massachusetts, and New York define unsafe handguns as those lacking specified safety features that help protect users against unintended discharge. New Jersey should prohibit the sale, manufacturing, importing, giving, or lending of an unsafe handgun, either by statute or by regulations mandated by the Attorney General.
7. **Gun dealer regulation:** Routine inspections of gun dealers can help prevent illegal gun sales and diversions of guns to criminals. In New York, increased monitoring of two-dozen gun stores found to be disproportionately responsible for selling illegal guns resulted in an 84% decrease in the number of guns from these stores recovered at crime scenes. We recommend that New Jersey require unnoticed inspections of gun dealers by law enforcement every six to twelve months.
8. **Open carry prohibition:** Individuals openly carrying firearms can cause panic in public spaces and dangerously escalate conflicts. Five states and DC prohibit the open carrying of handguns, while three states and DC prohibit the open carrying of long guns. Using California’s law as a baseline, New Jersey should prohibit the open carrying of handguns and long guns, with exceptions for activities like hunting.
9. **Firearm Violence Research Center:** For more than two decades, the Dickey Amendment has dissuaded the Centers for Disease Control (CDC) from investing in researching gun violence. State research institutions have stepped in to do the critical work that the CDC has not. We recommend that New Jersey further solidify its reputation as a leading state in gun violence prevention by using state-allocated gun violence research funding to create a designated Firearm Violence Research Center.

Our audit delves into these policies in greater depth and provides actionable steps for their implementation. Our attorneys are available to help activists and legislators build a safer future for the state of New Jersey by enacting these lifesaving policies.

INTRODUCTION

New Jersey is a leader in efforts to prevent gun violence in its communities. In fact, as of 2018, the state has in place many of the strongest gun laws in the nation. These strong gun laws play an important role in New Jersey's consistently low gun death rate. For example, in 2016, the gun death rate in New Jersey was 5.6 deaths per 100,000 people.¹ Comparatively, the national gun death rate was much higher, at 11.7 deaths per 100,000 people.²

Although New Jersey has a relatively low gun death rate, gun violence still exacts a high physical and emotional toll on families and communities in the state. Between 2010 and 2016, 3,316 people died from preventable gun violence in New Jersey.³ Of that number, 1,281 deaths were a result of suicide. Additionally, in 2015⁴ alone, at least 1,478 New Jersey residents suffered nonfatal firearm injuries.⁵

These gun deaths and their impacts are not evenly distributed among all residents of New Jersey. Some residents, including racial minorities, people with serious mental illness, children, and the elderly, disproportionately experience gun violence and its effects or otherwise merit special consideration when crafting gun violence prevention policies.

Reducing the unequal impact of gun violence requires, first, a fuller understanding of the scope of the problem, and second, an investigation of the solutions that show the most promise for alleviating these disparities. Part I of this report will present scholarly research and data to examine the disparate impact of gun violence on the groups most affected by this problem in New Jersey, including racial and ethnic minorities, persons with serious mental illness, children and young adults, and the elderly. Part II examines the current state of New Jersey's laws and identifies the evidence-based policies that can be adopted by the state to meaningfully reduce gun violence and its disparate effect on the identified groups.

¹ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

² *Id.*

³ *Id.*

⁴ Nonfatal injury data is only available through 2015. Because 2015 is the most recent year for which a full dataset is available, the detailed breakdown of fatal and non-fatal injuries throughout the report will be based on 2015 data.

⁵ This figure is an underestimate, as it does not include injuries that were treated in military hospitals or injuries that did not result in emergency department visits or inpatient hospitalizations. New Jersey State Health Assessment Data, "New Jersey Discharge Data Collection System, Office of Health Care Quality Assessment, New Jersey Department of Health, accessed Nov. 15, 2017, <https://www26.state.nj.us/doh-shad/query/selection/ub/UBSelection.html>.

PART ONE: ANALYSIS OF THE DISPARATE IMPACT OF GUN VIOLENCE IN NEW JERSEY

According to New Jersey-specific data, the burden of gun violence is disproportionately borne by certain groups, including racial and ethnic minorities, young adults, and the elderly. Additionally, based on New Jersey data and our understanding of the factors that elevate a person's risk of experiencing or dying by gun violence, persons with mental illness appear to be a group that merits particular attention when crafting gun safety policy in New Jersey. Finally, minors in New Jersey merit particular consideration, even though they experience gun deaths and injuries at lower rates than other age groups, because of their vulnerability and the impact that early exposure to gun violence can have on child development.

Based on national trends, a disparate impact of domestic violence and intimate partner homicides on women would also be expected. However, data indicate that domestic violence homicides compose a smaller proportion of gun deaths in New Jersey than in other states, and that the rate of domestic violence homicides against women is far lower in New Jersey. For example, in 2015, women accounted for less than 7% of gun homicides in New Jersey—a total of 19 women were murdered by firearms by any intent in the state.⁶ Additionally, the 2015 rate of intimate partner homicides committed with firearms in New Jersey was one of the lowest in the nation, at 0.2 deaths per 100,000 people.⁷ These data suggest that the disparity in domestic violence with firearms is less pronounced in New Jersey compared to other states. Although these cases are tragic, available data indicate that the larger burden of gun violence is greater among other groups.

RACIAL AND ETHNIC MINORITIES

Gun violence has a significant impact on communities of color, with people of color accounting for a disproportionate share of gun violence victims, both nationally and in New Jersey. Nationally, black persons account for nearly 25% of gun death victims, but account for only 14% of the population.⁸ This disparity is even larger in New Jersey, where black persons make up less than 16% of the population, but account for nearly 50% of the state's gun death victims.⁹ The disproportionate impact of gun violence on people of color is even more pronounced when only gun homicides are considered: black persons make up nearly 80% of New Jersey's firearm homicide victims.¹⁰

In addition to the disparate impact of gun violence on black persons in New Jersey, available data suggests that Hispanic persons in New Jersey also experience disproportionately high rates of gun homicide. In 2015, the gun death rate among Hispanic persons in New Jersey was 2.05 deaths per 100,000 people, while the gun death

⁶ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

⁷ Carolina Díez, et al., "State Intimate Partner Violence-Related Firearm Laws and Intimate Partner Homicide Rates in the United States, 1991 to 2015," *Annals of Internal Medicine* 167, no. 8 (2017): 536-543.

⁸ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

⁹ *Id.*

¹⁰ *Id.*

rate for non-Hispanic white New Jerseyans was 3.56 deaths per 100,000 people.¹¹ However, when only gun homicides are considered, there is a pronounced racial disparity between Hispanic persons and non-Hispanic whites. Specifically, the homicide rate for Hispanic New Jerseyans is over 4.5 times larger than the homicide rate for non-Hispanic whites in New Jersey (2.05 deaths per 100,000 people vs. 0.45 deaths per 100,000 people).¹² Although these gun homicide rates show that Hispanic communities are disproportionately impacted by gun homicides, it is important to note that the overall raw number of gun deaths in New Jersey's Hispanic community is quite low, with only 31 gun homicides among Hispanics in New Jersey in 2015.¹³

Nationally, Asians and Pacific Islanders have significantly lower rates of gun deaths compared to all other racial groups. This same pattern is present in New Jersey, where Asians and Pacific Islanders have a gun death rate that is more than 3.5 times lower than the gun death rate among non-Hispanic whites.¹⁴ In fact, there were only 10 gun deaths among Asians and Pacific Islanders in New Jersey in 2015.¹⁵

Although there are clear disparities in gun death rates between racial groups, there are also significant gender disparities within racial groups. Both nationally and in New Jersey, men account for the majority of gun deaths. In 2015, men accounted for 86% of gun deaths nationally and 93% of gun deaths in New Jersey.¹⁶ This same gender disparity is apparent among all racial groups. For example, in New Jersey, black men make up 96% of all black gun death victims, white men make up 89% of all white gun death victims, and Hispanic men make up 95% of all Hispanic gun death victims.¹⁷ These same patterns hold true for gun deaths of all intents, including homicides and suicides.¹⁸ These data strongly indicate that the intersection of race and gender is an important determinant of gun violence victimization.

The disparate impact of gun homicides can be seen not only in the unequal rates of gun deaths between racial groups but also in qualitative data on reported experiences with gun violence. A 2017 Pew Research Center Survey found that black Americans were more likely than white or Hispanic Americans to know someone who had been shot; the survey found that 57% percent of black people knew someone who had been shot, either accidentally or on purpose, compared to 43% of whites and 42% of Hispanics.¹⁹ Black Americans were also more likely to report that they had been threatened with a gun. Nearly one-third of blacks (32%) reported that they or someone in their family had ever been threatened or intimidated by someone with a gun, compared with 20% of whites and 24% of Hispanics.²⁰ These data suggest that people of color are more likely to have been affected, either personally or through family or friends, by gun violence.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Kim Parker, et al., "America's Complex Relationship with Guns," *Pew Research Center*, June 22, 2017, <http://www.pewsocialtrends.org/2017/06/22/americas-complex-relationship-with-guns/>.

²⁰ *Id.*

Given the disproportionate impact gun violence has on communities of color, it is unsurprising that qualitative survey data indicates that blacks and Hispanics are more concerned about gun violence than white people. A 2017 Pew Research Center Survey found that black and Hispanic Americans were more likely than white Americans to have concerns about gun violence in their local communities and in the country as a whole. Nearly three-quarters (73%) of black Americans surveyed reported that gun violence was a very big problem in the United States, compared to 62% of Hispanic Americans and only 44% of white Americans. Nearly half of black Americans also expressed concerns about gun violence in their local communities, compared to 29% of Hispanic Americans and just 11% of white Americans. Additionally, polls indicate that black Americans think violence within their communities is a bigger issue than racial prejudice in the criminal justice system, although they report high levels of concern about both issues.²¹

This racial disparity in firearm homicide victims is driven in large part by the fact that the epidemic of gun violence is concentrated in low-income urban areas, which are predominantly populated by people of color. Recent research shows that crime, including gun homicides, is significantly clustered in micro-places or “hot spots” within cities.²² For example, in cities like Oakland and Chicago, nearly 70% of all census tracts saw no gun homicides in 2015, with the majority of gun homicides concentrated in less than 15% of the census tracts.²³ Often, these micro-places and “hot spots” are located in impoverished and underserved minority communities. In fact, one recent study in Philadelphia indicates that neighborhood racial composition may be more predictive of firearm assault risk than neighborhood income.²⁴ These results suggest that race and the structural factors that result in concentrated racial disadvantage correlate with firearm assault risk independently from other markers of social disadvantage. Available data suggests that these same factors are also strongly at play in New Jersey; 2015 data shows that firearm homicides were concentrated in Newark and Camden, cities that are 50% and 48% black, respectively.²⁵

Because gun homicides are so concentrated within particular neighborhoods, the psychological and economic harms associated with exposure to gun violence are also more likely to affect people of color. Studies have demonstrated a strong association between traumatic events, such as exposure to community violence, and negative mental health outcomes.²⁶ Given that people of color experience disproportionate rates of violence, the prevalence of negative mental health outcomes is also higher among people of color. For example, several studies have documented that there is a stronger association between exposure to violence and post-traumatic

²¹ Lois Beckett, “For Black Voters, Gun Violence a More Serious Problem Than Police Misconduct,” *The Guardian*, April 28, 2016, <https://www.theguardian.com/world/2016/apr/28/black-voters-gun-violence-police-misconduct-poll>.

²² Anthony A. Braga, Andrew V. Papachristos, and David M. Hureau, “The Concentration and Stability of Gun Violence at Micro Places in Boston, 1980-2008,” *Journal of Quantitative Criminology* 26, no. 1 (2010): 33-53.

²³ Aliza Aufrichtig, Lois Beckett, Jan Diehm and Jamiles Lartey, “Want to Fix Gun Violence in America? Go Local,” *The Guardian*, Jan. 9, 2017, <https://www.theguardian.com/us-news/ng-interactive/2017/jan/09/special-report-fixing-gun-violence-in-america>.

²⁴ Jessica Beard, et al., “Quantifying Disparities in Urban Firearm Violence by Race and Place in Philadelphia, Pennsylvania: A Cartographic Study,” *American Journal of Public Health* 107, no. 3 (2017): 371-373, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5296702/>.

²⁵ Erin Petenko, “Every NJ Gun Death Reported in 2015 on a Single Map,” *New Jersey Real-Time News*, April 19, 2017, http://www.nj.com/news/index.ssf/2017/04/every_gun_violence_incident_in_2015_on_a_single_map.html; US Census Bureau, “QuickFacts,” <https://www.census.gov/quickfacts/fact/table/US/PST045217>.

²⁶ Cathy L. Ward, et al., “Exposure to Violence and Its Relationship to Psychopathology in Adolescents,” *Injury Prevention* 7, no. 4 (2001): 297-301.

stress disorder (PTSD) among black Americans than among white Americans.²⁷ In fact, the overall lifetime prevalence of PTSD is higher among black Americans, due in part to a greater exposure to traumatic events like violence.²⁸ Although there is also a strong association between exposure to violence and PTSD among Hispanics, the lifetime prevalence of PTSD among Hispanics is roughly the same as the prevalence among whites.²⁹ These psychological effects can have serious consequences for those affected. For example, PTSD can lead to debilitating physical health conditions, including chronic pain, cardiovascular disease, and obesity.³⁰

Scholars have also postulated that many of the socioeconomic disparities seen between different racial groups may be attributable to the high rates of gun violence suffered in communities of color. There are well-documented disparities between people of color and white people in regards to educational attainment, income, and overall socioeconomic status.³¹ Although these disparities are often discussed as risk factors that *contribute* to violence,³² research also shows that these disparities may be *caused* by exposure to violence. For example, exposure to violence, particularly as a young child, can lead to poorer academic performance, lower educational attainment, and lower odds of employment.³³ One study found that a significant portion of urban adolescents residing in violent neighborhoods perceive they will die before age 35; these expectations of an early death were correlated with lower socioeconomic status in adulthood.³⁴ This research suggests that the consequences of community gun violence extend far beyond the loss of life—exposure to gun violence can have a substantive impact on a host of socioeconomic indicators.

These individual-level consequences of gun violence may be exacerbated by the negative effects of gun violence on the economic stability of communities. Gun violence has a crippling effect on economic development and the business community. Because gun violence is so concentrated in communities of color, these negative effects also hit minority communities the hardest. In general, higher numbers of gun homicides in a census tract

²⁷ Andrea L. Roberts, et al., "Race/Ethnic Differences in Exposure to Traumatic Events, Development of Post-Traumatic Stress Disorder, and Treatment-Seeking for Post-Traumatic Stress Disorder in the United States," *Psychological Medicine* 41, no. 1 (2011): 71-83.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Maria L. Pacella, Bryce Hruska, and Douglas L. Delahanty, "The Physical Health Consequences of PTSD and PTSD Symptoms: a Meta-Analytic Review," *Journal of Anxiety Disorders* 27, no. 1 (2013): 33-46; Amy W. Wagner, et al., "An Investigation of the Impact of Posttraumatic Stress Disorder on Physical Health," *Journal of Traumatic Stress* 13, no. 1 (2000): 41-55.

³¹ See, e.g., Richard Reeves, Edward Rodrigue, and Elizabeth Kneebone, "Five Evils: Multidimensional Poverty and Race in America," The Brookings Institution, April 2016, https://www.brookings.edu/wp-content/uploads/2016/06/ReevesKneeboneRodrigue_MultidimensionalPoverty_FullPaper.pdf.

³² "Risk Factors for Youth Violence," Chapter 4, *Youth Violence: A Report of the Surgeon General*, Rockville, MD: Office of the Surgeon General (US): 2001, <https://www.ncbi.nlm.nih.gov/books/NBK44293/>. See also, "Youth Violence: Risk and Protective Factors," Centers for Disease Control and Prevention, June 23, 2017, <https://www.cdc.gov/violenceprevention/youthviolence/riskprotectivefactors.html>.

³³ Herbert C. Covey, Scott Menard, and Robert J. Franzese, "Effects of Adolescent Physical Abuse, Exposure to Neighborhood Violence, and Witnessing Parental Violence on Adult Socioeconomic Status," *Child Maltreatment* 18, no. 2 (2013); Larissa A. Borofsky, et al., "Community Violence Exposure and Adolescents' School Engagement and Academic Achievement Over Time," *Psychology of Violence* 3, no. 4 (2013): 381-395; Adam J. Milam, C. Debra Furr-Holden, and Philip J. Leaf, "Perceived School and Neighborhood Safety, Neighborhood Violence and Academic Achievement in Urban School Children," *The Urban Review* 42, no. 5 (2010): 458-467.

³⁴ Quynh C. Nguyen, et al., "Adolescent Expectations of Early Death Predict Young Adult Socioeconomic Status," *Social Science & Medicine* 74, no. 9 (2012): 1452-1460.

correspond with fewer employment opportunities and declining home values.³⁵ Many businesses may also choose to leave violent neighborhoods in search of safer areas.³⁶ Businesses that remain in violent neighborhoods operate at much higher costs, as they often make substantial investments in security measures to protect their businesses and employees, including camera systems, bulletproof windows, and extra security staff.³⁷ Additionally, these businesses may limit their hours of operation so as not to be in business during times of peak violence.³⁸ These closures further limit employment opportunities for community members. The lack of stable and legal employment opportunities may continue to depress the socioeconomic status of local residents, with particularly strong effects in minority communities.

Although people of color are disproportionately affected by gun violence, in many cases, they also disproportionately experience the negative externalities associated with legislative responses to gun violence. For example, in the wake of recent school shootings, the gun lobby and conservative legislators have called for putting armed security guards in every school.³⁹ Others have proposed that students be required to go through metal detectors before entering school buildings.⁴⁰ However, there is no evidence to indicate that these measures would significantly reduce gun violence in schools. In fact, research more strongly suggests that these measures would negatively impact students, particularly those of color.

The increasing militarization of schools as a purported means to prevent school shootings can have a detrimental impact on students of color. In many schools, it is increasingly common for police officers to handle minor disciplinary problems that arise. Anecdotal evidence indicates that police have arrested students for such minor infractions as bringing a cell phone to class, violating the school dress code, texting, passing gas, and throwing temper tantrums.⁴¹ Students of color are disproportionately the subjects of these arrests, and one study found that these arrests may be more likely in schools where a police officer is regularly present.⁴² Therefore, the presence of an armed security guard in a school may lead to increased arrests for young people of color. These arrests can have serious and significant long-term consequences. Studies have shown that the more interaction young people have with the criminal justice system, the more likely they are to have contact with the criminal justice system as adults.⁴³ Thus, instituting armed security guards in schools can have

³⁵ Yasemin Irvin-Erickson, “A Neighborhood-Level Analysis of the Economic Impact of Gun Violence,” Urban Institute, June 2017, http://www.urban.org/research/publication/neighborhood-level-analysis-economic-impact-gun-violence/view/full_report.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ See, e.g., Aamer Madhani and Jackie Kucinich, “NRA Says All Schools Should Have Armed Security Guards,” *USA Today*, December 21, 2012, <https://www.usatoday.com/story/news/politics/2012/12/21/nra-schools-armed-guards/1784619/>; Sheryl Gay Stolberg, “Report Sees Guns as Path to Safety in Schools,” *The New York Times*, April 2, 2013, <http://www.nytimes.com/2013/04/03/us/nra-details-plan-for-armed-school-guards.html>.

⁴⁰ See, e.g., Paul Ratner, “There’s One Way to Stop School Shootings Without Taking Away Anyone’s Guns,” *Big Think*, Feb. 15, 2018, <http://bigthink.com/paul-ratner/theres-one-way-to-stop-school-shootings-without-taking-away-anyones-guns>.

⁴¹ Elora Mukherjee, “Criminalizing the Classroom: The Over-Policing of New York City Schools,” *The New York Civil Liberties Union*, March 2007, <https://www.aclu.org/other/criminalizing-classroom-over-policing-new-york-city-schools>. See also, Jason P. Nance, “Students, Police, and the School-To-Prison Pipeline,” *Washington University Law Review* 93, no. 4 (2016): 919-987.

⁴² Jason P. Nance, “Students, Police, and the School-To-Prison Pipeline,” *Washington University Law Review* 93, no. 4 (2016): 919-987.

⁴³ Akiva M. Liberman, David S. Kirk, and Kideuk Kim, “Labeling Effects of First Juvenile Arrests: Secondary Deviance and Secondary Sanctioning,” *Criminology* 52, no. 3 (2014): 345-370.

extremely negative short and long term effects on students of color. Furthermore, these laws also do little to curb the gun violence most prevalent in communities of color, indicating that the impact of these laws on people of color is almost entirely negative.

More traditional gun safety legislation can also have a disparate negative impact on communities of color, particularly in regards to arrest rates for violations of these laws. Studies have consistently documented that people of color are arrested, particularly for low-level offenses, at much higher rates than non-Hispanic whites.⁴⁴ Scholars have attributed these disparities in part to a host of discriminatory policing practices, including racial profiling.⁴⁵ Data from the New Jersey State Police Uniform Crime Reporting show that these same disparities exist for weapons offense arrests in New Jersey, where black persons account for a disproportionate share of arrests for weapons offenses.⁴⁶ In 2015, 55% of persons arrested for weapons offenses were black, 44% were white, and 1% were other races.⁴⁷ However, only 16% of the overall New Jersey population is black, indicating that black people are vastly overrepresented in New Jersey's weapons offense arrests.⁴⁸ Data from 2011–2013 shows a similar breakdown to the 2015 numbers, but the 2014 numbers showed a slightly less pronounced racial disparity, with black people accounting for only 34% of the weapons offense arrests that year.⁴⁹ These state-level data show an even sharper disparity than national data: in 2015, nationally, black people made up nearly 40% of weapons offense arrests but only 14% of the total population.⁵⁰ Studies have also documented that arrest rates are elevated for Hispanic persons.⁵¹ However, in New Jersey, there does not appear to be a strong disparity in weapons-related arrests among Hispanic New Jerseyans. From 2011–2015, Hispanic persons accounted for approximately 19% of New Jersey's weapons-related offenses and 19% of the New Jersey population.⁵²

National polling data suggest that despite the negative effects gun safety laws can have on racial and ethnic minorities, these groups largely support the implementation of stronger gun laws. Large majorities of both blacks and Hispanics report that guns make America more dangerous, and data strongly indicate that people of color support laws which regulate guns more stringently.⁵³ According to a recent poll, when asked about how gun

⁴⁴ "Selective Policing: Racially Disparate Enforcement of Low-Level Offense in New Jersey," American Civil Liberties Union of New Jersey, December 2015, https://www.aclu-nj.org/files/7214/5070/6701/2015_12_21_acluni_select_enf.pdf.

⁴⁵ *Id.*

⁴⁶ Weapons offense arrests include all "violations of regulations or statute controlling the carrying, using, possessing, furnishing, and manufacturing of deadly weapons or silencers, and attempts."

⁴⁷ "State and County Arrest Summary," New Jersey State Police, 2015 Uniform Crime Report, http://www.njsp.org/ucr/2015/pdf/2015a_sect_3.pdf.

⁴⁸ US Census Bureau, "QuickFacts," <https://www.census.gov/quickfacts/>.

⁴⁹ "State and County Arrest Summary," New Jersey State Police, 2011–2014 Uniform Crime Reports, <http://www.njsp.org/ucr/uniform-crime-reports.shtml>.

⁵⁰ "Arrests by Race and Ethnicity, 2015," Federal Bureau of Investigation Uniform Crime Reports, Table 43A, <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-43>.

⁵¹ "Selective Policing: Racially Disparate Enforcement of Low-Level Offense in New Jersey," American Civil Liberties Union of New Jersey, December 2015, https://www.aclu-nj.org/files/7214/5070/6701/2015_12_21_acluni_select_enf.pdf.

⁵² "State and County Arrest Summary," New Jersey State Police, 2011–2015 Uniform Crime Reports, <http://www.njsp.org/ucr/uniform-crime-reports.shtml>.

⁵³ Anthony Salvanto, Jennifer De Pinto, Kabir Khanna, and Fred Backus, "CBS News/YouGov poll on guns: Safe or scary, free or dangerous?" CBS News, December 14, 2017, <https://www.cbsnews.com/news/gun-control-debate-america-cbs-news-poll-sandy-hook/>.

laws should be changed, 72% of black respondents and 72% of Hispanic respondents reported that gun laws should be made more strict.⁵⁴ These results strongly suggest that people of color would support reasonable, evidence-based gun safety legislation. Another poll indicates that people of color do not just support stricter enforcement of current laws; in fact, 62% of non-whites report that they believe new gun laws are needed in addition to stricter enforcement of current laws.⁵⁵ Additionally, very few black and Hispanic respondents, just 15% and 9%, respectively, indicate that gun laws should be made less strict.⁵⁶

Although there is strong support for gun safety legislation in communities of color, there is limited research evaluating the effectiveness of firearm laws in reducing violence specifically in minority communities. However, a large majority of the violence that affects minority communities is concentrated in cities and committed with illegal guns, suggesting that policies that attempt to disrupt the flow of illegal guns could help to reduce violence in minority communities. Research has found a consistent link between the availability of illegal guns and the number of homicides in a city. For example, one study in Boston found that when fewer illegal handguns were on the streets—as measured by fewer handgun recoveries by law enforcement—fewer gun homicides took place.⁵⁷ These results suggest that when it is more difficult for people to obtain illegal guns, shootings in cities may decrease. Several laws, such as gun dealer regulations, can help to prevent the flow of guns into the illegal market.⁵⁸ However, these laws must be complemented by laws that regulate the sale of legal guns, such as background check laws. Strong gun laws make it more difficult for prohibited purchasers to obtain guns, and they can increase the cost and risk of procuring a gun through illegal markets. By keeping guns out of the hands of dangerous people, these laws can help to reduce gun violence. Thus, there is reason to believe that comprehensive gun safety legislation can meaningfully reduce gun violence in minority communities.

There are also promising state level data which suggest that comprehensive gun safety legislation can lead to substantial reductions in gun deaths for both white people and people of color. For example, in the early 1990s, black people in California had some of the highest gun death and gun homicide rates in the nation. However, in response to these high rates of violence, the state took strong steps to protect its residents, including comprehensively strengthening its gun safety laws. After these measures were implemented, gun death rates fell precipitously for all Californians. In fact, data suggest that the declines in the overall gun death rate from 1993 to 2015 were larger for black Californians compared to white Californians. From 1993 to 2015, the overall gun death rate declined by nearly 60% for black Californians, compared to just under 40% for white Californians.⁵⁹ Additionally, the declines in gun deaths for both black and white Californians were larger than

⁵⁴ *Id.*

⁵⁵ Lydia Saad, “More Now Favor New Gun Laws Over Stricter Enforcement,” *Gallup News*, November 9, 2017, <http://news.gallup.com/poll/221852/favor-new-gun-laws-stricter-enforcement.aspx>.

⁵⁶ Anthony Salvanto, Jennifer De Pinto, Kabir Khanna, and Fred Backus, “CBS News/YouGov poll on guns: Safe or scary, free or dangerous?” *CBS News*, December 14, 2017, <https://www.cbsnews.com/news/gun-control-debate-america-cbs-news-poll-sandy-hook/>.

⁵⁷ Anthony A. Braga and Philip J. Cook, “The Criminal Records of Gun Offenders,” *Georgetown Journal of Law & Public Policy* 14, no. 1 (2016).

⁵⁸ Daniel W. Webster, Jon S. Vernick, and Maria T. Bulzacchelli, “Effects of State-Level Firearm Seller Accountability Policies on Firearm Trafficking,” *Journal of Urban Health* 86, no. 4 (2009): 525-537.

⁵⁹ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), “Fatal Injury Data,” last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

those observed in the nation as a whole.⁶⁰ These data suggest that comprehensive, evidence-based gun safety laws can lead to reductions in gun violence specifically among people of color.

Gun safety laws may also be associated with other positive benefits in communities of color. For example, a recent study found that stronger state-level legislative restrictions on firearms were associated with significant reductions in fatal police shootings.⁶¹ Researchers posited that officers in states with weaker gun laws may be more likely to respond with deadly force because they perceive that dangerous individuals are more likely to be armed.⁶² Additionally, gun safety laws that lead to reductions in gun violence can have important economic benefits. One study in Minneapolis found that just one fewer gun homicide was associated with the creation of 80 jobs and an additional \$9.4 million in sales across all businesses the following year.⁶³

Given that there can be both benefits and harms associated with traditional gun safety laws in minority communities, it is crucial that legislators couple more traditional gun safety laws with evidence-based violence prevention and intervention strategies. These programs are specifically designed to reduce urban gun violence, and may thus have some of the greatest impact on racial disparities in gun homicides. These strategies, which often rely on public health or focused deterrence approaches, draw upon the idea that a very small and readily identifiable segment of a city's population is responsible for the vast majority of that city's violence.⁶⁴ By strategically intervening with this small population, these programs have been able to significantly reduce gun homicides, with some implementation sites reporting reductions of nearly 70%.⁶⁵ Sites that implement these strategies can begin to see these reductions in gun homicides and shootings within the first few months. Importantly, these programs can significantly reduce gun violence without contributing to disproportionate arrests or mass incarceration, which have long wreaked havoc on communities of color.

In addition to reductions in violence, prevention and intervention strategies may also be associated with important cultural and socioeconomic changes in communities of color. Many violence prevention and intervention strategies include a social norms change component, whereby the program attempts to shift social norms related to using violence. For example, city-funded violence prevention and intervention programs in the Bronx and Brooklyn specifically include and evaluate this culture change component. These programs have been associated with reductions in support for using violence to solve both petty and serious disputes for exposed versus unexposed participants.⁶⁶ The changes in social norms related to these programs may have important

⁶⁰ *Id.*

⁶¹ Aaron J. Kivisto, Bradley Ray, and Peter L. Phalen, "Firearm Legislation and Fatal Police Shootings in the United States," *American Journal of Public Health* 107, no. 7 (2017): 1068-1075.

⁶² *Id.*

⁶³ Yasemin Irvin-Erickson, et al., "The Effect of Gun Violence on Local Economies: Gun Violence, Business, and Employment Trends in Minneapolis, Oakland, and Washington, DC," Urban Institute, November 2016, http://www.urban.org/research/publication/effect-gun-violence-local-economies/view/full_report.

⁶⁴ "Group Violence Intervention: An Implementation Guide," National Network for Safe Communities, accessed Feb. 22, 2016, <http://nnscommunities.org/our-work/guides/group-violence-intervention/group-violence-intervention-an-implementation-guide>.

⁶⁵ Sheyla A. Delgado, et al., "The Effects of Cure Violence in the South Bronx and East New York, Brooklyn," Research and Evaluation Center at John Jay College of Criminal Justice, October 2017, <https://johnjayrec.nyc/wp-content/uploads/2017/10/CVInSoBronxEastNY.pdf>; "Our Work," National Network for Safe Communities at John Jay College, <https://nnscommunities.org/our-work/faqs#7>.

⁶⁶ Sheyla A. Delgado, et al., "The Effects of Cure Violence in the South Bronx and East New York, Brooklyn," Research and Evaluation Center at John Jay College of Criminal Justice, October 2017, <https://johnjayrec.nyc/wp-content/uploads/2017/10/CVInSoBronxEastNY.pdf>.

violence deterrence effects. Additionally, these pro-social norms may help to promote collective efficacy and social cohesion, which can have far-reaching benefits for communities, including crime reductions and greater collective problem solving.⁶⁷ These programs may also promote economic growth in communities of color. Several studies have demonstrated that when cities reduce gun violence, various measures of economic stability, such as property values and business investment, also improve.⁶⁸ These violence prevention and intervention strategies and their effectiveness will be discussed in further detail in the policy recommendation section of this report.

A comprehensive strategy which embraces legal reforms while also investing heavily in prevention and intervention strategies can have a meaningful impact on the gun violence plaguing minority communities. Available research suggests that these strategies can save vast numbers of lives without creating further disparities in the criminal justice system. Additionally, if implemented properly, a comprehensive strategy to reduce gun violence in communities of color could help to mitigate a host of racial disparities.

PERSONS WITH MENTAL ILLNESS

People suffering from mental illness are at a significantly increased risk of attempting or dying by suicide. Studies have suggested that over 90% of suicides are associated with mental illness, including alcohol and substance use disorders.⁶⁹ Although 95% of persons with mental illnesses will never die by suicide, the link between mental illness and suicide should not be overlooked.⁷⁰ In New Jersey, the prevalence of mental illness is slightly lower compared to other states. According to the Substance Abuse and Mental Health Services Administration, 3.57% of New Jerseyans ages 18 and older reported having a serious mental illness in the past year, compared to 4.13% of all Americans ages 18 and older.⁷¹ However, nearly 16% of New Jerseyans ages 18 and older reported experiencing any mental illness in the past year, indicating that mental health issues are still prevalent in the state.⁷² Additionally, data shows that despite the relatively lower prevalence of mental illness in New Jersey, suicide takes an enormous toll on the state. Each year, there are nearly 750 suicides in New Jersey.⁷³

The link between mental illness and suicide becomes even more deadly when accounting for a person's access to firearms. Firearms are a leading means of suicide in New Jersey, with firearms contributing to approximately 25% of New Jersey's suicide deaths.⁷⁴ Research has consistently shown that access to firearms is "associated

⁶⁷ Robert J. Sampson, Stephen W. Raudenbush, and Felton Earls, "Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy," *Science* 277, (1997): 918-924.

⁶⁸ Yasemin Irvin-Erickson, "A Neighborhood-Level Analysis of the Economic Impact of Gun Violence," Urban Institute, June 2017, http://www.urban.org/research/publication/neighborhood-level-analysis-economic-impact-gun-violence/view/full_report.

⁶⁹ Sara Goldsmith, Terry C. Pellmar, Arthur Kleinman, and William Bunney (eds.), *Reducing Suicide: A National Imperative* (Washington, DC: The National Academies Press, 2002).

⁷⁰ *Id.*

⁷¹ "National Survey on Drug Use and Health: Model-Based Prevalence Estimates," Substance Abuse and Mental Health Services Administration, 2016, <https://www.samhsa.gov/data/sites/default/files/NSDUHsaePercents2016/NSDUHsaePercents2016.pdf>.

⁷² *Id.*

⁷³ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

⁷⁴ *Id.*

with substantially and significantly higher rates of suicide.⁷⁵ In large part, this risk is attributable to the lethality of guns. More than 90% of suicide attempts in the US are not fatal.⁷⁶ However, when people attempt suicide with a gun, they die 84% of the time.⁷⁷ Self-inflicted gunshots are at least 40 times more likely to result in death than the other most common suicide attempt methods.⁷⁸ Given the unique lethality of firearms, it is important to consider ways to restrict gun access, even temporarily, for persons with mental illnesses, who are already at an elevated risk of attempting suicide.

Although there is a documented correlation between mental illness and suicidality, this association is less pronounced for women and racial minorities. Women and racial minorities report higher levels of mental illness and psychological distress, yet the impact of firearm suicide is much greater for non-Hispanic white males than for any other group. National data suggests that the prevalence of psychological distress is generally higher for non-white Americans.⁷⁹ However, black, Hispanic, and Asian Americans have consistently lower suicide rates than non-Hispanic white Americans.⁸⁰ This same pattern persists in New Jersey, with non-Hispanic whites comprising nearly 90% of New Jersey's firearm suicide victims.⁸¹

Women also report higher rates of psychological distress but die by suicide at a much lower rate than men.⁸² Although men overall have lower reported rates of depression, psychological distress, suicidal ideation, and

⁷⁵ Catherine W. Barber and Matthew J. Miller, "Reducing a Suicidal Person's Access to Lethal Means of Suicide: A Research Agenda," *American Journal of Preventive Medicine* 47, no. 3 (2014): S264–S266. See also, David Hemenway, "Risks and Benefits of a Gun in the Home," *American Journal of Lifestyle Medicine* 5, no. 6 (2011): 502–511; Linda L. Dahlberg, Robin M. Ikeda, and Marcie-Jo Kresnow, "Guns in the Home and Risk of a Violent Death in the Home: Findings from a National Study," *American Journal of Epidemiology* 160, no. 10 (2004): 929–936; Kevin M. Grassel, Garen J. Wintemute, Mona A. Wright, and M. P. Romero, "Association Between Handgun Purchase and Mortality from Firearm Injury," *Journal of Injury Prevention* 9, no. 1 (2003): 48–52.

⁷⁶ "USA SUICIDE: 2012 OFFICIAL FINAL DATA," American Association of Suicidology, October 18, 2014, <http://www.suicidology.org/Portals/14/docs/Resources/FactSheets/2012datagsv1d.pdf>.

⁷⁷ Centers for Disease Control and Prevention, "Surveillance for fatal and nonfatal injuries—United States, 2001," *Morbidity and Mortality Weekly Report (MMWR)* 53, no. SS07 (2004): 1–57, <https://www.cdc.gov/mmwr/preview/mmwrhtml/ss5307a1.htm#tab12>. See also, Harvard T.H. Chan School of Public Health, Means Matter, "Lethality of Suicide Method," <http://www.hsph.harvard.edu/means-matter/means-matter/case-fatality>.

⁷⁸ Catherine W. Barber and Matthew J. Miller, "Reducing a Suicidal Person's Access to Lethal Means of Suicide: A Research Agenda," *American Journal of Preventive Medicine* 47, no. 3 (2014): S264. See also, Rebecca Spicer and Ted R. Miller, "Suicide Acts in 8 States: Incidence and Case Fatality Rates by Demographics and Method," *American Journal of Public Health* 90, no. 12 (2000): 1885.

⁷⁹ Centers for Disease Control and Prevention, National Center for Health Statistics, "National Health Interview Survey," <http://www.cdc.gov/nchs/data/hus/2015/046.pdf>.

⁸⁰ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

⁸¹ *Id.*

⁸² National Institute of Mental Health, "Major Depression with Severe Impairment Among Adults," <https://www.nimh.nih.gov/health/statistics/prevalence/major-depression-with-severe-impairment-amongadults.shtml>; Paul R. Albert, "Why is Depression More Prevalent in Women," *Journal of Psychiatry & Neuroscience* 40, no. 4 (2015): 219–222.

suicide attempts, males account for a disproportionate share of suicide deaths.⁸³ In New Jersey, men account for over 90% of the firearm suicide deaths.⁸⁴

The higher incidence of suicide in non-Hispanic white males can largely be attributed to the strong nexus between gun access and suicide. Men are 50% more likely to live in a household with a gun and over three times more likely to personally own one.⁸⁵ White Americans are also about twice as likely as black and Hispanic Americans to own a firearm in the home.⁸⁶ Accordingly, non-Hispanic white men represent the largest group of gun owners in the United States.⁸⁷ Because of this easy access to guns, white men are about twice as likely to attempt suicide with firearms as black and Hispanic men.⁸⁸ As a result, they are 2.5 times as likely to die by suicide.⁸⁹ Additionally, when men attempt suicide, they are nearly eight times more likely to use firearms than women and 4.5 times more likely to die from the attempt.⁹⁰ Women and racial minorities also have much lower rates of access to guns. Hence, the link between mental illness and suicidality appears to be most prominent for non-Hispanic white males, despite the overall lower prevalence of mental illness within this group.

In addition to the disparate impact of firearm suicides on persons with mental illness, this group can also be adversely affected by stigmatizing media attention that often arises as a result of high-profile gun massacres. When the media discusses the link between mental illness and gun violence, it usually focuses on mass shootings, ignoring the more nationally prevalent issue of suicides.⁹¹ Studies suggest that this coverage can heighten viewers' negative attitudes about people with mental illness.⁹² Unsurprisingly, a recent poll found that 63% of Americans cite untreated mental health issues as the primary contributing factor to mass shootings.⁹³

⁸³ Between 2012-2015, 130,942 (77.6%) of the nation's 168,715 suicide deaths were males; males comprised 73,444 (86.1%) of the nation's 85,245 firearm suicide deaths over this period. Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed May 17, 2017, <https://www.cdc.gov/injury/wisqars>.

⁸⁴ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

⁸⁵ Rich Morin, "The Demographics and Politics of Gun-Ownning Households," *Pew Research Center*, July 15, 2014, <http://www.pewresearch.org/fact-tank/2014/07/15/the-demographics-and-politics-of-gun-owning-households>.

⁸⁶ Kim Parker, et al., "The Demographics of Gun Ownership," *Pew Research Center*, June 22, 2017, <http://www.pewsocialtrends.org/2017/06/22/the-demographics-of-gun-ownership/>.

⁸⁷ *Id.*

⁸⁸ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal and Nonfatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ James L. Knoll and George D. Annas, "Mass Shootings and Mental Illness," *Gun Violence and Mental Illness*, 2016, <https://psychiatryonline.org/doi/pdf/10.5555/appi.books.9781615371099>.

⁹² Emma E. McGinty, Daniel W. Webster, and Colleen L. Barry, "Effects of News Media Messages About Mass Shootings on Attitudes Toward Persons with Serious Mental Illness and Public Support for Gun Control Policies," *The American Journal of Psychiatry* 170, no. 5 (2013): 494-501.

⁹³ Peyton M. Craighill and Scott Clement, "What Americans Blame Most for Mass Shootings (Hint: It's Not Gun Laws)," *The Washington Post*, October 26, 2015, https://www.washingtonpost.com/news/the-fix/wp/2015/10/26/gun-control-americans-overwhelmingly-blame-mental-health-failures-for-mass-shootings/?utm_term=.60386d64de47.

This stigma itself can be incredibly harmful to persons with mental illness. Mental health stigmas can hinder the recovery of persons with mental illness and discourage them from pursuing treatment.⁹⁴

Academic studies have consistently demonstrated that persons with a diagnosed mental illness are responsible for a small fraction of violent crime.⁹⁵ In fact, one study estimates that persons with serious mental illness commit less than 5% of gun homicides.⁹⁶ Another study suggests that even if a cure was developed for serious mental illnesses like schizophrenia, major depression, and bipolar disorder, interpersonal violence would only decrease by 4%.⁹⁷ Clearly, the idea that most mass shooters have a diagnosed mental illness is false, yet this stereotype continues to persist in the media and within the broader public dialogue.

Conversations about how to address gun violence are often distorted by these assumptions about the link between mental illness and mass shootings, leading in some cases to harmful and stigmatizing gun safety legislation.⁹⁸ However, evidence-based gun safety legislation that prioritizes suicide prevention can be incredibly effective at preventing suicides without imposing undue stigma on persons with mental illness. For example, the implementation of Connecticut's permit-to-purchase law, which requires buyers to undergo a background check and obtain a license in order to lawfully purchase a handgun from any seller, was associated with a 15.4% reduction in the state's firearm suicide rate.⁹⁹ Conversely, the repeal of Missouri's permit-to-purchase law was associated with a 16.1% increase in the firearm suicide rate.¹⁰⁰ Several other studies have indicated that denying or even delaying access to guns may help to prevent suicides among persons with a history of serious mental illness.¹⁰¹ Recent research also suggests that discussing and implementing evidence-based gun safety laws that restrict access for persons with mental illness does not necessarily exacerbate mental health stigmas. For example, one study asserts that media discussions about gun restrictions for persons with serious mental illness do not worsen negative attitudes about this population.¹⁰²

⁹⁴ Bruce G. Link, "Stigma as a Barrier to Recovery: The Consequences of Stigma for the Self-Esteem of People with Mental Illnesses," *Psychiatric Services* 52, no. 12 (2001): 1621-1626.

⁹⁵ Paul S. Appelbaum, "Violence and Mental Disorders: Data and Public Policy," *The American Journal of Psychiatry* 163, no. 8 (2006): 1319-1321.

⁹⁶ Jonathan M. Metzel and Kenneth T. MacLeish, "Mental Illness, Mass Shootings, and the Politics of American Firearms," *American Journal of Public Health* 105, no. 2 (2015): 240-249.

⁹⁷ Jeffrey W. Swanson, E. Elizabeth McGinty, Seena Fazel, and Vickie M. Mays, "Mental Illness and Reduction of Gun Violence and Suicide: Bringing Epidemiologic Research to Policy," *Annals of Epidemiology* 25, no. 5 (2014).

⁹⁸ Jeffrey Swanson, "The Ban on Mentally Ill People Buying Guns Wasn't Ever Based on Evidence," *The Washington Post*, Feb. 10, 2017, https://www.washingtonpost.com/posteverything/wp/2017/02/10/the-gop-is-making-it-easier-for-mentally-ill-people-to-buy-guns-they-have-a-point/?utm_term=.64110c2d09cd

⁹⁹ Cassandra Crifasi, et al., "Effects of Changes in Permit-to-Purchase Handgun Laws in Connecticut and Missouri on Suicide Rates," *Preventive Medicine* 79, (2015): 43-49.

¹⁰⁰ *Id.*

¹⁰¹ Jens Ludwig and Phillip J. Cook, "Homicide and Suicide Rates Associated with Implementation of the Brady Handgun Violence Prevention Act," *Journal of the American Medical Association* 284, no. 5 (2000): 585-591; Jeffrey W. Swanson, E. Elizabeth McGinty, Seena Fazel, and Vickie M. Mays, "Mental Illness and Reduction of Gun Violence and Suicide: Bringing Epidemiologic Research to Policy," *Annals of Epidemiology* 25, no. 5 (2014).

¹⁰² Emma E. McGinty, Daniel W. Webster, and Colleen L. Barry, "Effects of News Media Messages About Mass Shootings on Attitudes Toward Persons with Serious Mental Illness and Public Support for Gun Control Policies," *The American Journal of Psychiatry* 170, no. 5 (2013): 494-501.

Risk-based firearm removal laws, which restrict gun access based on dangerousness rather than a particular mental health diagnosis, are also promising suicide prevention tools that are unlikely to exacerbate existing mental health stigmas. Such laws temporarily suspend a person's access to guns and ammunition if they are suffering from a mental health crisis or are at risk of harming others.¹⁰³ An evaluation of Connecticut's risk-based removal law demonstrates that suicides were directly prevented because of gun removals in the state.¹⁰⁴ Given that these laws restrict access for people who are at the highest risk of perpetrating self-violence rather than exempting all persons with a particular diagnosis, these laws are less likely to impart undue stigma upon persons with mental illness.

Gun restrictions based on mental health criteria have broad popular support—more than 90% of Americans support prohibitions on selling firearms to those with mental health problems.¹⁰⁵ Additionally, a 2015 poll found that 72% of the public and 64% of gun owners supported a law “allowing family members to ask the court to temporarily remove guns from a relative or intimate partner who they believe is at risk of harming himself or others.”¹⁰⁶ These results suggest strong support for risk-based removal laws. Data suggests that even persons with mental illness may support restrictions on their ability to have and purchase guns. One study found that nearly half of people seeking psychiatric care would willingly give up their ability to immediately purchase a gun.¹⁰⁷

CHILDREN AND YOUNG ADULTS

According to national data, guns are a leading cause of death and injury among both children and young adults.¹⁰⁸ This same pattern holds true among New Jersey children and young adults. Among New Jersey children ages 0–17, firearms contribute to more deaths than heart disease, influenza and pneumonia, respiratory distress, or bacterial sepsis.¹⁰⁹ Additionally, firearms contribute to more deaths among 18–24 year olds in New Jersey than cancer, motor vehicle accidents, HIV, or diabetes.¹¹⁰ In 2015 alone, 121 children ages 0–17 were killed or injured by guns in New Jersey.¹¹¹ Another 646 young adults ages 18–24 were killed or injured

¹⁰³ See Alliance for Gun Responsibility, “Extreme Risk Protection Orders,” <http://gunresponsibility.org/solution/extreme-risk-protection-orders>.

¹⁰⁴ Jeffrey W. Swanson, et al., “Implementation and Effectiveness of Connecticut’s Risk-Based Gun Removal Law: Does it Prevent Suicides?” *Law and Contemporary Problems* 80, (2017): 179–208.

¹⁰⁵ Philip Bump, “More Polling Shows That Even Republicans Increasingly Support Stricter Gun Laws,” *The Washington Post*, March 2, 2018, https://www.washingtonpost.com/news/politics/wp/2018/03/02/more-polling-shows-that-even-republicans-increasingly-support-stricter-gun-laws/?utm_term=.a78e19e1f854.

¹⁰⁶ Colleen L. Barry, Emma E. McGinty, Jon S. Vernick, and Daniel W. Webster, “Two Years After Newtown—Public Opinion on Gun Policy Revisited,” *Journal of Preventive Medicine* 79, (2015): 55–58.

¹⁰⁷ Fredrick E. Vars, et al., “Willingness of Mentally Ill Individuals to Sign Up For a Novel Proposal to Prevent Firearm Suicide,” *Suicide and Life-Threatening Behavior* 47, no. 4 (2017): 483–492.

¹⁰⁸ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), “Leading Cause of Death Reports,” last accessed March 14, 2018, <https://www.cdc.gov/injury/wisqars>.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), “Fatal Injury Data,” last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>; New Jersey State Health Assessment Data, “New Jersey Discharge Data Collection System, Office of Health Care Quality Assessment, New Jersey Department of Health, accessed Nov. 15, 2017, <https://www26.state.nj.us/doh-shad/query/selection/ub/UBSelection.html>.

by guns.¹¹² These data clearly demonstrate that firearms substantially contribute to premature death and disability among young people in New Jersey.

Although there are a substantial number of firearm injuries and deaths among New Jersey children ages 0–17, it is important to note that the rate of firearm death and injury is actually much lower for minors compared to other age groups. However, given the enormous moral, personal, and societal costs associated with gun violence against children, this group should still be given particular consideration when crafting gun safety policy. Conversely, the rate of firearm death and injury among young adults is significantly elevated above that of other age groups in New Jersey. The gun death rate among 18 to 24 year olds was nearly 2.5 times greater than the overall gun death rate in New Jersey in 2015.¹¹³ These data align with expected trends. Studies of firearm violence against children have suggested that young adults have the highest rates of firearm death and injuries, followed by older children (ages 13–17).¹¹⁴ Younger children (ages 0–12) generally have lower rates of firearm death and injury.¹¹⁵

Most firearms deaths among children and young adults in New Jersey were intentional, with 85% of deaths classified as homicides, and over 13% classified as suicides.¹¹⁶ Less than two percent of deaths involving firearms were classified as unintentional.¹¹⁷ Conversely, the majority of firearm injuries among children and young adults in New Jersey were unintentional—52% of all firearm injuries of persons 0–24 were unintentional.¹¹⁸ The vast majority of the remaining nonfatal injuries (47.5% of total) were nonfatal firearm assaults.¹¹⁹

Male children and young adults disproportionately bear the burden of firearm death and injuries. Males account for approximately 92% of all New Jersey gun deaths among 0-24-year-olds.¹²⁰ Among younger children, this disparity is slightly less pronounced. For example, males account for only 76% of gun deaths among 10-14-year-olds in New Jersey.¹²¹

On top of the gender disparities in the impact of gun violence against New Jersey children and young adults, there are also racial disparities in the impact of gun violence against this group. Overall, black persons account for approximately 75% of gun deaths among New Jersey residents ages 0 to 24, and the gun death rate among black children and young adults is over 22 times greater than the gun death rate among white children and

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ Katherine A. Fowler, et al., "Childhood Firearm Injuries in the United States," *Pediatrics* 140, no. 1 (2017).

¹¹⁵ *Id.*

¹¹⁶ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

¹¹⁷ Based on data from 2006-2015. *Id.*

¹¹⁸ New Jersey State Health Assessment Data, "New Jersey Discharge Data Collection System, Office of Health Care Quality Assessment, New Jersey Department of Health, accessed Nov. 15, 2017, <https://www26.state.nj.us/doh-shad/query/selection/ub/UBSelection.html>.

¹¹⁹ *Id.*

¹²⁰ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

¹²¹ *Id.*

young adults in New Jersey.¹²² Hispanics and non-Hispanic whites account for a roughly equal number of gun deaths among children and young adults, but the gun death rate is more than three times higher for Hispanic children and young adults, because the Hispanic population is far smaller than the non-Hispanic white population in New Jersey.¹²³

The disproportionate impact of gun violence on children and young adults of color is even more pronounced when only gun homicides are considered: black persons ages 0–24 make up more than 81% of New Jersey’s firearm homicide victims.¹²⁴ Additionally, nonfatal injury data suggests that black and Hispanic children and young adults are more likely than white children and young adults to experience nonfatal unintentional injuries.¹²⁵ Black children and young adults also have a higher firearm suicide rate than non-Hispanic white children and adults, although the raw number of firearm suicide deaths is larger for the latter group.¹²⁶ This racial disparity is unique to firearm suicides among young adults—when New Jerseyans of all ages are considered, non-Hispanic white residents have a firearm suicide rate that is nearly three times higher than that of black residents.¹²⁷ Additionally, national data shows that the firearm suicide rate is higher for white children and young adults compared to black children and young adults.¹²⁸

In addition to the burden of death and injury that gun violence can have on children, exposure to gun violence itself can have a detrimental effect on children’s development. Studies have suggested that a substantial number of kids have been exposed to gun violence. For example, over 17% of Americans ages 14–17 have been exposed to gun violence in their lifetime, either through hearing gunshots or seeing someone shooting or pointing a gun at someone.¹²⁹ Exposure is even higher in urban areas. One review of academic studies involving over 5,000 children in urban areas indicated that, astoundingly, at least 40% of them had witnessed a shooting—and many of the victims of this violence witnessed by children are their own family members or friends.¹³⁰ Rural children are not isolated from gun violence either. A substantial number of students in less populated areas are also exposed to shootings, including suicides and homicides, as a result of firearm access.¹³¹

Exposure to gun violence is especially traumatic for children, teens, and young adults because their brains are still malleable and developing. Witnessing gun violence can actually alter the shape of children’s brains, impairing normal development.¹³² Additionally, gun violence is significantly associated with trauma among

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ New Jersey State Health Assessment Data,” New Jersey Discharge Data Collection System, Office of Health Care Quality Assessment, New Jersey Department of Health, accessed Nov. 15, 2017, <https://www26.state.nj.us/doh-shad/query/selection/ub/UBSelection.html>.

¹²⁶ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), “Fatal Injury Data,” last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ David Finkelhor, et al., “Children’s Exposure to Violence, Crime, and Abuse: An Update,” US Department of Justice, Office of Justice Programs, September 2015, <https://www.ojjdp.gov/pubs/248547.pdf>.

¹³⁰ Angela M. Neal-Barnett, Josefina M. Contreras, and Kathryn A. Kerns, eds. *Forging Links: African American Children: Clinical Development Perspectives*, Greenwood Publishing Group, 2001.

¹³¹ Karen Slovak, “Gun Violence and Children: Factors Related to Exposure and Trauma,” *Health & Social Work* 27, no. 2 (2002): 104-112.

¹³² Bruce D. Perry, “Incubated in Terror: Neurodevelopmental Factors in the ‘Cycle of Violence,’” *Children in a Violent Society* 124 (1997).

youth.¹³³ The most common manifestation of this trauma is post-traumatic stress disorder (PTSD). In fact, nearly 40% of children exposed to a shooting will develop PTSD.¹³⁴ This trauma can put kids at risk of perpetrating violence themselves, performing poorly in school and at work, and having long-term physical health problems related to poor sleep and anxiety.¹³⁵

Gun violence against children and young adults has tremendous moral, personal, and societal costs. However, evidence-based gun safety laws that can meaningfully protect our young people exist. Despite lower gun death rates among minors, children in this age group still merit particular attention when crafting gun safety legislation, particularly because they themselves cannot purchase firearms. Accordingly, policies which regulate the sale of firearms are less likely to substantially reduce unintentional and self-inflicted gun deaths and injuries among minors; other policy solutions are needed to prevent these kinds of gun deaths and injuries in young children. These policies could work to reduce unauthorized access to firearms, which can have a significant impact on reducing firearm injuries among minors.

Young adults may also benefit from laws that prevent unauthorized access to firearms. A growing number of young adults are still living with their parents,¹³⁶ which could mean that parent's firearms are a readily available source of weapons for many young people at risk of committing impulsive acts of violence. However, given that young adults can also purchase many firearms, laws which regulate firearm sales are also likely able to reduce gun violence among this group. Risk-based firearm removal laws, which restrict gun access based on dangerousness rather than a particular mental health diagnosis, may also be particularly effective among young adults, who may be at elevated risk of engaging in violence against themselves or others but not yet meet state or federal criteria that would disqualify them from purchasing a gun.

Most Americans—and most gun owners—believe that gun owners should take responsible steps to secure their firearms when children are present.¹³⁷ In fact, polls indicate that over two-thirds of Americans support laws requiring gun owners to lock up any guns in the home when not in use to prevent handling by children or teenagers without supervision.¹³⁸ Additionally, laws that aim to prevent children's access to guns have been passed in states with otherwise relatively lax gun laws and large numbers of gun owners.¹³⁹ These results would

¹³³ Karen Slovak, "Gun Violence and Children: Factors Related to Exposure and Trauma," *Health & Social Work* 27, no. 2 (2002): 104-112.

¹³⁴ Eboni Morris, "Youth Violence: Implications for Posttraumatic Stress Disorder in Urban Youth," Washington, DC: National Urban League Policy Institute (2009).

¹³⁵ James Garbarino, "An Ecological Perspective on the Effects of Violence on Children," *Journal of Community Psychology* 29, no. 3 (2001): 361-378; James Garbarino, Catherine P. Bradshaw, and Joseph A. Vorrasi, "Mitigating the Effects of Gun Violence on Children and Youth," *The Future of Children* (2002): 73-85. See also, "Protecting the Parkland Generation," Giffords Law Center to Prevent Gun Violence, <http://lawcenter.giffords.org/protecting-parkland-generation/>.

¹³⁶ Richard Fry, "For First Time in Modern Era, Living With Parents Edges Out Other Living Arrangements for 18- to 34-Year Olds," *Pew Research Center*, May 24, 2016, <http://www.pewsocialtrends.org/2016/05/24/for-first-time-in-modern-era-living-with-parents-edges-out-other-living-arrangements-for-18-to-34-year-olds/>.

¹³⁷ Kim Parker, et al., "America's Complex Relationship with Guns," *Pew Research Center*, June 22, 2017, <http://www.pewsocialtrends.org/2017/06/22/americas-complex-relationship-with-guns/>.

¹³⁸ Colleen L. Barry, Emma E. McGinty, Jon S. Vernick, and Daniel W. Webster, "After Newtown—Public Opinion on Gun Policy and Mental Illness," *New England Journal of Medicine* 368, no. 12 (2013): 1077-1081.

¹³⁹ John G. Culhane, ed., *Reconsidering Law and Policy Debates: A Public Health Perspective*, (Boston: Cambridge University Press, 2010).

seem to suggest that “the desire to protect children sometimes trumps advocacy for ‘gun owners’ rights.”¹⁴⁰ Polling data also suggests that Americans are willing to take steps to protect young adults from gun violence, even at the expense of so-called “gun owners’ rights.” For example, less than a quarter of Americans support allowing guns to be carried on college campuses, likely because they recognize the substantial risk that would pose to young adults.¹⁴¹

Given that minors cannot own firearms, it is unlikely that they would be negatively affected by evidence-based gun safety legislation in the ways that are of concern among adults. It is possible that minors would predominantly bear the negative impacts of dangerous laws promoted by the gun lobby, such as armed guards and armed teachers in schools. Not only is there no evidence supporting the implementation of these laws, but research also suggests that these laws can have a negative impact on children, particularly students of color, who may be more heavily disciplined in a more militarized school environment.¹⁴² More guns in schools also increases the likelihood of unintentional and intentional shootings, putting children at risk of death or injury.¹⁴³ However, the implementation of evidence-based gun safety laws with demonstrated effectiveness in protecting children is unlikely to have negative impacts on children.

Although young adults can purchase firearms, it is unlikely that young adults would be specifically negatively affected by most gun safety laws. Evidence-based gun safety laws are unlikely to excessively infringe upon gun ownership rights among young adults or be unjustly enforced with respect to age. Additionally, the American public strongly supports restricting access to guns for young adults—more than 70% of Americans support preventing people under age 21 from buying any type of gun.¹⁴⁴ These polls suggest that most Americans think that it is appropriate to restrict gun access for young adults in the interest of public safety.

THE ELDERLY

Disproportionately high suicide rates among the elderly are of increasing concern. Among Americans of all ages, 13.3 per 100,000 took their own lives in 2015, but among those over 65, the suicide rate was 16.6 per 100,000.¹⁴⁵ In New Jersey, 8.8 per 100,000 people of all ages took their own lives in 2015, compared to 10.1 per 100,000 people over 65.¹⁴⁶ This disparity becomes even sharper when only firearm suicides are considered. People ages 65 and older accounted for over 25% of all US firearm suicide deaths in 2015.¹⁴⁷ In New Jersey, the

¹⁴⁰ *Id.*

¹⁴¹ Julia A. Wolfson, Stephen P. Teret, Deborah Azrael, and Matthew Miller, “US Public Opinion on Carrying Firearms in Public Places,” *American Journal of Public Health* 107, no. 6 (2017): 929-937.

¹⁴² Jason P. Nance, “Students, Police, and the School-To-Prison Pipeline,” *Washington University Law Review* 93, no. 4 (2016): 919-987.

¹⁴³ See, e.g., Jeff Martin, “Georgia teacher fires gun in classroom,” *PBS News Hour*, (Feb 28, 2018), <https://www.pbs.org/newshour/nation/georgia-teacher-fires-gun-in-classroom>; Marilyn Heck and Tara Fowler, “Teacher Accidentally Fires Gun at School,” *ABC News*, March 13, 2018, <http://abcnews.go.com/US/teacher-accidentally-fires-gun-school/story?id=53727547>.

¹⁴⁴ Jennifer Agiesta, “CNN Poll: Trump Approval Slides, Matches Lowest Point of Presidency,” *CNN*, February 25, 2018, <https://www.cnn.com/2018/02/25/politics/cnn-poll-trump-approval-matches-low/index.html>.

¹⁴⁵ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), “Fatal Injury Data,” last accessed March 7, 2018, <https://www.cdc.gov/injury/wisqars>.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

disparity is even more severe—people ages 65 and older accounted for nearly 30% of all firearm suicide deaths in 2015 in the state.¹⁴⁸

The disparity in suicide deaths among the elderly is largely restricted to white men. In fact, among New Jersey residents in 2015, white men accounted for over 70% of all suicides among persons over the age of 65.¹⁴⁹ Additionally, white men accounted for nearly 88% of all firearm suicides among persons over the age of 65 in New Jersey in 2015.¹⁵⁰

Several factors contribute to this increased burden of suicide among the elderly. Research suggests that physical illness and pain, the inability to function in daily life, and the fear of becoming a burden on loved ones can be risk factors for late-life suicide. Older Americans must also cope with changing social circles as they retire, move into new environments, and lose aging friends. Because of these changes, older Americans can experience social isolation, which is another strong risk factor for suicide.¹⁵¹ Sometimes the changes older Americans experience can lead to clinical depression, which is also strongly associated with suicidality.¹⁵² In fact, there may even be a higher prevalence of untreated depression among the elderly, given that depression can have a different clinical presentation in older adults.¹⁵³ Additionally, older people are susceptible to neurocognitive disorders, such as dementia, that can lead to significant cognitive declines.¹⁵⁴ These conditions may also increase the risk of suicide.¹⁵⁵ Both individually and when compounded, the social and physical changes experienced in later life can make the elderly particularly vulnerable to suicide.

Although there are clearly social risk factors related to the higher rates of suicide among the elderly, firearm access is also a significant contributor to the increased incidence of suicide deaths among the elderly. While guns are extremely lethal for persons of all ages, older people are also less likely to be resilient to injury.¹⁵⁶ Additionally, older people primarily rely on guns to attempt suicide.¹⁵⁷ Some of the reliance on guns can be explained by the demographics of gun ownership. A Pew Research Center study found that the majority of gun

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ Kimberly Van Orden and Yeates Conwell, "Suicides in Late Life," *Current Psychiatry Reports* 13, no. 3 (2011): 234-241; Yeates Conwell, Kimberly Van Orden, and Eric D. Caine, "Suicide in Older Adults," *Psychiatric Clinics* 34, no. 2 (2011): 451-468.

¹⁵² Yeates Conwell, Kimberly Van Orden, and Eric D. Caine, "Suicide in Older Adults," *Psychiatric Clinics* 34, no. 2 (2011): 451-468; George S. Alexopoulos, "Depression in the Elderly," *The Lancet* 365, no. 9475 (2005): 1961-1970.

¹⁵³ *Id.* See also, Paula Span, "Depression, Incognito," *The New York Times*, October 11, 2010, <https://newoldage.blogs.nytimes.com/2010/10/11/depression-incognito/>.

¹⁵⁴ Raymond Levy, "Aging-Associated Cognitive Decline," *International Psychogeriatrics* 6, no. 1 (1994): 63-68.

¹⁵⁵ Annette Erlangsen, Steven H. Zarit, and Yeates Conwell, "Hospital-Diagnosed Dementia and Suicide: a Longitudinal Study Using Prospective, Nationwide Register Data," *The American Journal of Geriatric Psychiatry* 16, no. 3 (2008): 220-228; Lisa S. Seyfried, et al., "Predictors of Suicide in Patients with Dementia," *Alzheimer's & Dementia: the Journal of the Alzheimer's Association* 7, no. 6 (2011): 567-573.

¹⁵⁶ Yeates Conwell, Kimberly Van Orden, and Eric D. Caine, "Suicide in Older Adults," *Psychiatric Clinics* 34, no. 2 (2011): 451-468.

¹⁵⁷ Yeates Conwell, et al., "Access to Firearms and Risk for Suicide in Middle-Aged and Older Adults," *The American Journal of Geriatric Psychiatry* 10, no. 4 (2002): 407-416.

owners are white males over the age of 50.¹⁵⁸ Thus, one of the groups with the easiest access to guns, unsurprisingly, also has an elevated rate of firearm suicide.

Evidence-based gun safety legislation that prioritizes suicide prevention can be incredibly effective at preventing suicides, and it is likely that such laws would demonstrably reduce suicides by elderly persons. Additionally, there is little evidence to indicate that elderly persons would be specifically negatively affected by the implementation of evidence-based safety laws or that their constitutional rights would be disproportionately infringed upon.

¹⁵⁸ “Perspectives of Gun Owners, Non-Owners: Why Own a Gun? Protection is Now Top Reason,” Pew Research Center, March 12, 2013, <http://www.people-press.org/files/legacy-pdf/03-12-13%20Gun%20Ownership%20Release.pdf>.

PART TWO: POLICY RECOMMENDATIONS

New Jersey has some of the strongest gun laws in the nation including laws that are in effect in a minority of states such as prohibiting bulk sales of handguns (California and Maryland are the only other states with this law) and regulating the sale of handgun ammunition (similar regulations are in effect in fifteen other states and the District of Columbia). New Jersey also has some of the strongest laws restricting firearm access by domestic abusers.

In 2018, New Jersey continued to innovate ways to improve gun safety and serve as a laboratory for strong, effective policy solutions which can help lead the nation. The state enacted an Extreme Risk Protection Order, or ERPO, law (AB 1217) that allows a family or household member, or law enforcement officer, to petition a court for an order temporarily disarming a dangerous person. Eleven states now have enacted ERPO laws, eight of them in 2018. New Jersey also passed laws strengthening background checks by requiring all private sales to be conducted through a federally licensed firearms dealer (AB 2757), facilitating removal of guns from individuals who are dangerous due to mental illness (AB 1181), and reducing the maximum capacity of ammunition magazines from 15 rounds to 10 (AB 2761). In May 2018, Governor Phil Murphy also named Bill Castner as Senior Advisor to the Governor on Firearms.¹⁵⁹

Based on our knowledge of existing New Jersey law, the current political landscape in the state, and our analysis of the most affected and vulnerable populations in New Jersey, we have identified a set of policies that could be adopted by the state to continue the significant progress New Jersey has already made. Some of these policy approaches are relatively new and novel, such as funding the implementation of the newly-enacted ERPO law. Additionally, there is the potential to strengthen some of the laws already in effect in New Jersey, such as the state's Child Access Prevention (CAP) law, which makes it a crime if a minor gains access to a firearm. A discussion of these policy areas and our recommendations follows.

COMMUNITY-BASED VIOLENCE PREVENTION AND INTERVENTION STRATEGIES

As discussed in Part I of this report, interpersonal gun violence in New Jersey disproportionately impacts underserved communities in urban areas, with young men of color being particularly vulnerable. In fact, in 2016, black and Latino men constituted a staggering 90% of total gun homicide victims in the state.¹⁶⁰ Moreover, just a few New Jersey cities suffer the vast majority of homicides, most of which are committed with a firearm. In 2015, just five cities—Newark, Camden, Jersey City, Paterson, and Trenton—suffered more than *half* of the state's total homicides.¹⁶¹ The political leadership of New Jersey appears ready to take serious steps to address this disparity, with Governor Phil Murphy recently announcing the appointment of Bill Castner as senior advisor on firearms, a position intended to focus on gun violence in urban areas.¹⁶²

¹⁵⁹ Phil Gregory, "Murphy Appoints Bill Castner as His Senior Advisor on Firearms," [wbgo.org](http://www.wbgo.org/post/murphy-appoints-bill-castner-his-senior-advisor-firearms#stream/0), May 7, 2018, <http://www.wbgo.org/post/murphy-appoints-bill-castner-his-senior-advisor-firearms#stream/0>.

¹⁶⁰ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed December 20, 2017, <https://www.cdc.gov/injury/wisqars>.

¹⁶¹ 2015 Uniform Crime Report, Section Six, Crime in the Cities, http://www.njsp.org/ucr/2015/pdf/2015_sect_6.pdf.

¹⁶² Phil Gregory, "Murphy Appoints Bill Castner as His Senior Advisor on Firearms," [wbgo.org](http://www.wbgo.org/post/murphy-appoints-bill-castner-his-senior-advisor-firearms#stream/0), May 7, 2018, <http://www.wbgo.org/post/murphy-appoints-bill-castner-his-senior-advisor-firearms#stream/0>.

To directly address this murder inequality without also contributing to mass incarceration, New Jersey should strategically invest in evidence-based violence intervention strategies that can be scaled up locally. These strategies include street outreach work, focused deterrence, and hospital-based violence intervention programs, all of which are based on compelling research showing that most gun violence in a given area is driven by an incredibly small segment of the population.¹⁶³ When intervention occurs at the right time—such as when an individual is in the hospital recovering from a serious gunshot wound—long-term behavior change is possible, leading to significant reductions in violence.

Since state resources are limited, they can be leveraged most effectively in this context if focused narrowly on the places and people most impacted by serious violence. To achieve this, New Jersey should create a state-level grant program designed to scale up and coordinate violence reduction strategies in a handful of the most vulnerable cities and should require that funded programs work with individuals at the very highest risk of participation in serious violence. Other states have made similar investments in recent years, yielding both life-saving and cost-saving results.¹⁶⁴

Several community-based violence prevention and intervention strategies have demonstrated remarkable success at reducing shootings, especially when incorporated as part of a larger, comprehensive effort to address serious violence, as exemplified by the following approaches:

HOSPITAL-BASED VIOLENCE INTERVENTION PROGRAMS (HVIPS)

Many hospitals see a “revolving door” of gunshot injury, as patients who have been shot are at a very high risk of being violently reinjured and/or perpetrating retaliatory violence themselves. In some urban hospitals, up to 45% of patients treated for violent injuries like gunshots are re-injured within five years;¹⁶⁵ up to 20% of those treated and discharged are killed within that short time frame.¹⁶⁶ Witnessing gun violence also roughly doubles young people’s likelihood of perpetrating violence themselves.¹⁶⁷

HVIPS work to break these cycles of violence by providing intensive counseling, case management, and social services to patients recovering from gunshot wounds and other violent injuries. Multiple case studies and controlled trials have shown that HVIPS are highly effective at reducing patients’ rates of violence and reinjury,

¹⁶³ Anthony A. Braga, Andrew V. Papachristos, and David M. Hureau, “The Concentration and Stability of Gun Violence at Micro Places in Boston, 1980–2008,” *Journal of Quantitative Criminology* 26, no. 1 (2009): 33–53, <http://www.hoplophobia.info/wp-content/uploads/2014/05/The-Concentration-and-Stability-of-Gun-Violence-in-Boston.pdf>.

¹⁶⁴ Giffords Law Center, *Investing in Intervention: The Critical Role of State-Level Support in Ending the Cycle of Urban Gun Violence*, 2017, <http://lawcenter.giffords.org/wp-content/uploads/2018/02/Investing-in-Intervention-02.14.18.pdf>.

¹⁶⁵ Jonathan Purtle, et al, “Hospital-Based Violence Intervention Programs Save Lives and Money,” *Journal of Trauma Acute Care Surgery*, Vol. 75, No. 2, 331 (2013), available at <http://www.youthalive.org/wp-content/uploads/2016/03/JoT-2013-Purtle-HVIPS-Save-Lives-and-Money.pdf>.

¹⁶⁶ Nicholas Caputo, et al, “Violent and Fatal Youth Trauma: Is There a Missed Opportunity?,” *The Western Journal of Emergency Medicine*, Vol. 13, No. 2, 14-50 (May 2012).

¹⁶⁷ Bingenheimer, et al, “Firearm violence exposure and serious violent behavior,” *Science*, Vol. 308, 1323-26 (2005).

saving lives while also creating substantial cost savings.¹⁶⁸ For detailed information on the HVIP approach, see Giffords Law Center's *Healing Communities in Crisis* report.¹⁶⁹

STREET OUTREACH WORK

Street outreach work refers to a strategy of violence intervention that involves the use of trained, culturally competent outreach workers whose job is to connect with at-risk individuals, establish a supportive relationship, and then guide clients to appropriate social services in order to address the root causes of violence such as lack of educational and economic opportunity.

New York City launched a number of street outreach programs based on the Cure Violence model in 2010 and studies have shown an associated reduction in shootings of up to 63% in target neighborhoods. Studies have also demonstrated meaningful reductions in violence in Cure Violence sites in Baltimore, New York City, and Philadelphia.¹⁷⁰ For more detailed information on this approach, see Giffords Law Center's *Healing Communities in Crisis* report.

New Jersey cities with high rates of violence must have effective street outreach programs in order to engage with high-risk individuals. Newark has attempted to use street outreach as part of its strategy to address violence in recent years, but one study found that such workers were forced to work part-time due to budget restrictions.¹⁷¹ New Jersey should help cities struggling with violence to create teams of professionalized street outreach workers.

FOCUSED DETERRENCE

Focused deterrence was first used in the enormously successful Operation Ceasefire in Boston in the mid-1990s, where it was associated with a 61% reduction in youth homicide.¹⁷² One of the most established models of focused deterrence is Group Violence Intervention (GVI), which has now been implemented in a wide variety of American cities, with consistently impressive results.¹⁷³

This strategy uses a partnership of law enforcement, social service providers, and community members to identify those most at risk for participation in violence. These individuals are then brought in for powerful, in-person meetings where partnership members communicate a message that the shooting must stop. Social service providers are on hand to offer assistance for those who want it and participants are warned, in a

¹⁶⁸ Law Center to Prevent Gun Violence and PICO National Network, *Healing Communities in Crisis: Lifesaving Solutions to the Urban Gun Violence Epidemic*, 40, available at <http://smartgunlaws.org/wp-content/uploads/2016/11/Healing-Communities-in-Crisis-URL.pdf>.

¹⁶⁹ *Id.*

¹⁷⁰ See Cure Violence, "Results/Scientific Evaluations," at <http://cureviolence.org/results/scientific-evaluations>.

¹⁷¹ John Jay College of Criminal Justice, Research and Evaluation Center, CBVP Final Report, Chapter 7, Newark, New Jersey, https://johnjayrec.nyc/2016/04/10/cbvpfinal_chapter7.

¹⁷² Anthony A. Braga et al., "The Boston Gun Project: Impact Evaluation Findings," May 17, 2000, <http://www.hks.harvard.edu/urbanpoverty/Urban%20Seminars/May2000/BragaBGP%20Report.pdf>.

¹⁷³ Anthony A. Braga and David L. Weisburd, "The Effects of 'Pulling Levers' Focused Deterrence Strategies on Crime," *Campbell Systematic Reviews* 8, no. 6 (2012): 1–90, <http://www.campbellcollaboration.org/lib/project/96>.

respectful way, that further shooting will be met with a concerted law enforcement response. For more information on GVI, see Giffords Law Center’s *Healing Communities in Crisis* report.¹⁷⁴

Several New Jersey cities, including Paterson,¹⁷⁵ have embraced GVI in recent years and New Jersey should encourage other cities to carry out GVI in a robust manner with full model fidelity. With a program called Project Longevity, Connecticut funded the operation of GVI in three of its most violent cities: New Haven, Bridgeport, and Hartford. This program launched in New Haven in 2012 and was rolled out in all three cities by 2014. Combined gun homicides in the three Project Longevity cities have fallen from 75 in 2011 to just 31 in 2016—a more than 50% reduction.¹⁷⁶

RECOMMENDATIONS

Some of the above strategies have been implemented at the local level in certain New Jersey communities, but such programs generally do not operate as part of a coordinated effort to address serious violence and often rely on an unstable mix of local resources, charitable contributions, and small federal or state grant opportunities for funding. New Jersey legislators should consider the following policy options for providing meaningful and systematic support for effective, long-term implementation of these strategies throughout the state.

A ROBUST STATE-LEVEL GRANT PROGRAM TO ADDRESS SERIOUS VIOLENCE

New Jersey currently provides some funding for violence reduction programs, but this funding is insufficient, not coordinated, and not strategically focused on implementing evidence-based strategies in the most impacted communities. New Jersey could follow the lead of a number of states that are making this investment and have seen reductions in gun violence as a result—particularly among young people of color.

In December 2017, Giffords Law Center released a new report, *Investing in Intervention: The Critical Role of State-Level Support in Breaking the Cycle of Urban Gun Violence*, which identifies best practices from the handful of states currently making this investment.¹⁷⁷ Massachusetts, for example, launched its Safe and Successful Youth Initiative in 2011, a state-level grant program available to cities with the highest levels of violent crime. Eligible cities must identify “proven risk” young men and provide them with comprehensive social services using a street outreach model.¹⁷⁸

The gun homicide rate among black residents in Massachusetts declined by over 47% from 2010 to 2015. In Connecticut and New York—two other states making meaningful investments in violence intervention strategies—that rate declined by 33% and 26%, respectively. These reductions occurred at a time in which nationally the gun homicide rate among African Americans increased by 17%. New Jersey experienced a smaller increase than the rest of the nation during this time period (5.4%), but the state could have experienced

¹⁷⁴ <http://smartgunlaws.org/wp-content/uploads/2016/11/Healing-Communities-in-Crisis-URL.pdf>.

¹⁷⁵ National Network for Safe Communities, Paterson, <https://nnscommunities.org/impact/city/paterson>.

¹⁷⁶ Data provided by Connecticut Against Gun Violence; see also “Focused Deterrence: Group Gun Violence by the Numbers,” Project Longevity, accessed Feb. 27, 2017, <http://www.project-longevity.org/copy-of-gun-violence-outcomes>.

¹⁷⁷ Giffords Law Center, *Investing in Intervention: The Critical Role of State-Level Support in Ending the Cycle of Urban Gun Violence*, 2017, <http://lawcenter.giffords.org/wp-content/uploads/2018/02/Investing-in-Intervention-02.14.18.pdf>.

¹⁷⁸ *Id.* at 23.

meaningful declines had it invested more intentionally in community-based violence prevention and intervention strategies in its most impacted communities.¹⁷⁹

Existing New Jersey Funding Sources

New Jersey law established the Safe Neighborhoods Services Fund to support the Safe and Secure Neighborhoods Program, a competitive grant program administered by the Department of Law and Public Safety. The grant program funds eligible municipalities' implementation of community policing strategies and "[d]evelop[ment of] other innovative strategies which hold promise for preventing or reducing crime within a defined neighborhood or with respect to a particular demographic group within the municipality."¹⁸⁰ Grants may be up to \$200,000 per two-year project and grantees may apply every year.¹⁸¹ This program has received roughly \$6.3 million per year in recent years.¹⁸²

Some state-level funding also appears to be distributed to prevention-oriented CBOs by the Attorney General's Office of Community Justice (OCJ) through the Neighborhood Crime Prevention and Intervention grant.¹⁸³ Relatedly, the Department of Children and Families administers the Outreach to At-Risk Youth (OTARY) initiative designed to prevent crime and deter gang involvement by providing enhanced recreational, vocational, educational, outreach, and supportive services to youth ages 13 to 18. OTARY programs are primarily located in communities with high crime rates and high levels of gang violence.¹⁸⁴ However, funding for these programs does not appear to be particularly robust.

Recommendation: New Jersey legislators should consider legislation to build upon and coordinate these more general prevention-oriented programs either by creating a new grant, or a specific set-aside within existing grant programs, to fund larger-scale and long-term implementation of violence intervention and prevention programs that are focused on reducing risk of violence among proven-risk youth and young adults in communities with the highest rates of gun violence.

Based on the six best practices of state-level violence reduction programs identified in the *Investing in Intervention* report, the ideal grant program in New Jersey would: 1) focus exclusively on the highest-risk people and places; 2) fund only evidence-based approaches to violence reduction; 3) provide robust state-level infrastructure for the provision of technical assistance and the sharing of best practices; 4) conduct regular program evaluations; 5) provide stable, long-term funding; and 6) facilitate community-level input and

¹⁷⁹ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), "Fatal Injury Data," last accessed March 15, 2018, <https://www.cdc.gov/injury/wisqars>.

¹⁸⁰ N.J. Stat. § 52:17B-162. See § 52:17B-161 for definition of eligible municipality.

¹⁸¹ N.J. Stat. § 52:17B-167.

¹⁸² 19 See State of New Jersey FY 2018 Budget Summary at p. 72, <http://www.nj.gov/treasury/omb/publications/18bib/BIB.pdf>.

¹⁸³ The State of New Jersey, Department of Law and Public Safety, Office of the Attorney General, Office of Community Justice, Prevention and Reentry, <http://www.nj.gov/oag/ocj/grants.html>.

¹⁸⁴ New Jersey Department of Children and Families, Office of Adolescent Services, Adolescent Resource Guide Addendum, May 2012 <http://www.state.nj.us/dcf/adolescent/OASresourceguide.pdf>.

engagement.¹⁸⁵ Massachusetts is currently spending more than \$2 per capita on these strategies. For New Jersey to do the same would require an \$18 million investment.

POLICIES TO SUPPORT AND EXPAND HVIPS AND SERVICES FOR VICTIMS OF SERIOUS VIOLENCE

VOCA: Crime Victim Assistance Grants

The federal government provides Victims of Crime Act (VOCA) assistance grants as annual block grants to the 50 states to be distributed to agencies and organizations that provide services to crime victims. In New Jersey, the Department of Law and Public Safety, Division of Criminal Justice, State Office of Victim Witness Advocacy (SOVWA), which reports to the state attorney general, administers the VOCA Assistance Grant Program.

Under federal law, states are required to award at least 30% of VOCA assistance funds to programs that serve sexual assault, spousal abuse, and child abuse victims;¹⁸⁶ as of 2016, federal regulations also require that at least 10% of VOCA assistance awards be allocated to programs that serve “previously underserved populations of victims of violent crime.”¹⁸⁷ Subject to these general parameters, states have enormous discretion in awarding these funds.

Due to recent changes to the federal funding formula for VOCA, the amount of VOCA assistance funding provided to each state annually roughly quadrupled after 2014. The governor’s budget documents estimated federal VOCA assistance support to rise from \$10.96 million in 2016 to \$63 million in both the 2017 and 2018 fiscal years.¹⁸⁸ However, relatively little VOCA assistance funding has gone to organizations that serve victims of gun or community violence.¹⁸⁹

Recommendation: New Jersey law should encourage or require the Department of Law and Public Safety to direct much more substantial funding, either through grants or guaranteed set-asides, to HVIPs and other organizations providing violence prevention services to gunshot victims.

VOCA: Crime Victim Compensation Funding

New Jersey authorizes the Victims of Crime Compensation Agency, within the state’s Department of the Treasury, to reimburse crime victims who were personally injured by specified crimes, including aggravated assault and “any other crime involving violence,” for costs they actually and reasonably incurred as a result of the crime.¹⁹⁰

¹⁸⁵ Giffords Law Center, *Investing in Intervention: The Critical Role of State-Level Support in Ending the Cycle of Urban Gun Violence*, 2017, <http://lawcenter.giffords.org/wp-content/uploads/2018/02/Investing-in-Intervention-02.14.18.pdf>.

¹⁸⁶ 42 USC § 10603(a).

¹⁸⁷ 28 CFR § 94.104(c) (Final rule adopted as 81 FR 44515, Jul. 8, 2016).

¹⁸⁸ See The Governor’s FY 2017 and FY 2018 Budget Summaries, at <http://www.nj.gov/treasury/omb/publications/17hib/BIB.pdf> and <http://www.nj.gov/treasury/omb/publications/18hib/BIB.pdf>.

¹⁸⁹ See local op-ed about Gov. Christie Administration’s failure to invest VOCA assistance funding in HVIPs and violence prevention services providers: http://www.nj.com/opinion/index.ssf/2017/03/victims_of_street_crime_shorted_by_christies_negle.html; this document lists recent years’ VOCA assistance grant recipients in NJ:

http://www.njleg.state.nj.us/legislativepub/budget_2018/LPS_response.pdf.

¹⁹⁰ N.J. Stat. §§ 52:4B-10 – 52:4B-12; N.J.A.C. 13:75-2.1(b).

State law directs the agency to establish maximum rates and service limitations for reimbursement of medical and counseling expenses.¹⁹¹ Pursuant to the federal Victims of Crime Act, the federal government generally reimburses the state for 60% of its annual victim compensation costs.¹⁹² Because gunshot victims are, by definition, victims of crime, VOCA compensation could be an additional source of state and federal support for HVIPs and other violence prevention programs.

Recommendation: New Jersey lawmakers should add a new section to Chapter 4B of Subtitle 1 of Title 52 to authorize public hospitals and certified violence prevention counselors affiliated with an HVIP program to directly bill the Victims of Crime Compensation Agency (up to a specified maximum dollar amount) for violence prevention counseling services provided to violently injured firearm or stabbing victims. This language should also expressly clarify that services provided by peer or support counselors under the supervision of a licensed practitioner are reimbursable.

EXTREME RISK PROTECTION ORDERS

In 2018, New Jersey enacted an Extreme Risk Protection Order (ERPO) law that allows family and household members, as well as law enforcement officers, to obtain a civil order to temporarily remove firearms from people in crisis who are at high risk of causing danger to themselves or others. As discussed below, ERPO laws may be particularly effective at reducing rates of gun violence for several of the groups mentioned in Part I, such as the mentally ill, the elderly, and young adults.

ERPO laws can be remarkably effective in preventing suicides. In fact, much of the underlying theory of the law is based upon academic research about the factors that increase risk of suicide and other dangerous behaviors. Nearly 80% of people considering suicides give some sign of their intention before a suicide attempt.¹⁹³ ERPO laws empower family members and law enforcement officials who notice these signs to petition a court to remove firearms from people who are at high risk of using a firearm to attempt suicide. A study of Connecticut's risk-based removal law, which is more narrowly prescribed than laws in other states, found that gun removals under the law prevented suicides and saved lives. By removing weapons from 762 at-risk individuals, Connecticut averted at least 100 suicide fatalities.¹⁹⁴ Connecticut's laws also had supplementary benefits for people suffering from mental illness. Researchers found that in 44% of the state's firearm removal cases, the request for a warrant resulted in the subject receiving psychiatric treatment they might otherwise not have received.¹⁹⁵

ERPO laws have been shown effective in preventing overall suicides, but these laws may be particularly effective at preventing suicides among the elderly. Given that gun ownership is already high among older males,¹⁹⁶ laws that only limit *new* firearm purchases among persons with diagnosed mental illness are unlikely to lead to

¹⁹¹ N.J. Stat. § 52:4B-9.

¹⁹² 42 U.S.C § 10602.

¹⁹³ Robert N. Golden and Fred Peterson, *The Truth about Illness and Disease* (Infobase Publishing, 2009), 53.

¹⁹⁴ Jeffrey W. Swanson, et al., "Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides?" *Law and Contemporary Problems* 80, (2017).

¹⁹⁵ *Id.*

¹⁹⁶ "Perspectives of Gun Owners, Non-Owners: Why Own a Gun? Protection is Now Top Reason," Pew Research Center, March 12, 2013, <http://www.people-press.org/files/legacy-pdf/03-12-13%20Gun%20Ownership%20Release.pdf>.

significant decreases in suicide among the elderly. Additionally, prior to the enactment of the ERPO law, New Jersey's gun laws may have failed to prevent many severely suicidal elderly persons from accessing guns. Because depression in the elderly is often undiagnosed,¹⁹⁷ there may be a large number of elderly persons at elevated risk of suicide who would not be prohibited by any of the disqualifying criteria in New Jersey, such as an involuntary commitment or declaration of mental incompetence by a government body. ERPOs fill this gap by allowing a loved one or law enforcement officer to obtain a court order preventing a suicidal individual from accessing guns even if he or she isn't otherwise prohibited under other state laws.

ERPO laws may also be useful in preventing suicides among young adults. While most people experience an onset of mental health conditions by age 24, they are not typically formally diagnosed and treated for several years after the onset of disease.¹⁹⁸ Thus, there are likely a substantial number of young adults who are suffering from serious mental illness and at increased risk of engaging in violence against themselves or others, who would not be prohibited from purchasing a firearm by any of the disqualifying criteria for mental health under New Jersey or federal law. However, ERPO laws allow loved ones who notice these troubling signs of dangerousness, without a formal diagnosis of mental illness or involuntary commitment, to take action to suspend an at-risk person's access to firearms.

ERPO laws may also help to prevent acts of interpersonal gun violence, including mass shootings. Academic researchers, including prominent experts in psychiatry and the law, have found that certain behaviors can be strong predictors of future violence.¹⁹⁹ For example, individuals who have a history of violent behavior or who abuse drugs or alcohol may be at an increased risk of perpetrating violence in the future.²⁰⁰ These behaviors can act as a warning sign that a person might soon commit an act of violence.²⁰¹ In the case of many mass shootings, such as the massacres in Isla Vista, CA, and Tucson, AZ, people who knew the shooter observed dangerous behaviors, but federal and state laws provided no clear legal process to restrict access to guns, even

¹⁹⁷ Yeates Conwell, Kimberly Van Orden, and Eric D. Caine, "Suicide in Older Adults," *Psychiatric Clinics* 34, no. 2 (2011): 451-468; George S. Alexopoulos, "Depression in the Elderly," *The Lancet* 365, no. 9475 (2005): 1961-1970.

¹⁹⁸ Ronald C. Kessler, et al., "Lifetime Prevalence and Age-of-Onset Distributions of DSM-IV Disorders in the National Comorbidity Survey Replication," *Archives of General Psychiatry* 62, no. 6 (2005): 593-602.

¹⁹⁹ "Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy," Consortium for Risk-Based Firearms Policy, December 2013, <http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/GPHMI-State.pdf>.

²⁰⁰ Daniel W. Webster and Jon S. Vernick, "Keeping Firearms from Drug and Alcohol Abusers," *Injury Prevention* 15, no. 6 (2009): 425-427; Sharon M. Boles and Karen Miotto, "Substance Abuse and Violence: A Review of the Literature," *Aggression and Violent Behavior* 8, no. 2 (2003): 155-174; Philip J. Cook, Jens Ludwig, and Anthony A. Braga, "Criminal Records of Homicide Offenders," *JAMA* 294, no. 5 (2005): 598-601; Garen J. Wintemute, Mona A. Wright, Christiana M. Drake, and James J. Beaumont, "Subsequent Criminal Activity Among Violent Misdemeanants who Seek to Purchase Handguns: Risk Factors and Effectiveness of Denying Handgun Purchase," *JAMA* 285, no. 8 (2001): 1019-1026.

²⁰¹ "Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy," Consortium for Risk-Based Firearms Policy, December 2013, <http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/GPHMI-State.pdf>.

temporarily.²⁰² ERPO laws would provide family members and law enforcement with the tools to disarm these dangerous individuals.

ERPO laws can also help prevent the small percent of violence that is committed by people with mental illness, without unduly stigmatizing all persons with mental illness. Research shows that a small sub-group of people with serious mental illness are at an elevated risk of violence at certain times, such as the period surrounding the first episode of psychosis.²⁰³ ERPO laws help to ensure that people in these vulnerable mental health crises do not use guns to perpetrate deadly violence. Additionally, because ERPO laws base firearm removal criteria on dangerousness rather than diagnosis, these laws may be less stigmatizing to persons with serious mental illness.

While New Jersey's ERPO law has the potential to reduce these, and other, types of gun violence, the effectiveness of this law depends on its utilization by loved ones and law enforcement officers. Connecticut's narrower version of this law went into effect in 1999 yet courts granted only 10 orders until the massacre at Virginia Tech in 2006, when use of the law increased exponentially.²⁰⁴ Ideally, a high-profile shooting should not be the catalyst to create awareness of the law. A preferable method is for the state to invest funds and resources in ERPO implementation. In addition to studying the methods used by California, Washington, and Oregon to implement their laws, which went into effect prior to 2018, New Jersey could direct funding to government agencies and nonprofit organizations to create resources to educate the public, as well as law enforcement agencies and courts, about the new law and how it can reduce incidents of gun violence.

Recommendation: New Jersey should study the efforts of California, Washington, and Oregon to implement ERPO laws enacted prior to 2018. To maximize utilization of the law, the state should also direct funding and resources to government and nonprofit entities allowing them to educate community organizations, members of the public, law enforcement agencies, courts, and others.

SMART GUNS & ACCESSORIES

Gun safety technology is evolving and innovative technologies are being developed that will make firearms safer. The most promising of these would allow owners to secure firearms with "smart gun" technology that ensures a gun can only be fired by authorized individuals. This technology can help reduce unintentional shootings and suicides, and will allow owners to better secure their weapons from theft and against family members in crisis.²⁰⁵ Encouraging the development of smart guns and accessories would benefit public safety and likely help

²⁰² Kate Pickert, "Mental-Health Lessons Emerge from Isla Vista Slayings," *Time*, May 28, 2014, <http://time.com/121682/isla-vista-shooting-elliott-rodder/>; Michael Martinez and Chelsea J. Carter, "New Details: Loughner's Parents Took Gun, Disabled Car to Keep Him Home," CNN, March 28, 2013, <http://www.cnn.com/2013/03/27/justice/arizona-loughner-details/index.html>.

²⁰³ Jeanne Y. Choe, Linda A. Teplin, and Karen M. Abram, "Perpetration of Violence, Violent Victimization, and Severe Mental Illness: Balancing Public Health Concerns," *Psychiatric Services* 59, no. 2 (2008): 153-164; Dale E. McNiel, Christopher M. Weaver, and Stephen E. Hall, "Base Rates of Firearm Possession by Hospitalized Psychiatric Patients," *Psychiatric Services* 58, no. 4 (2007): 551-553.

²⁰⁴ Dan Friedman, "Laws That Allow for Temporarily Removing Guns from High-Risk People Linked to a Reduction in Suicides," *The Trace*, Sept. 8, 2016, <https://www.thetrace.org/2016/09/gun-violence-restraining-order-suicide-reduction-connecticut/>.

²⁰⁵ Stephen P. Teret and Adam D. Mernit, "Personalized Guns: Using Technology to Save Lives," In *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*, (Baltimore: The Johns Hopkins University Press, 2013).

to alleviate the disparate impact of gun violence on the most impacted groups in New Jersey, including people with mental illness, children, and racial and ethnic minorities.

Smart guns are personalized firearms that give owners the ability to control who may access their gun. The technology used to give owners this type of control varies, but includes radio-frequency identification (RFID) technology (which uses radio waves to identify objects) and biometric sensors (like fingerprint readers). Smart accessories, like biometric gun safes, use the types of technology described above to add an extra layer of security to gun safes or locking devices. These accessories are more secure than traditional safes and trigger locks, and can be paired with an existing firearm to confer some of the same benefits as an all-in-one smart gun.

The technology needed to build more secure guns and accessories already exists. RFID technology was invented in the 1970s and is used in everyday devices like car key fobs and building access cards.²⁰⁶ Fingerprint sensors secure many smart phones, and are already used in some gun safes. Although personalization technology is widespread, to date, it has never been incorporated into a firearm sold in US stores. And while biometric safes and locks are being sold,²⁰⁷ they have not attained a significant share of the accessories market.

Smart gun technology shows incredible promise in preventing gun suicides. Many people who attempt suicide are grappling with mental illness, and exhibit or communicate warning signs prior to an attempt.²⁰⁸ This creates a window of opportunity for owners to limit or revoke access to a personalized firearm by a suicidal friend or relative. Smart guns and accessories could be particularly impactful in preventing youth suicides. Most suicides are impulsive acts—and this phenomenon is particularly true among children, teens, and young adults.²⁰⁹ Among young people, a fleeting suicidal urge is often only carried out when it coincides with easy, immediate access to the tools needed to attempt suicide. Guns belonging to a family member are by far the most lethal suicide method available to most children and teens. In fact, one study by Harvard researchers found that in a sample of firearm suicides among minors (ages 0–17), nearly 82% of young people used a firearm belonging to a family member, usually a parent.²¹⁰ If children and teens aren't able to fire guns they get access to, there is a high likelihood that they will not die by suicide. Most people act on suicidal impulses quickly and with little planning: 71% of people attempt suicide within an hour of deciding to do so²¹¹ and up to 48% attempt within 10

²⁰⁶ Dean Takahashi, “Charlie Walton, Inventor of RFID, Passes Away at 89,” *Venture Beat*, Nov. 27, 2011, <https://venturebeat.com/2011/11/27/charlie-walton-inventor-of-rfid-passes-away-at-89/>.

²⁰⁷ See, e.g., “Biometric Gun Safes,” Walmart, <https://www.walmart.com/c/kp/biometric-gun-safes> (last visited Oct. 17, 2017); Dustin Walsh, “Cabela’s Deal Gives Startup Jump on Sales for Fingerprint Trigger Lock,” *Crain’s Detroit Business*, July 14, 2017, <http://crainsdetroit.com/article/20170709/news/633451/cabelas-deal-gives-startup-jump-sales-fingerprint-trigger-lock>.

²⁰⁸ American Foundation for Suicide Prevention, “Risk Factors and Warning Signs,” <https://afsp.org/aboutsuicide/risk-factors-and-warning-signs>.

²⁰⁹ See, *Confronting the Inevitability Myth: How Data-Driven Gun Policies Save Lives from Suicide*, Giffords Law Center to Prevent Gun Violence, September 2017, <http://lawcenter.giffords.org/wp-content/uploads/2017/10/Confronting-The-Inevitability-Myth.pdf>.

²¹⁰ “Youth Suicide: Findings from a Pilot for the National Violent Death Reporting System,” Suicide Prevention Resource Center and Harvard Injury Control Research Center, <http://www.sprc.org/sites/default/files/migrate/library/YouthSuicideFactSheet.pdf>.

²¹¹ T. R. Simon, et al., “Characteristics of Impulsive Suicide Attempts and Attempters,” *Suicide and Life Threatening Behavior* 32, no. 1 (Suppl.) (2001): 49–59; Catherine W. Barber and Matthew J. Miller, “Reducing a Suicidal Person’s Access to Lethal Means of Suicide: A Research Agenda,” *American Journal of Preventive Medicine* 47, no. 3 (2014): S264–S272. See also, Harvard T.H. Chan School of Public Health, Means Matter, “Impulsivity and Crises,” <http://www.hsph.harvard.edu/means-matter/means-matter/impulsivity>.

minutes.²¹² Most people who attempt suicide survive or abort the attempt before it's too late²¹³ and never attempt suicide again.²¹⁴

Smart guns and accessories could also help prevent unintentional shootings, particularly those involving children. Tragic unintentional shootings involving children share one common feature. They all happen when a child gains access to someone else's gun, such as a firearm belonging to a relative or a stranger's unsecured gun that was left in a public place. For this reason, unintentional shootings involving children are highly preventable if adults are able to completely secure their firearms from child access. Smart gun technology and accessories could allow parents and other adults to reliably secure guns from child access. Research also suggests that personalized firearms could reduce the overall number of unintentional firearm injuries. One study of unintentional and undetermined firearm deaths in Maryland and Wisconsin suggests that at least 37% of these deaths could have been prevented by personalized firearms.²¹⁵

Smart guns and accessories can protect the public by rendering stolen guns worthless. Each year private citizens experience an estimated 250,000 firearm thefts, accounting for about 380,000 total firearms stolen.²¹⁶ Stolen guns are easy to resell, and they can be trafficked and resold in states with lax or nonexistent regulations governing the private sale of firearms, internet gun sales, or gun shows. Research suggests that a substantial number of stolen guns are later used in crimes. For example, one study found that more than 30% of the guns that ended up at Pittsburgh, Pennsylvania crime scenes had been stolen.²¹⁷ Additionally, a survey of state prison inmates found that among those inmates who possessed a handgun prior to their incarceration, at least 9% had acquired it through theft.²¹⁸ These stolen guns may disproportionately be used in crimes in urban areas, which can have a disparate impact on people of color.²¹⁹ However, personalized guns could reduce crime committed with stolen guns and help to alleviate these racial disparities. Personalized guns would reduce the incentive of

²¹² *Id.*

²¹³ There are 25 suicide attempts for every suicide death in the US (American Association of Suicidology, "USA Suicide: 2012 Official Final Data," October 18, 2014, <http://www.suicidology.org/Portals/14/docs/Resources/FactSheets/2012datagsvd.pdf>).

²¹⁴ David Owens, Judith Horrocks, and Allan House, "Fatal and Nonfatal Repetition of Self-Harm: Systematic Review," *British Journal of Psychiatry* 181, no. 3 (2002): 193–199; National Action Alliance for Suicide Prevention, "The National Action Alliance for Suicide Prevention responds to new CDC report, 'Increase in Suicide in the United States, 1999–2014,'" April 22, 2016, http://www.carf.org/action_alliance_statement. See also, Harvard T.H. Chan School of Public Health, Means Matter, "Attempters' Longterm Survival," <http://www.hsph.harvard.edu/means-matter/means-matter/survival>.

²¹⁵ Jon S. Vernick, et al., "Unintentional and Undetermined Firearm Related Deaths: a Preventable Death Analysis for Three Safety Devices," *Injury Prevention* 9, no. 4 (2003): 307–311.

²¹⁶ David Hemenway, Deborah Azrael, and Matthew Miller, "Whose Guns are Stolen? The Epidemiology of Gun Theft Victims," *Injury Epidemiology* 4, no. 1 (2017).

²¹⁷ Anthony Fabio, et al., "Gaps Continue in Firearm Surveillance: Evidence from a Large US City Bureau of Police," *Social Medicine* 10, no. 1 (2016): 13–21.

²¹⁸ Allen J. Beck, et al., "Survey of state prison inmates, 1991," US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, March 1993, <https://www.bjs.gov/content/pub/pdf/SQSP191.PDF>.

²¹⁹ See, e.g., Mark Berman, "Chicago Says the Illegal Guns Fueling the City's Violence Mostly Come from Out of State," *The Washington Post*, October 30, 2017, https://www.washingtonpost.com/news/post-nation/wp/2017/10/30/chicago-says-the-illegal-guns-fueling-the-citys-violence-mostly-come-from-out-of-state/?utm_term=.b3cb0860138b.

criminals to steal guns, and if smart guns were stolen during a burglary or robbery instead of traditional guns, far fewer crimes could be committed.²²⁰

New Jersey is currently the only state with a law that mandates sales of smart guns in certain conditions. New Jersey's law, enacted in 2002, requires "personalized handgun" technology to be incorporated into all handguns sold in New Jersey shortly after the state attorney general deems the technology safe and commercially available for retail sale. A "personalized handgun" is defined as a "handgun which incorporates within its design, and as part of its original manufacture, technology which automatically limits its operational use and which cannot be readily deactivated, so that it may only be fired by an authorized or recognized user."²²¹ Since no qualifying handgun is currently available for retail sale, the New Jersey mandate has not yet been implemented.

The goal of the mandate is to incentivize the development of smart guns by ensuring there would be a market for them in New Jersey. Unfortunately, after unsuccessfully opposing the New Jersey mandate, gun lobby groups like the NRA turned their attention to stopping it from being implemented, making coordinated efforts to pressure and intimidate gun makers and sellers who expressed any interest in smart guns.²²²

The gun lobby's effort to stymie the development of smart guns has, to date, been largely successful: the mandate has not taken effect, and NRA-led boycotts have led manufacturers to abandon research and development efforts, as well as persuaded retailers to drop plans to sell safer firearms.²²³ Meanwhile, some entrepreneurs and start-ups have developed promising new designs for smart guns and accessories,²²⁴ but private investment in this area has been minimal,²²⁵ and gun safety innovators have struggled to get anywhere near the funding they need to bring their designs to the market.²²⁶ Low private sector investment can be explained in part by the fact that the gun lobby's inflexible opposition to smart guns, and the threat of consumer boycotts, has made investing in this area more risky—raising the "risk profile" of investing in gun safety.

After years of studying the impact of New Jersey's law, it is unfortunately apparent that gun lobby opposition to the mandate has been partly responsible for inhibiting the development of smart guns, against all intentions and reasonable predictions of the law's drafters and supporters.²²⁷ Because opposition to the mandate unexpectedly

²²⁰ David Hemenway, Deborah Azrael, and Matthew Miller, "Whose Guns are Stolen? The Epidemiology of Gun Theft Victims," *Injury Epidemiology* 4, no. 1 (2017).

²²¹ New Jersey Statutes Annotated § 2C:39-1dd.

²²² See Shawn Hamilton, "Here's What Happens When You Try To Make Or Sell A 'Safer' Gun," *The Huffington Post*, December 19, 2016, http://www.huffingtonpost.com/entry/smart-guns-backlash_us_55e5d22ce4b0c818f61933a9; Kelly Heyboer, "What is a 'Smart Gun' and Why Don't We Have One?," *New Jersey Real-Time News*, January 11, 2016, http://www.nj.com/news/index.ssf/2016/01/president_obama_wants_a_smart_gun_njit_has_one_in.html.

²²³ See, e.g., Michael S. Rosenwald, "Maryland Dealer, Under Pressure from Gun-Rights Activists, Drops Plan to Sell Smart Gun," *The Washington Post*, May 2, 2014, https://www.washingtonpost.com/local/maryland-dealer-will-defy-gun-rights-advocates-by-selling-nations-first-smart-gun/2014/05/01/564efa48-d14d-11e3-937f-d3026234b51c_story.html?utm_term=.5f82355ee309.

²²⁴ "Our Innovators," Smart Tech Challenges Foundation, <https://smarttechfoundation.org/our-innovators/> (last visited August 14, 2017).

²²⁵ Only six gun safety technology companies received any venture capital funding between 2006 and 2015. Joe Garofoli, "Can Tech Really Disrupt Gun Violence?," *San Francisco Chronicle*, January 9, 2016, <http://www.sfchronicle.com/business/article/Can-tech-really-disrupt-gun-violence-6748327.php>.

²²⁶ The funding that went into gun safety companies is a small fraction of other industries. *Id.*

²²⁷ See, e.g., Mitch Blacher and Brian X. McCrone, "How a New Jersey Law Backfired and Jammed Up 'Smart Gun' Technology," *NBC Philadelphia*, November 2, 2017, <https://www.nbcphiladelphia.com/investigations/New-Jersey-Law-Backfired-For-Smart-Gun-Technology->

hindered the development of smart guns, in 2016 the law's sponsor twice sought to amend the law to only require that gun dealers stock *one* model of smart gun.²²⁸ But the amendment did not satisfy opponents of all mandates, and was twice vetoed by Governor Christie, meaning the original mandate remains in place today.

Smart guns and accessories cannot save lives until they are on the market. In light of what is now known about the smart gun market, low levels of private investment, and innovators' need for funding, a new approach has emerged. This approach involves moving away from mandating gun safety technology in favor of incentivizing development and use of such technology. Targeted economic incentives that connect developers of lifesaving smart guns and accessories to the funding they need to produce their designs could provide the funding needed to bring these designs to market. Incentive legislation could be modeled after two ideas that have worked in other industries:

- 1) Commercialization-readiness grants. Grants could be offered to companies meeting benchmarks, like building a prototype, conducting reliability testing, or planning to market and produce a smart gun. This would be the most direct way to connect gun safety technology developers with the funding they need.
- 2) Developer tax credits. Smart gun developers could qualify for tax credits, modeled after those that incentivize the production of green appliances, renewable energy, or drugs to treat rare diseases.

This approach would encourage private funding by eradicating the perceived heightened risk of investing in smart guns. It would mean the gun lobby no longer has the go-to talking point they have used to scare investors and confuse the public. At the same time, targeted economic incentives, like those described above, would provide a "carrot" to investors by offsetting initial research and development costs, as well as increasing profit margins once gun safety technology has reached the market.

Recommendation: New Jersey should explore economic incentives for smart gun developers. The right incentives could make it substantially more likely that a safer gun or accessory will reach the market soon, saving many thousands of lives by preventing youth suicides, reducing unintentional shootings, and averting gun thefts.

SAFE STORAGE

Safe storage laws require unattended guns to be stored with a trigger lock or in a locked container when the guns are not being carried. While many local jurisdictions have safe storage ordinances, no federal law, and only one state law (Massachusetts) requires the safe storage of unattended guns. Safe storage laws help to reduce the serious harms associated with unauthorized firearm access and gun thefts, which may in turn alleviate the impact of gun violence on children and racial and ethnic minorities.

[454531703.html](http://www.npr.org/sections/alltechconsidered/2014/06/24/325178305/a-new-jersey-law-thats-kept-smart-guns-off-shelves-nationwide); Joel Rose, "A New Jersey Law That's Kept Smart Guns Off Shelves Nationwide," *NPR*, June 24, 2014, <http://www.npr.org/sections/alltechconsidered/2014/06/24/325178305/a-new-jersey-law-thats-kept-smart-guns-off-shelves-nationwide>.

²²⁸ Alex Yablon, "New Jersey Legislators Reintroduce Smart Gun Reform, Putting Chris Christie Back on the Spot," *The Trace*, January 28, 2016, <https://www.thetrace.org/2016/01/new-jersey-smart-gun-reform-chris-christie/>.

According to a 2018 study, only 46% of gun owners reported safely storing all their guns.²²⁹ Although some studies suggest that gun owners with children are more likely to store firearms unloaded and locked,²³⁰ there are still over 4.6 million children and youth under age 18 that live in homes with loaded and unlocked firearms.²³¹ Most minors know where these guns are kept. In fact, 73% of children under age 10 living in homes with guns reported knowing the location of their parents' firearms.²³² Parents often believe, however, that their children do not know the location of guns stored in the home or that their children have not handled their firearms.²³³

When guns are not safely stored, unauthorized users can more easily access and use firearms, and there can be serious harms associated with unauthorized firearm use. Children are particularly vulnerable when firearms are not safely stored, as improperly stored firearms can contribute to youth suicides and accidental shootings. Studies have demonstrated that the risk of suicide—particularly amongst children and teens—is significantly higher in homes where a firearm is kept loaded and/or unlocked.²³⁴ Children and teens are also at risk of death or injury from unintentional shootings, as children as young as three years old are strong enough to fire some types of handguns.²³⁵ Children who find loaded and unlocked guns may also use these weapons to perpetrate interpersonal violence. For example, one study of school shootings demonstrated that in over half of shootings perpetrated by minors in elementary or secondary schools, the shooter used guns obtained from homes that were likely unsecured.²³⁶

Research suggests that safe storage can help to prevent or mitigate the harms associated with access to unsecured firearms. For instance, an analysis published by Everytown for Gun Safety in 2014 found that 70% of shooting deaths involving children could have been prevented if the firearm had been stored locked and unloaded.²³⁷ Researchers have also suggested that safe storage of firearms would help to reduce suicides among youth.²³⁸

Improperly stored firearms can also increase the likelihood of gun thefts. Gun theft is an important way that guns enter the illegal market, and stolen guns may be disproportionately used in crimes in urban areas, which can have a disparate impact on people of color. A recent study estimated that approximately 380,000 guns are

²²⁹ Cassandra K. Crifasi, et al., "Storage Practices of US Gun Owners in 2016," *American Journal of Public Health* (2018): e1-e6.

²³⁰ *Id.*

²³¹ Deborah Azrael, Joanna Cohen, Carmel Salhi, and Matthew Miller, "Firearm Storage in Gun-owning Households with Children: Results of a 2015 National Survey," *Journal of Urban Health* 95, no. 3 (2018): 295-304.

²³² Frances Baxley and Matthew Miller, "Parental Misperceptions about Children and Firearms," *Archives of Pediatrics & Adolescent Medicine* 160, no. 5 (2006): 542-547.

²³³ *Id.*

²³⁴ Matthew Miller and David Hemenway, "The Relationship Between Firearms and Suicide: A Review of the Literature," *Aggression & Violent Behavior* 4, no. 1 (1999): 59-75.

²³⁵ S. M. Naurecks, C. Galanter, and E. T. Naureckas, "Children's and Women's Ability to Fire Handguns," *Journal of Developmental & Behavioral Pediatrics* 17, no. 2 (1996): 130.

²³⁶ See "Analysis of School Shootings," Everytown for Gun Safety, December 31, 2015, at <http://everytownresearch.org/reports/analysis-of-school-shootings/>.

²³⁷ "Innocents Lost: A Year of Unintentional Child Gun Deaths," Everytown for Gun Safety, June 2014, https://everytownresearch.org/reports/innocents_lost/.

²³⁸ Katherine A. Fowler, et al., "Childhood Firearm Injuries in the United States," *Pediatrics* 140, no. 1 (2017).

stolen each year in the United States.²³⁹ ATF agents have speculated that 10–15% of stolen guns are used in subsequent crimes.²⁴⁰ More recent research suggests that this percentage may be even higher. For example, one study found that more than 30% of the guns that ended up at crime scenes in Pittsburgh, Pennsylvania, had been stolen.²⁴¹ These stolen guns may disproportionately be used in crimes in urban areas, which can have a disparate impact on people of color.²⁴² However, gun owners who safely store their firearms experience gun thefts at a lower rate than those who do not.²⁴³ Promoting safer storage of guns may help to reduce gun thefts and reduce the number of guns entering the illegal market.²⁴⁴

New Jersey has no law regulating the storage of unattended guns. The state does have a child access prevention (CAP) law in place that makes it a crime to leave a firearm in a place the owner knows or reasonably should know that a minor under the age of 16 is likely to gain access to the firearm and the minor does, in fact, gain access. It is an exception to the crime if the minor gained access to a firearm (1) that was kept in a locked box or container; (2) was stored in a location a reasonable person would believe to be secure; or (3) was stored with a trigger lock in place.²⁴⁵

While New Jersey's CAP law is directed at preventing unauthorized access to guns by anyone 15 years of age or younger, it does not go far enough to promote responsible gun storage or protect residents from the risks of unsecured guns. The CAP law does not affirmatively require any particular behavior by a gun owner. So long as a person keeps a loaded firearm in a place where a "reasonable person" would believe it to be secure, he or she will not be liable if a minor gains possession of the firearm. After a tragedy occurs, it would then be up to a jury to determine whether the gun owner stored the firearm in a reasonably secure manner despite the fact that a minor accessed the firearm.

The law is also ambiguous as to what constitutes responsible gun storage. In 2013, the three-year-old son of a veteran law enforcement officer shot and killed himself with a firearm that his father left on top of a five-foot dresser in his bedroom.²⁴⁶ With two older children in the home, the officer had been leaving the gun on top of the dresser in a room where his children did not play for years. Under those circumstances, was his conduct careless, reckless, or negligent? A jury did not have the opportunity to decide because the officer was never prosecuted under the Michigan law that makes it a crime to, because of carelessness, recklessness or negligence, allow a firearm under the owner's immediate control to be discharged and kill or injure another

²³⁹ David Hemenway, Deborah Azrael, and Matthew Miller, "Whose Guns are Stolen? The Epidemiology of Gun Theft Victims," *Injury Epidemiology* 4, no. 1 (2017).

²⁴⁰ Dan Noyes, "How Criminals Get Guns," PBS Frontline, <https://www.pbs.org/wgbh/pages/frontline/shows/guns/procon/guns.html>.

²⁴¹ Anthony Fabio, et al., "Gaps Continue in Firearm Surveillance: Evidence from a Large US City Bureau of Police," *Social Medicine* 10, no. 1 (2016): 13–21.

²⁴² See, e.g., Mark Berman, "Chicago Says the Illegal Guns Fueling the City's Violence Mostly Come from Out of State," *The Washington Post*, October 30, 2017, https://www.washingtonpost.com/news/post-nation/wp/2017/10/30/chicago-says-the-illegal-guns-fueling-the-citys-violence-mostly-come-from-out-of-state/?utm_term=.b3ch0860138b.

²⁴³ David Hemenway, Deborah Azrael, and Matthew Miller, "Whose Guns are Stolen? The Epidemiology of Gun Theft Victims," *Injury Epidemiology* 4, no. 1 (2017).

²⁴⁴ *Id.*

²⁴⁵ N.J. Stat. Ann. §§ 2C:58-15a; 2C:58-15c.

²⁴⁶ Sherri Jones, "Safety For You: Gun Safety – One Family's Tragic Story," *WLNS*, November 30, 2016, <http://wlns.com/2016/11/30/safety-for-you-gun-safety-one-familys-tragic-story/>.

person.²⁴⁷ If Michigan did have a law requiring a person, including a law enforcement officer, to store his guns in a safe or disable them with a trigger lock when not carrying them, that toddler likely never would have accessed his father's weapon. Like seatbelt laws, laws mandating safe firearm storage can influence societal norms and help ensure safe storage practices become widely adopted.²⁴⁸

Additionally, the law only applies to gun owners who know or should know that a minor under the age of 16 is likely to access the firearm. Accordingly, under existing law, the owner of a gun accessed by a 16-year-old on New Year's Eve 2017 who used it to murder his parents, 18-year-old sister, and an elderly family friend in Long Branch, New Jersey, might not have been required to safely store the firearm.²⁴⁹

Finally, New Jersey's CAP law does not prevent theft from home intruders. It does not, for example, require guns to be safely stored when children are not present to prevent gun theft during burglaries. A safe storage law would, however, make guns less accessible to burglars, thieves, and other criminals.

In 2015, two guns were stolen from the home of the mayor of Stockton, a California city. One of those guns was used in a drive-by shooting, killing a 13-year-old boy as he stood in front of his home.²⁵⁰ The guns were linked to several other crimes as well. Like New Jersey, California has a CAP law but does not regulate the storage of unattended guns in the home, allowing them to be accessed by criminals.

Massachusetts is the only state in the nation with a safe storage law, though many local jurisdictions in various states have enacted this policy. Pursuant to Massachusetts law, it is unlawful to store or keep any firearm unless it is "secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user." Massachusetts makes an exception to the safe storage law if the firearm is "carried by or under the control of the owner or other lawfully authorized user."²⁵¹

Recommendation: New Jersey should enact a safe storage law similar to Massachusetts' that requires all guns to be securely locked or stored when they are not being carried by an authorized user or kept under such immediate control by an authorized user that another individual would be unable to access the firearm.

CHILD ACCESS PREVENTION

Safe storage and CAP laws, such as New Jersey's, aim to prevent the significant harms unsecured guns pose to minors, as discussed in the last section. Even if New Jersey were to adopt the safe storage law recommended above, it would not preclude the state from strengthening its existing CAP law.²⁵² As discussed below and

²⁴⁷ Mich. Comp. Laws Serv. § 752.861.

²⁴⁸ Amir N. Licht, "Social Norms and the Law: Why Peoples Obey the Law," *Review of Law and Economics* 4, no. 3 (2008): 715-750.

²⁴⁹ Erin Banco and Alex Napoliello, "Recalling the Final Minutes Before this N.J. Family was Massacred on New Year's Eve," *New Jersey Real-Time News*, January 4, 2018, http://www.nj.com/news/index.ssf/2018/01/what_life_was_like_for_family_before_njs_deadliest.html.

²⁵⁰ Associated Press, "Stockton Mayor's Stolen Gun Used in Fatal Shooting of Teenager, Prosecutors Say," *LA Times*, July 30, 2016, <http://www.latimes.com/local/lanow/la-me-ln-stockton-mayor-gun-20160730-snap-story.html>.

²⁵¹ Mass. Gen. Laws ch. 140, § 131L(a).

²⁵² Massachusetts has both a safe storage law and a CAP law. See Mass. Gen. Laws ch. 140, § 131L.

strongly supported by decades of data, child access prevention laws can meaningfully protect children from suicides and unintentional shootings.

New Jersey makes a person liable for a misdemeanor if the person knows or reasonably should know that a minor under 16 years of age is likely to gain access to a loaded firearm at a premises under the person's control and the minor does, in fact, gain access.²⁵³ The person is not liable under the statute if he or she:

- Stores the firearm in a securely locked box or container;
- Stores the firearm in a location which a reasonable person would believe to be secure; or
- Secures the firearm with a trigger lock.²⁵⁴

CAP laws, like New Jersey's, are effective at reducing the incidence of unintentional shootings by minors. One study found that in twelve states where such laws had been in effect for at least one year, unintentional firearm deaths fell by 23% from 1990–94 among children under 15 years of age.²⁵⁵ A 2004 study found state CAP laws were associated with an 8.3% reduction in suicide rates among 14–17-year-olds.²⁵⁶ According to the authors of the study, these laws likely prevented 333 such suicides from 1989 through 2001. CAP laws have also been associated with a 32% decline in nonfatal gun injuries among children 18 years of age and under, and a 64% reduction in self-inflicted injuries.²⁵⁷ While unintentional child gun deaths declined across the country between 1979 and 2000, states that enacted child access prevention laws experienced statistically greater declines, and states that allow felony prosecution of offenders experienced the greatest declines.²⁵⁸ Florida's CAP law, which allows felony prosecution and was accompanied by a major public education campaign regarding the law, was associated with a 51% decrease in unintentional shooting deaths of children between 1989 and 1997.²⁵⁹

Twenty-six states in addition to New Jersey, plus the District of Columbia, have enacted CAP laws. The strongest laws impose criminal liability when a minor is likely to gain access to a negligently stored firearm regardless of whether the minor actually gains access.²⁶⁰ CAP laws that impose felony penalties have also been shown to have a greater impact in preventing unintentional shootings. New Jersey's existing CAP law does impose criminal liability when a firearm is stored negligently but only if a minor actually gains access to the firearm, not when a firearm is left accessible to a minor. Furthermore, the penalty for violating the statute is a misdemeanor rather than a felony.

²⁵³ N.J. Stat. Ann. §§ 2C:58-15a; 2C:58-15c.

²⁵⁴ *Id.*

²⁵⁵ Peter Cummings, et al., "State Gun Safe Storage Laws and Child Mortality Due to Firearms," *JAMA* 278, no. 13 (1997): 1084-1086.

²⁵⁶ Daniel W. Webster, Jon S. Vernick, April M. Zeoli, and Jennifer A. Manganello, "Association Between Youth-Focused Firearm Laws and Youth Suicides," *JAMA* 292, no. 5 (2004): 594-601.

²⁵⁷ Jeff DeSimone and Sara Markowitz, "The Effect of Child Access Prevention Laws on Nonfatal Gun Injuries," *National Bureau of Economic Research*, no. w11613 (2005).

²⁵⁸ Lisa Hepburn, Deborah Azrael, Matthew Miller, and David Hemenway, "The Effect of Child Access Prevention Laws on Unintentional Child Firearm Fatalities, 1979-2000," *Journal of Trauma and Acute Care Surgery* 61, no. 2 (2006): 423-428.

²⁵⁹ Daniel W. Webster and Marc Starnes, "Reexamining the Association between Child Access Prevention Gun Laws and Unintentional Shooting Deaths of Children," *Pediatrics* 106, no. 6 (2000): 1466-1469.

²⁶⁰ California and Massachusetts are two states that have adopted this approach. "Child Access Prevention," Giffords Law Center to Prevent Gun Violence, <http://lawcenter.giffords.org/gun-laws/policy-areas/child-consumer-safety/child-access-prevention>.

Additionally, the CAP law only requires a gun owner to prevent access by a minor who is 15 years old or younger. A report on youth suicide by the New Jersey Department of Children and Families found that the rate of suicide was higher among older youth (19–24) than younger (10–18) though the gap is decreasing with more 10–18 year olds committing suicide and fewer in the 19–24 age range. This data demonstrates that minors aged 16 and 17 are at risk for suicide and should not be able to access unsecured firearms.

Finally, California, Connecticut, Illinois, and Nevada impose civil liability on parents or guardians for damages resulting from their dependents' use of firearms under various circumstances.²⁶¹ New Jersey imposes no such liability.

Recommendation: Amend the existing CAP law to impose liability when a firearm is left accessible to a child, regardless of whether the minor actually gains access, following the approaches of states such as California and Massachusetts. Amend the law to define a minor as anyone under the age of 18 following the approaches of 15 states and the District of Columbia.²⁶² Repeal the exception to New Jersey's current law for a person who stores a firearm in a location where a reasonable person would believe it to be secured.

UNSAFE HANDGUNS

Poorly designed, unsafe handguns can lead to unintentional shootings because they can fire even when the trigger hasn't been pulled, or do not fire when the trigger has been pulled. Commonly referred to as "junk guns" or "Saturday Night Specials," these low-quality handguns are often made out of inferior metals or plastic and designed in slipshod ways to reduce the costs of manufacture. As described in detail below, state regulation of unsafe handguns may help to divert criminogenic use of firearms, which may help reduce the disparate impact of homicides and shootings among racial and ethnic minorities.

Broadly speaking, junk guns are cheap, easily concealed, and more likely to misfire or malfunction than other firearms. Guns that lack critical safety features, such as an indicator that tells the user whether a bullet remains in the chamber even when the firearm appears unloaded, also play a role in unintentional shootings. According to researchers at the Johns Hopkins Center for Gun Policy and Research, "although unintentional or accidental shootings account for a small share of firearm related mortality and morbidity, these deaths and injuries are highly preventable through proper design of firearms."²⁶³

State regulation of unsafe handguns can also help to reduce gun homicides, particularly in urban areas, which can have substantial benefits for people of color. "Junk guns" are disproportionately associated with criminal

²⁶¹ "Child Access Prevention," Giffords Law Center to Prevent Gun Violence, <http://lawcenter.giffords.org/gun-laws/policy-areas/child-consumer-safety/child-access-prevention>.

²⁶² These 15 states include: California, Colorado, Delaware, District of Columbia, Georgia, Indiana, Kentucky, Massachusetts, Minnesota, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, Tennessee, and Utah. "Child Access Prevention," Giffords Law Center to Prevent Gun Violence, <http://lawcenter.giffords.org/gun-laws/policy-areas/child-consumer-safety/child-access-prevention>.

²⁶³ Daniel W. Webster, "The Case for Gun Policy Reforms in America," Johns Hopkins Bloomberg School of Public Health, October 2012, http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/WhitePaper020514_CaseforGunPolicyReforms.pdf.

misuse, especially by juveniles and young adults.²⁶⁴ As an example, in the one year following a gun dealer's decision to stop selling junk guns, the number of guns sold by the dealer that were later linked to crime dropped by 73%.²⁶⁵ When Maryland banned the sale of junk guns, a 2002 study found that such guns were much less likely to be used in crime in Baltimore than in other cities,²⁶⁶ and that the enactment of the law was associated with an impressive 8–11% reduction in gun homicides—which translated to an average of 40 lives saved per year.²⁶⁷ Given that many gun homicides in urban areas disproportionately impact underserved communities of color,²⁶⁸ state regulation of unsafe handguns may help to meaningfully alleviate some of the racial disparities in gun homicide rates.

Experience in other states shows that state regulation of unsafe handguns has proven to be effective at taking these guns off the market and reducing their injurious societal effects. In the 1980s and 1990s, many junk guns were produced by the so-called “Ring of Fire” companies, a small group of gun manufacturers originally based in the Los Angeles area. After steadily increasing production during the 1980s, Ring of Fire companies manufactured one-third of all US handguns produced in the early 1990s.²⁶⁹ Five of the ten crime guns most frequently traced by ATF in 2000 were manufactured by Ring of Fire companies.²⁷⁰ Experts criticized the low quality of these guns, which were poorly constructed, inaccurate, unreliable, and widely considered inappropriate for either personal protection or sporting purposes.²⁷¹ The state of California responded to this public safety threat in 1999 by adopting safety standards for handguns, and by 2003, five of the six original Ring of Fire companies had declared bankruptcy.²⁷²

State regulation of unsafe firearms is necessary because federal law imposes no design safety standards on domestically produced firearms. Unlike every other consumer product produced in the US, firearms and ammunition are exempt from the health and safety standards set by the federal Consumer Product Safety Act.²⁷³

²⁶⁴ Garen Wintemute, “California’s Guns and Crime: New Evidence,” Violence Prevention Research Program, University of California—Davis, May 1997. *See also*, Mona A. Wright, Garen J. Wintemute, and Daniel W. Webster, “Factors Affecting a Recently Purchased Handgun’s Risk for Use in Crime Under Circumstances that Suggest Gun Trafficking,” *Journal of Urban Health* 87, no. 3 (2010): 352–364.

²⁶⁵ Daniel W. Webster, Jon S. Vernick, and Maria T. Bulzacchelli, “Effects of State-Level Firearm Seller Accountability Policies on Firearm Trafficking,” *Journal of Urban Health* 86, no. 4 (2009): 525–537.

²⁶⁶ Jon S. Vernick, Daniel W. Webster, and Lisa M. Hepburn, “Effects of Maryland’s Law Banning Saturday Night Special Handguns on Crime Guns,” *Injury Prevention* 5, no. 4 (1999): 259–263.

²⁶⁷ Daniel W. Webster, Jon S. Vernick, and Lisa M. Hepburn, “Effects of Maryland’s Law Banning “Saturday Night Special” Handguns on Homicides,” *American Journal of Epidemiology* 155, no. 5 (2002): 406–412.

²⁶⁸ *See*, “Healing Communities in Crisis,” Giffords Law Center to Prevent Gun Violence, <http://lawcenter.giffords.org/healing-communities-in-crisis-lifesaving-solutions-to-the-urban-gun-violence-epidemic/>.

²⁶⁹ Garen Wintemute, “Ring of Fire—The Handgun Makers of Southern California: A Report From the Violence Prevention Research Program,” University of California—Davis, 1994.

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² Dick Dahl, “Campaign Seeks to Halt Gun Makers’ Bankruptcy Ploy,” *Join Together Online*, May 28, 2004, (on file with author). Another Ring of Fire junk gun, the Raven .25-caliber semiautomatic, has not been manufactured since the Raven Arms manufacturing plant was destroyed by fire in 1991. Garen Wintemute, “Ring of Fire—The Handgun Makers of Southern California: A Report From the Violence Prevention Research Program,” University of California—Davis, 1994.

²⁷³ *See* 15 U.S.C. § 2052(a)(1)(ii)(E), referencing 26 U.S.C. § 4181.

California, Massachusetts, Maryland, New York, and the District of Columbia have enacted design safety laws intended to crack down on junk guns and improve the safety of all handguns sold to their residents.²⁷⁴ Maryland, California, and DC use a roster prepared and maintained by a state agency to list approved handgun models that satisfy the state's design and safety standards.²⁷⁵ Only handguns listed on the roster may be sold by licensed gun dealers or private sellers.

California, Massachusetts, and New York also define “unsafe handguns” as those lacking specified safety features that help protect users against unintended discharge.²⁷⁶ Two basic design safety features have the potential to prevent deadly gun accidents: (1) magazine disconnect mechanisms that prevent a firearm from discharging when the magazine is not attached and (2) load indicators that indicate when a gun is loaded. Load indicators are important because a bullet can remain in the chamber even after the magazine is removed, leading a person to believe the gun is unloaded. In 1994, a high school student in California, Kenzo Dix, was accidentally killed by his friend who unloaded the magazine of his father's gun and, erroneously thinking it was unloaded, aimed the gun at Kenzo. Kenzo's father, Griffin Dix, led efforts in California to make chamber load indicators mandatory safety features on new guns sold in California, features that would have saved his son's life.²⁷⁷

New Jersey does not specifically regulate junk guns or unsafe firearms. However, according to research conducted by the Center to Prevent Handgun Violence (now Brady Center to Prevent Gun Violence), New Jersey's attorney general may have the authority to regulate junk guns, as well as promulgate other firearm safety standards.²⁷⁸

Recommendation: Either by statute or regulations promulgated by the attorney general, prohibit the sale, manufacturing, importing, giving, or lending of an unsafe handgun. Follow the approach of other states by establishing firing and drop safety requirements to which all handguns sold in the state are subject. Define “unsafe handgun” to be a handgun:

- (1) Not on a state-maintained roster of handguns that have been tested by a certified testing laboratory;
- (2) That lacks an appropriate safety, or does not meet the state's firing or drop safety requirement; or
- (3) Lacks chamber load indicators and/or magazine disconnect mechanisms.

GUN DEALER REGULATION

²⁷⁴ See a discussion of these states' laws at our Design Safety Standards Policy Page. “Design Safety Standards,” Giffords Law Center to Prevent Gun Violence, <http://lawcenter.giffords.org/gun-laws/policy-areas/child-consumer-safety/design-safety-standards/>.

²⁷⁵ Md. Code Ann., Pub. Safety §§ 5-404 – 5-406.

²⁷⁶ See a discussion of these states' laws at our Design Safety Standards Policy Page. “Design Safety Standards,” Giffords Law Center to Prevent Gun Violence, <http://lawcenter.giffords.org/gun-laws/policy-areas/child-consumer-safety/design-safety-standards/>.

²⁷⁷ “After his son's fatal accident, East Bay man fights to make weapons safer,” *The Mercury News*, December 9, 2013, <https://www.mercurynews.com/2013/12/09/after-his-sons-fatal-accident-east-bay-man-fights-to-make-weapons-safer/>.

²⁷⁸ See the New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8-2, 56:8-4. For details, see “Targeting Safety,” Center to Prevent Handgun Violence, Legal Action Project, 2001, <http://www.bradycampaign.org/sites/default/files/targetingsafety.pdf>.

State and local regulation of gun dealers is critical because gun dealers, who are the link between gun manufacturers and the general public, are subject to very little federal oversight. Federal law requires firearms dealers to obtain a license from the Bureau of Alcohol, Tobacco, Firearms & Explosives (“ATF”),²⁷⁹ but ATF does not have the resources or authority to properly oversee the more than 137,000 firearms dealers, manufacturers, collectors, and others that it licenses (“FFLs”).²⁸⁰ In 2004, the Office of the Inspector General (“OIG”) found that inspections by ATF are not fully effective for ensuring that FFLs comply with federal firearms laws.²⁸¹ A *Washington Post* investigation in 2010 found that, as a result of inadequate staffing, ATF was able to inspect less than 10% of FFLs in 2009 and, on average, dealers are inspected only once a decade.²⁸² A 2013 report by OIG found that, between 2004 and 2011, FFLs reported 174,679 firearms missing from their inventories and only 62% of FFLs inspected in 2011 were found to be in compliance with federal gun laws.²⁸³ ATF also found that dealers and pawnbrokers were associated with the largest number of trafficked guns—over 40,000—and concluded that “FFLs’ access to large numbers of firearms makes them a particular threat to public safety when they fail to comply with the law.”²⁸⁴ As discussed below, gun dealer regulations may help to reduce shootings and gun violence exposure among disproportionately impacted and vulnerable groups in New Jersey, including racial and ethnic minorities and children.

INSPECTIONS AND INVENTORY REPORTING

A September 2010 report by Mayors Against Illegal Guns concluded that routine inspections of gun dealers provide law enforcement with more opportunities to “detect potential indications of illegal gun activity, including improper recordkeeping or a dealer whose gun inventory does not match their sales records.”²⁸⁵ The report presented data showing that states that do not permit or require inspections of gun dealers are the sources of crime guns recovered in other states at a rate that is 50% greater than states that do permit or require such inspections. Requiring gun dealers to periodically report their inventory to state or local law enforcement can aid law enforcement in conducting these inspections.

Routine inspections of gun dealers may be particularly effective at reducing gun homicides and shootings in cities, where such violence often disproportionately affects people of color. For example, an investigation of New York City gun dealers found that more than two-dozen dealers were engaging in illegal sales practices and disproportionately selling guns that were recovered at crime scenes.²⁸⁶ In response, the courts appointed a

²⁷⁹ 18 U.S.C. § 922(a)(1)(A).

²⁸⁰ Total number of Federal Firearms Licensees as of December 10, 2016. “Downloadable Lists of Federal Firearm Licensees (FFLs),” U.S. Dep’t of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, <http://www.atf.gov/about/foia/ffl-list.html>.

²⁸¹ “Inspection of Firearms Dealers by the Bureau of Alcohol, Tobacco, Firearms and Explosives,” Office of the Inspector General, Evaluation and Inspections Division, U.S. Department of Justice, July 2004, <http://www.usdoj.gov/oig/reports/ATF/e0405/exec.html>.

²⁸² Sari Horwitz and James V. Grimaldi, “ATF’s Oversight Limited in Face of Gun Lobby,” *The Washington Post*, October 26, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/10/25/AR2010102505823.html?sub=AR>.

²⁸³ “Review of ATF’s Federal Firearms Licensee Inspection Program,” Office of the Inspector General, Evaluation and Inspections Division, U.S. Department of Justice, April 2013, <http://www.justice.gov/oig/reports/2013/e1305.pdf>.

²⁸⁴ *Id.*

²⁸⁵ “Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking,” Mayors Against Illegal Guns, September 2010, <http://www.tracetheguns.org/report.pdf>.

²⁸⁶ Daniel Webster and Jon Vernick, “Spurring Responsible Firearms Sales Practices Through Litigation,” In *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*, (Baltimore: The Johns Hopkins University Press, 2013).

monitor to train employees, inspect records, and conduct inspections of these gun dealers.²⁸⁷ An evaluation of 10 stores subjected to these increased inspections found that these efforts were correlated with an 84% decrease in the number of guns sold by the dealers and later recovered at New York City crime scenes.²⁸⁸ These results strongly indicate that routine inspections of gun dealers can help to prevent illegal sales and the diversion of guns to criminals, which can help to reduce interpersonal gun violence. Given that such regulations have proven especially effective for gun dealers in cities,²⁸⁹ these measures may have an increased benefit for people of color, particularly because these measures regulate the supplier of guns, rather than the purchaser. Accordingly, increased gun dealer regulations are extremely unlikely to result in increased arrests and incarcerations for this vulnerable population.

Currently, New Jersey *authorizes* law enforcement inspections of gun dealers records but does not *require* these inspections or periodic inventory reporting.²⁹⁰ Some states, such as Massachusetts, require inspections of gun dealers. For example, in Massachusetts, the gun dealer licensing authority is required to conduct, and a dealer must submit to, one mandatory records and inventory inspection per year and a dealer's records must be open to inspection by law enforcement "at all times."²⁹¹

ZONING DEALERS AWAY FROM SCHOOLS AND RESIDENCES

Federal law and state laws leave gun dealers free to operate out of their homes and near schools. Prohibiting gun dealers from operating out of their homes or residential areas is likely to prevent crime in the neighborhoods where gun dealers would otherwise operate. A 2009 study analyzed ATF data showing that guns "are often found to have been used for criminal purposes not far from the gun dealer where they were first obtained," and "almost one-third (32.2%) of traced crime guns are recovered by police within 10 miles of the [dealer] where they were first purchased."²⁹² Furthermore, at least one academic study suggests that firearm dealers may attract individuals engaged in criminal activity to the communities in which they are located, not only because they are a high-value target for theft, but also because of firearm dealers' willingness to sell to "straw purchasers" who illegally buy for others.²⁹³ Because of the lack of ATF, state, and, in many cases, local, oversight of gun dealers, dealers engaging in illegal activity tucked away in residential neighborhoods are also more likely to evade detection. Currently, Massachusetts is the only state that prohibits gun dealers from operating as a home occupation. Sixty-five local jurisdictions in California prohibit gun dealers from operating in residential zones or as home occupations.

²⁸⁷ *Id.*

²⁸⁸ *Id.*

²⁸⁹ See, "Strategies for Reducing Gun Violence in American Cities," Everytown for Gun Safety, June 2016, <https://everytownresearch.org/documents/2016/06/strategies-reducing-gun-violence-american-cities.pdf>.

²⁹⁰ N.J. Stat. Ann. § 2C:58-2(a)(4), (b). The state does require dealers to keep a register of handguns transferred and copies of the register must be delivered to local law enforcement (or the county clerk) and the New Jersey State Police within five days. N.J. Stat. Ann. § 2C:58-2e.

²⁹¹ Mass. Gen. Laws ch. 140, § 123 (Second).

²⁹² Douglas J. Wiebe, et al., "Homicide and Geographic Access to Gun Dealers in the United States," *BMC Public Health* 9, no. 1 (2009).

²⁹³ In a survey of handgun dealers in California, that 20.1% agreed to assist a potential handgun buyer with a transaction that had many attributes of a straw purchase. Garen Wintemute, "Firearm Retailers' Willingness to Participate in an Illegal Gun Purchase," *Journal of Urban Health* 87, no. 5 (2010): 865-878.

For these reasons and others, it is also wise policy to zone gun dealers away from schools to help reduce gun violence against children and children's exposure to gun violence. The federal Gun-Free School Zones Act²⁹⁴ prohibits the possession of firearms in a school zone if the individual in question knows, or has reasonable cause to believe, that the space occupied is a school zone. A "school zone" is within a distance of 1,000 feet from the grounds of a public, parochial, or private school.²⁹⁵ This prohibition is subject to certain exceptions, including possession of a firearm on private property not part of school grounds. The private property exception to the federal law is how gun dealerships are able to locate in federal school zones.²⁹⁶ Individuals with state-issued concealed carry licenses are exempt from the law, as are individuals carrying unloaded firearms in a locked container or locked firearms rack. However, if an unlicensed individual leaves a gun store located within 1,000 feet of a school with an unloaded, boxed gun, the individual would likely be violating federal law.

The federal and state laws deeming K–12 schools and surrounding areas to be gun-free zones have successfully reduced gun violence in schools. School-associated student homicide rates decreased significantly after the federal laws restricting guns in schools were adopted in the early 1990s,²⁹⁷ and fewer students are carrying guns.²⁹⁸ Zoning regulations that prohibit firearm dealers within 1,000 feet of a school help ensure that the Gun-Free School Zones Act is appropriately enforced, and that dealers are not permitted to operate in a location where their customers would be violating federal law upon exiting the store. Such zoning regulations also protect the significant reductions in gun violence that the Gun-Free School Zones Act, and similar state laws, have achieved in America's schools. Zoning gun dealers away from schools also helps ensure that exposure to guns is left to the discretion of parents and not curious children.

Although no state currently zones gun dealers a certain distance from schools, states have enacted similar types of zoning laws with regards to First Amendment adult businesses. For example, New Jersey prohibits adult bookstores from being within 1,000 feet of elementary and secondary schools, school bus stops, municipal or county playground, and any childcare centers (as well as several other types of property such as hospitals and houses of worship).²⁹⁹

LIABILITY INSURANCE

Although federal law immunizes gun dealers from certain types of liability, firearms dealers are subject to potential liability if they negligently supply a firearm to a person who is likely to and does use the firearm in a manner involving unreasonable risk of physical injury – such as a sale to an intoxicated person or a minor.³⁰⁰

²⁹⁴ 18 U.S.C. § 922(q)(2)(A).

²⁹⁵ 18 U.S.C. § 921(a)(25).

²⁹⁶ 18 U.S.C. § 922(q)(2)(B).

²⁹⁷ The rates decreased from 0.07 per 100,000 students to 0.03 per 100,000 students. "School-Associated Student Homicides – United States, 1992–2006," Morbidity & Mortality Weekly Report, Centers for Disease Control and Prevention, January 18, 2008, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5702a1.htm>.

²⁹⁸ Between 1993 and 1999, the percentage of students who carried a gun, regardless of location, decreased from 8% to 5%. This lower percentage did not change significantly over the years 1999–2007. Danice K. Eaton, et al., "Youth Risk Behavior Surveillance – United States, 2007," Morbidity & Mortality Weekly Report, Centers for Disease Control and Prevention, June 6, 2008, <http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5704a1.htm>.

²⁹⁹ N.J. Stat. Ann. § 2C:34-7.

³⁰⁰ See 15 U.S.C. § 7903(5)(A)(ii).

Firearm dealers may also be subject to potential liability for conduct that causes harm if the conduct violates an applicable state or federal law.³⁰¹ Further, firearm dealers may be subject to potential liability if patrons are injured on their premises, or for other conduct creating premises liability or property owner liability. Injuries and deaths from firearms, as well as from other accidents that may occur on a business' property, can devastate individuals and burden social safety nets. Liability insurance reduces these harms by providing necessary compensation to individuals who may be injured by the actions of a gun dealer.

No federal or New Jersey law requires firearm dealers to obtain liability insurance. Requiring firearm dealers to carry liability insurance with limits of at least \$1 million per incident would ensure that victims who are injured by a firearm dealer, in violation of an existing law establishing the dealer's liability, receive the compensation to which they are legally entitled.

Giffords Law Center has not done a 50-state analysis of which states, if any, require dealers to obtain liability insurance; however, in California, 29 cities and four counties impose this requirement.

Recommendation: New Jersey should require unnoticed inspections of gun dealers by state and/or local law enforcement once every six to twelve months during regular business hours. New Jersey should also require gun dealers to report their inventory to state and/or local law enforcement every six months and prohibit gun dealers from operating as a home occupation or within a residential zone. The state should zone dealers 1,000 feet from elementary and secondary schools, childcare centers, and municipal or county playgrounds and require gun dealers to obtain a policy of insurance executed by an insurance company approved by the state, insuring the applicant against liability for damage to property and for injury to or death of any person as a result of the theft, sale, lease, or transfer or offering for sale, lease, or transfer of a firearm or ammunition, or any other operations of the business.

OPEN CARRY

Historically, most states either prohibited or strongly regulated the carrying of firearms in public spaces. Over the past three decades, however, state laws have changed dramatically. In that time, many states have significantly weakened their laws to permit more and more people to carry guns in public places and to reduce or eliminate local law enforcement's ability to keep potentially dangerous people from carrying guns in public. "Open carry" refers to the practice of carrying firearms in plain view in public spaces. Though the majority of states continue to require a permit in order to carry a concealed weapon in public, most states now place few to no restrictions on open carry.³⁰² The lack of restrictions on the open carrying of firearms can be particularly harmful to people of color, suggesting that prohibition or increased regulation of this practice could have a considerable benefit for this disproportionately impacted group.

In recent years, a confrontational open carry movement has generated controversy by encouraging groups of demonstrators to openly tote assault rifles and other weapons in coffee shops, fast food outlets, police stations,

³⁰¹ See 15 U.S.C. § 7903(5)(A)(iii).

³⁰² See "Open Carry," Giffords Law Center to Prevent Gun Violence, <http://lawcenter.giffords.org/gun-laws/policy-areas/guns-in-public/open-carry/>.

and other public places.³⁰³ These efforts understandably alarm and confuse other customers and create particular challenges for law enforcement officers who must respond to 911 calls from concerned citizens about people openly carrying firearms in public. Openly carrying firearms also makes certain situations more dangerous for law enforcement.³⁰⁴ Individuals openly carrying firearms at the Unite the Right rally in Charlottesville, Virginia on August 12, 2017—which culminated in the murder of a counter-protester—unquestionably heightened risks for law enforcement.³⁰⁵

Furthermore, laws permitting the open carrying of firearms can be particularly dangerous for people of color. Open carry has long been used by white supremacists as a means to threaten and intimidate racial and religious minorities.³⁰⁶ During Reconstruction after the Civil War, racist groups used guns to terrify and intimidate newly free African Americans, prompting many Reconstruction state legislatures and military governments to prohibit firearm carrying at political gatherings and public spaces to protect the rights and safety of freed slaves.³⁰⁷ As states have become more permissive of open carry, racist groups have reinstated the practice of using open carry as a means of intimidation.³⁰⁸ In 2017 alone, there were several protests and rallies at which the KKK and other white supremacist groups openly displayed weapons in a show of intimidation.³⁰⁹ The presence of guns at protests is not only dangerous to physical safety—it can have a chilling effect on the exercise of First Amendment speech and erode citizens’ perceptions of safety in public spaces.³¹⁰

Open carry of firearms may also indirectly increase gun homicides, particularly among minorities in urban areas. The practice of open carrying also makes guns susceptible to theft.³¹¹ Many of these weapons will end up in the hands of people who are prohibited from purchasing guns, where they may be used in gun crimes and gun homicides.³¹²

³⁰³ Amy Wang, “Open-Carry Advocates Walked Into a Police Station with a Loaded Rifle. Officers Were Not Amused,” *The Washington Post*, February 7, 2017, <https://www.washingtonpost.com/news/post-nation/wp/2017/02/07/open-carry-advocates-walked-into-a-police-station-with-a-loaded-rifle-officers-were-not-amused/>.

³⁰⁴ Mark Follman, “How Open-Carry Gun Laws Make Mass Shootings Even More Dangerous,” *Mother Jones*, July 8, 2016, <http://www.motherjones.com/politics/2016/07/open-carry-gun-laws-mass-shootings/>.

³⁰⁵ Becca Andrews, “Right-to-Carry Laws Are Making Violent Protests like Charlottesville Even Harder to Defuse,” *Mother Jones*, August 16, 2017, <http://www.motherjones.com/politics/2017/08/right-to-carry-laws-are-making-violent-protests-like-charlottesville-even-harder-to-defuse/#>.

³⁰⁶ “How White Supremacists Exploit the Open Carry Loophole in their Campaign of Intimidation,” Everytown for Gun Safety, August 18, 2017, <https://everytownresearch.org/wp-content/uploads/2017/08/Charlottesville-Open-Carry-Fact-Sheet-8.18.17.pdf>.

³⁰⁷ *Id.*

³⁰⁸ *Id.*

³⁰⁹ *Id.*

³¹⁰ David Frum, “The Chilling Effects of Openly Displayed Firearms,” *The Atlantic*, August 16, 2017, <https://www.theatlantic.com/politics/archive/2017/08/open-carry-laws-mean-charlottesville-could-have-been-graver/537087/>.

³¹¹ Bob Owens, “Open Carrier Robbed Of His Gun In Virginia,” *Bearing Arms*, February 3, 2016, <https://bearingarms.com/bob-o/2016/02/03/open-carrier-robbed-gun-virginia/>.

³¹² Brian Freskos, “Missing Pieces: Gun Theft From Legal Owners is on the Rise, Quietly Fueling Violent Crime Across America,” *The Trace*, November 20, 2017, <https://www.thetrace.org/features/stolen-guns-violent-crime-america/>.

Except for law enforcement and under certain circumstances, such as hunting, there is no reasonable reason for a person to openly carry firearms. However, only California,³¹³ Florida,³¹⁴ Illinois,³¹⁵ New York,³¹⁶ South Carolina,³¹⁷ and the District of Columbia³¹⁸ prohibit the open carry of handguns. Only California,³¹⁹ Florida,³²⁰ Illinois,³²¹ and the District of Columbia³²² prohibit the open carrying of long guns. New Jersey requires a concealed carry license to openly carry a handgun in public.³²³ A Firearms Purchaser Identification Card is all that is required to openly carry a long gun.³²⁴

Recommendation: New Jersey should prohibit the open carrying of handguns and long guns pursuant to certain exceptions such as those in place in California.³²⁵

FIREARM VIOLENCE RESEARCH CENTER

Since 1996, federal funding for firearm violence research through the federal Centers for Disease Control and Prevention has been virtually eliminated by Congress. Because of this lack of federal support, researchers have been able to conduct little firearm violence research. Accordingly, too little is known about firearm violence and its prevention. Additionally, only a small number of trained investigators are available, as a lack of funding has made it difficult to encourage researchers to pursue this area of study. A lack of firearm violence research has also limited the availability of data and research on the impact of gun violence and gun safety laws on particularly impacted and vulnerable groups, such as racial and ethnic minorities and people with serious mental illness. Instituting a firearm violence research center in New Jersey could help to fill this void and promulgate scientific understanding of how vulnerable groups are impacted by gun violence.

The need for more and better research on gun violence has repeatedly been emphasized by a variety of stakeholders, including researchers and policymakers. In 2016, a group of more than 100 medical groups,

³¹³ Cal. Penal Code §§ 26350, 25850.

³¹⁴ Fla. Stat. Ann. § 790.053(1). Florida allows a person who is licensed to carry a concealed firearm to “briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense.” *Id.*

³¹⁵ 720 Ill. Comp. Stat. 5/24-1(a)(10). The Firearm Concealed Carry Act, adopted in 2013, provides that an individual with a license to carry a concealed firearm may carry a loaded or unloaded concealed firearm, fully concealed or partially concealed, on or about his or her person. 430 Ill. Comp. Stat. 66/10(c)(1).

³¹⁶ N.Y. Penal Law § 265.01(1). New York has a permitting system under N.Y. Penal Law § 400.00(2), but does not have a category that allows for a permit to openly carry a handgun.

³¹⁷ South Carolina’s statute criminalizing the carrying of handguns, whether openly or concealed, has no exception for a person carrying openly with a concealed weapons permit. See S.C. Code Ann. § 16-23-20(12). See also S.C. Code Ann. § 23-31-217.

³¹⁸ See D.C. Code § 22-4504.01.

³¹⁹ Cal. Penal Code § 26400(a).

³²⁰ Fla. Stat. Ann. § 790.053(1).

³²¹ 720 Ill. Comp. Stat. 5/24-1(a)(10).

³²² See D.C. Code § 22-4504.01.

³²³ N.J. Rev. Stat. § 2C:39-5(b).

³²⁴ N.J. Rev. Stat. § 2C:58-4(a).

³²⁵ California’s laws on open carry are discussed in detail on the Open Carrying in California page of our website. See, “Open Carrying in California,” Giffords Law Center to Prevent Gun Violence, <http://lawcenter.giffords.org/open-carrying-in-california/>.

including the American Medical Association and the American Pediatric Association, wrote a letter to Congress decrying the lack of research on firearm violence.

When confronted by other major health and social problems, states and the nation have mounted effective responses, coupling an expanded research effort with policy reform in the public's interest. Motor vehicle accidents, cancer, heart disease, and tobacco use are all examples of the benefits of this approach. For example, in the 1960s, federal agencies began conducting research on motor vehicle accidents. Much of this research provided the evidence upon which policies that reduce motor vehicle crashes and fatalities, including child safety-seat use and divided highways, were based. Because of this research and the subsequent policy changes, the number of motor vehicle fatalities per mile driven has declined by more than 80% since the 1950s.

The federal government's failure to adequately respond to the problem of gun violence has left a major gap that must be filled by other sources. In 2016, California attempted to fill that gap by establishing the first state-funded firearm violence research center at the University of California, Davis, which became operational on July 4, 2017.

State-funded centers can help to fill the void left by the federal government and provide support for scientific research upon which effective firearm violence prevention efforts can be based. State-funded research centers conduct interdisciplinary research on the causes, consequences, prevention, and treatment of firearm violence. The research conducted by these centers would provide scientific evidence on which sound firearm violence prevention policies and programs can be based. The centers would work on a continuing basis with policymakers in the legislature and relevant state agencies to identify, implement, and evaluate innovative firearm violence prevention policies and programs.

Furthermore, firearm violence research centers could collect needed data about the impact of gun violence and gun safety laws on specific racial groups and vulnerable populations and use this research to guide the implementation of gun violence prevention policies and programs.

Firearm violence research centers would also help to expand the pool of trained gun violence researchers. To help ensure a long-term and successful effort to understand and prevent firearm violence, the center would recruit researchers to work with and join the center. Additionally, the center would provide specialized training opportunities for new researchers, including experienced investigators in related fields who are beginning work on firearm violence, new investigators who have recently completed their education, postdoctoral scholars, doctoral students, and undergraduates.

In 2016, Senate Bill 2830 (Madden and Beach) was introduced in New Jersey to establish a Firearm Violence Research Center at Rutgers University. The research center described in this bill was modeled upon the Firearm Violence Research Center at the University of California, Davis.

Governor Murphy's fiscal year 2019 budget allocates two million dollars to a New Jersey institution of higher education to conduct research on the epidemic of gun violence from a public health perspective.³²⁶ Rutgers is currently considered the top contender to receive this funding.³²⁷

Recommendation: To ensure the most effective use of these newly allocated funds, New Jersey should follow California's lead and establish a designated firearm violence research center. The creation of a center would help to institutionalize research collaboration and train a new generation of researchers to continue gun violence research. Additionally, New Jersey's firearm violence research center should include as a focus research on the disproportionate impact of gun violence on vulnerable populations.

³²⁶ Bonnie Watson and William Castner, "Congresswoman: What NJ is Doing on Guns. And 5 More Things We Can Do," NJ.com, June 2, 2018, https://www.nj.com/opinion/index.ssf/2018/06/congresswoman_what_nj_is_doing_on_guns.html.

³²⁷ Lilo H. Stainton, "New Jersey Looks to California for Gun-Violence Research Model," *NJ Spotlight*, April 3, 2018, <http://www.njspotlight.com/stories/18/04/02/new-jersey-looks-to-california-for-gun-violence-research-model/>.

CONCLUSION

Gun violence exacts an enormous toll on the state of New Jersey. However, the burden of this epidemic is not distributed evenly among all residents of the state—racial and ethnic minorities, persons with mental illness, children, young adults, and the elderly disproportionately experience the effects of gun violence and merit particular attention when implementing policies or programs to address this issue. The consequences of this disparate burden are far reaching, with devastating social and economic effects that reach far beyond the physical toll of gun violence.

Fortunately, the state of New Jersey has a variety of policy options to combat the epidemic of gun violence. Although New Jersey's strong gun safety laws have had lifesaving impacts, more can and should be done to prevent gun violence in the state. This report outlines several effective steps that policymakers can take right now to help save more lives from gun violence, and there is strong research evidence indicating that these programs and policies would specifically reduce gun violence in New Jersey's most impacted communities.

In particular, encouraging the development of smart guns and implementing safe storage and child access prevention laws could help to reduce unauthorized firearm access and gun thefts, which could result in gun violence reductions for all of the identified vulnerable groups. Additionally, investing in implementation of New Jersey's extreme risk protection order law could help to drastically reduce the firearm suicide rate in New Jersey, which would have substantial benefits for people with mental illness, young adults, and the elderly.

Furthermore, evidence-based violence prevention and intervention programs have proven incredibly effective in reducing gun violence plaguing racial and ethnic minorities in underserved communities, and state-level funding of these programs helps to maximize their success. When these programs are complemented by laws that help disrupt the flow of guns from the legal to illegal markets and divert guns from criminal use, such as gun dealer and unsafe handgun regulations, meaningful reductions in homicides among people of color can be further amplified.

Finally, government-funded research can help to augment knowledge about gun violence and gun safety laws, which will allow policymakers to implement the policies that can best reduce the disparate burden of gun violence on vulnerable groups.

These recommendations provide a strategy for reducing gun violence among disproportionately affected populations and better protecting all New Jersey residents from the substantial physical, emotional, and financial toll of gun violence. Lawmakers should act now to implement these lifesaving policies.