

MEMO –Firearms Safety & Gun Violence Prevention Policy & Practical Options
Prepared for CALPHO Subcommittee “Exploring our Options” Meetings on August 17, 2018
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The purpose of this memo is to summarize information about firearms safety and community gun violence prevention policy and practice options in two major areas that affect public health in Colorado:

1. Community and officer firearms safety
2. Suicide prevention and firearms as a deadly means

The memo follows up on discussions by a small group of local public health directors delegated by the Colorado Association of Local Public Health Officials (CALPHO) to explore and report back to CALPHO members on an appropriate role for Public Health in legislation addressing gun violence issues, especially in regard to suicide, available policy optionsⁱ, and stakeholder views about those options. CALPHO greatly values the opportunity to participate with you to discuss a range of firearms safety policy options and learn about your opinions. Ideas presented in this memo should not be interpreted as a policy statements by CALPHO nor are they presented in a specific order. This memo also identifies gaps in current Colorado law. Additional policy options for firearms safety not presented in this memo and suggestions are welcome and will be explored, with your collaboration, as thoroughly as possible from a statewide local public health perspective.

Public Health Issue and Methodologies: Each year, more than 32,000 Americans die by firearms and more than 70,000 are wounded, representing a volume of preventable deaths and injuries that the U.S. government described in 2013 as a "public health crisis."ⁱⁱ School [or community] gun violence events, such as Sandy Hook Elementary, Marjorie Stoneman Douglas High School, San Bernardino Public Health Department and, in the local area, events such as the tragic loss of Douglas County Deputy Zackari Parrish, the Aurora theater shootings, and the Columbine High School mass shooting occur periodically, “galvanizing public reaction and bringing forth a collective call for intervention. Public health methodologies such as epidemiological analyses can show how these rare, but uniquely compelling, incidents fit within broader national patterns of gun violence” and help to inform the selection of a balanced, comprehensive set of effective [policies and/or programs] to address the daily death toll from firearm suicides and "targeted" firearm homicides that, as of 2013, accounted for more than 99% of firearm fatalities; as well as the rare, random, and sporadic rampage shootings in school or community settings.ⁱⁱⁱ In Colorado 78% of firearms deaths are suicides according to the Colorado Department of Public Health and Environment and nearly half of all Colorado suicides involve use of a firearm.^{iv}

1. Policy Option – Extreme Risk Protection Order (ERPO)

Description – Establishes a legal mechanism for families, household members, law enforcement, or certain health or mental health workers to petition a court to prevent access to, or require relinquishment of, firearms by people at risk for gun violence against themselves or others.

As illustrated in the map below, who can request an ERPO varies in states where enacted:

Family or household member – CA, MD, OR, WA

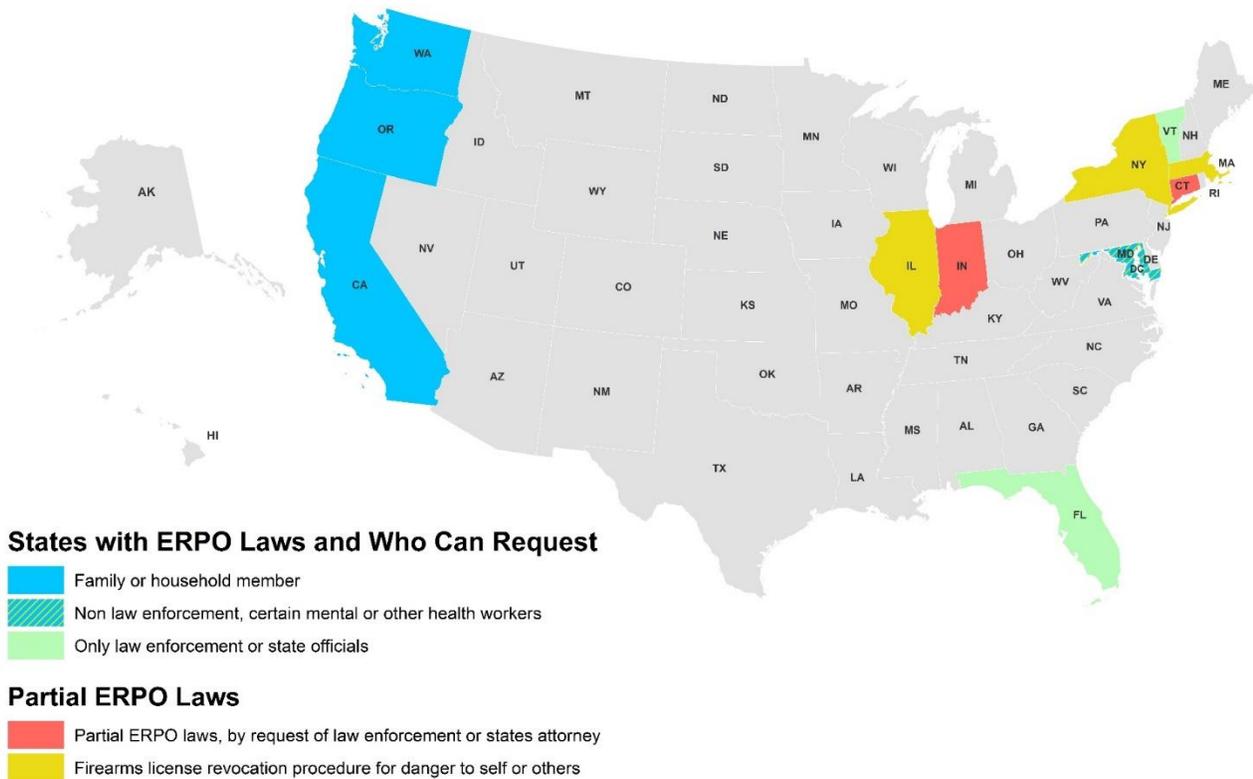
Non law enforcement, certain mental or other health workers – MD

Only law enforcement or state officials – FL, VT

Limited Firearm Removal Laws, by law enforcement or states attorney – CT, IN

Firearms License Revocation Procedure for Danger to Self or Others – IL, MA, NY

Extreme Risk Protection Orders – State Laws



(Map produced by TCHD, Legal information source: Giffords Law Center to Prevent Gun Violence)

Research Evidence - People engaging in certain behaviors, such as violence, self-harm, or ongoing abuse of drugs or alcohol, are significantly more likely to commit a violent act toward themselves or others in the near future.^v These behaviors more strongly predict future violence than mental illness.^{vi} (See also this FBI report: <https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf/view>). In an August 2016 study of Connecticut’s partial ERPO law, temporary removal of weapons from 762 at-risk people averted up to 100 suicide fatalities.^{vii} More recently, an August 2018 study of effects of both Connecticut’s and Indiana’s risk-based firearms seizure partial ERPO laws concluded that both were associated with reduced population-level firearm suicide rates, although Connecticut’s estimated reduction in suicides was offset by increased non-firearm suicides.^{viii} Eighty percent of people considering suicide give some sign of their intentions^{ix} and 38 out of 62 mass shooters in the last 20 years reportedly displayed signs of dangerous mental health problems prior to the killings.^x

Colorado Law Gap – No current Colorado ERPO law; Colorado does have 72-hour mental health hold law
Public Opinion – Nationally 72% of the public and 64% of gun owners support ERPO (2015 Johns Hopkins Poll)
Current Colorado Supporters – Metro Denver law enforcement and district attorneys, Mental Health Colorado, Colorado Ceasefire

2. Policy Option – Gun Purchase Waiting Periods, Explicit or Implicit

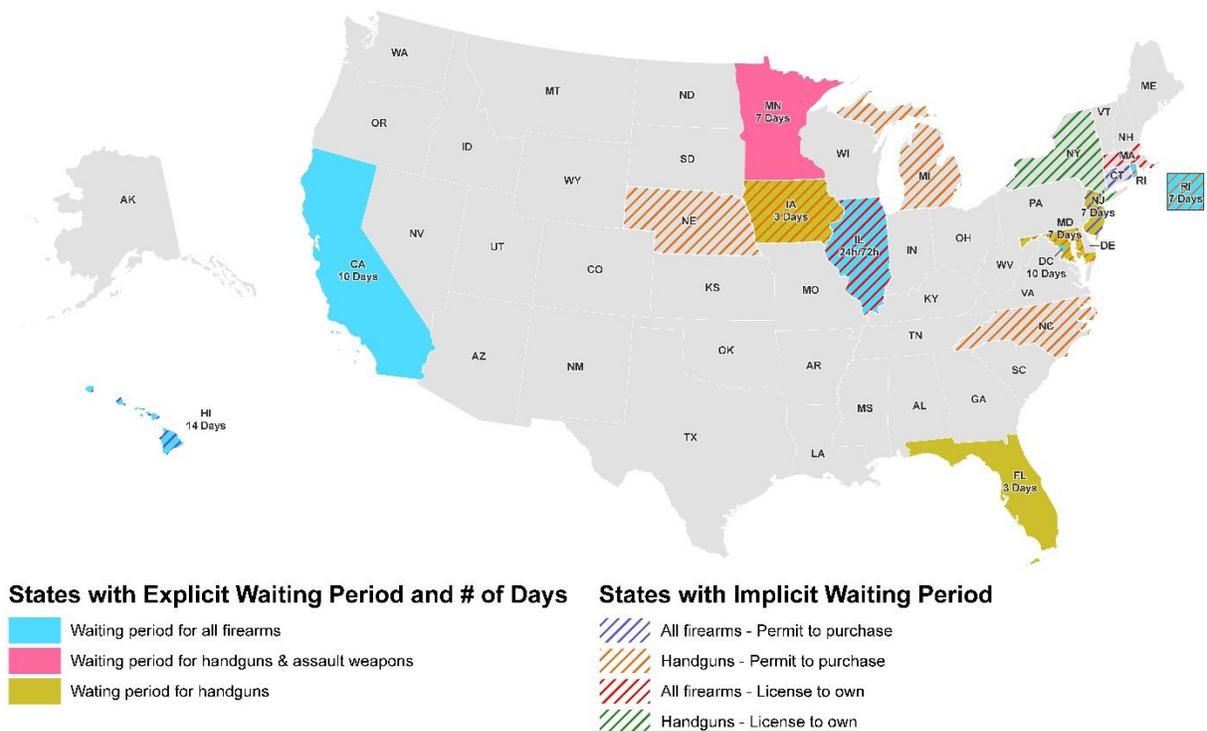
Description – Express or explicit gun purchase waiting period laws require a certain number of days (typically 3 to 14) to elapse between a firearm purchase and when the buyer may take possession of the firearm. An implicit waiting period may be created, for example, when the law requires gun buyers to obtain a license or permit, or to complete safety training before purchasing a gun. Waiting periods may allow for “cooling off” to mitigate against impulsive violent acts and may give law enforcement sufficient time for a thorough background check before a purchaser takes possession of a firearm.

Research Evidence –

Suicides - States with waiting periods had 51% fewer firearm suicides and a 27% lower overall suicide rate than states without such laws according to research published in the *American Journal of Public Health*.^{xi} After South Dakota repealed its 48-hour waiting period in 2009, suicides in the state increased by 7.6% the following year.^{xii} Most suicide survivors contemplated their actions for only a brief period of time—often less than 24 hours—before making a suicide attempt.^{xiii} The impulsive nature of suicide makes immediate access to firearms a major mortality risk factor that waiting periods can help address.^{xiv} Research has also shown that waiting periods can reduce gun homicides by 17%.^{xv}

Homicides & Community Safety - Combined, states with waiting periods avoid roughly 750 gun homicides per year as a result of having a waiting period policy in place.^{xvi} If all states implemented waiting periods, researchers say, an additional 910 gun homicides could be prevented each year.^{xvii} Each year, over 3,000 ineligible persons receive firearms through the 3-day federal law default provision^{xviii} that allows a dealer to complete a firearm transfer after 3 days if the FBI is unable to complete a background check. For such cases, it takes the FBI an average of 25 days to determine that a purchaser is ineligible to receive firearms.^{xix}

Gun Purchase Waiting Periods – State Laws



(Map produced by TCHD, Legal information source: Giffords Law Center to Prevent Gun Violence)

Currently, as mapped above, four states (CA, HI, IL, RI) and the District of Columbia have an explicit waiting period for all firearms purchases, one state (MN) has an explicit waiting period for handgun and assault weapons purchases, and four states have an explicit waiting period for handgun purchases only (FL, IA, MD, NJ). Thirteen more states have implicit gun purchase waiting periods arising out of mechanisms such as requiring a permit to purchase, or a safety certificate or a license to own a gun (CA^{xx}, CT^{xxi}, HI^{xxii}, IA^{xxiii}, IL^{xxiv}, MD^{xxv}, MA^{xxvi}, MI^{xxvii}, NE^{xxviii}, NJ^{xxix}, NY^{xxx}, NC^{xxxi}, RI^{xxxii}), while the District of Columbia^{xxxiii}, requires registration of all firearms. As an example of requirements that effectively create an implicit waiting period, Hawaii requires handgun permit applicants to complete an approved course that focuses on: (1) the safe use, handling and storage of firearms and firearms safety in the home; and (2) state firearms laws. Hawaii includes firing training as one of several options available to applicants to satisfy the firearms safety training requirement.^{xxxiv}

Note: In some states waiting period exemptions apply, e.g., for law enforcement officers; or waivers can be obtained from police, e.g., if there is a threat to the life of the transferee or a household member.

Colorado Law Gap – No current Colorado express/explicit waiting period law. Colorado does not have an implicit as the state does not require buyers to obtain a license to own or permit to purchase a firearm, or to complete safety training prior to purchasing a firearm.

Public Opinion – Polls show that Americans strongly support waiting periods. A December 2012 poll found that 74% of people without a firearm in the home support a five-day waiting period for the purchase of firearms, while 66% of non-National Rifle Association (NRA) gun-owners and 50% of NRA members support this measure.^{xxxv} Similarly, a survey conducted for the *New England Journal of Medicine* in January 2013 found that 76% of Americans, including 67% of gun owners, support giving law enforcement up to 5 business days, if needed, to complete a background check for gun buyers.^{xxxvi}

Current Colorado Supporters – Unknown

3. Program or Policy Option – Voluntary Gun Buy-Back or Firearms Relinquishment

Description – Establish and fund a program to purchase firearms that gun owners would like to voluntarily sell back to law enforcement to be removed from commerce and destroyed. Provide for voluntary, temporary self-relinquishment of firearms by allowing people who own guns to either: Transfer their guns to a loved one out of their home, request that law enforcement store their guns temporarily, or add their own names to a confidential gun background check database, temporarily, to prevent gun acquisition during a crisis.

Research Evidence –

Voluntary gun buy-back or community relinquishment program or event - [Research found](#) that Australia's 1996 gun law reforms, [including a gun buy back of large numbers of rapid-firing firearms from civilians] were followed by more than a decade free of fatal mass shootings, and accelerated declines in firearm deaths, particularly suicides.^{xxxvii} Total Australian homicide rates for the same period, however, also followed the same declining pattern.

Voluntary firearm relinquishment - States with higher rates of household firearm ownership have significantly higher homicide victimization rates.^{xxxviii} Having a gun in the home is associated with an increased risk of firearm homicide and suicide, regardless of storage practice, type of gun, or number of guns in the home.^{xxxix} Research has also found that living in a home where there are guns increased the risk of suicide by 90 to 460% and the risk

of homicide by 40 to 170%.^{xi} Risk of dying from an unintentional gunshot injury is 3.7 times higher for adults living in homes with guns, especially handguns.^{xii}

Colorado Law Gap – Colorado law has no voluntary gun relinquishment or gun buy-back provisions or program but does provide for mandatory gun relinquishment for certain domestic violence offenders. Colorado judges have issued 69,054 *gun relinquishment* orders since 2013 according to an open records request [by 9news](#) but the current law is not working to prevent domestic violence. Federal Law, [18 U.S.C. § 922](#), prohibits gun possession, transport, shipment in or affecting interstate commerce; or receipt of a firearm or ammunition shipped in interstate or foreign commerce by adjudicated “mental defective,” involuntarily committed, felons, domestic violence misdemeanants, people with substance use disorders, and some others.

Public Opinion – Polls not found

Current Colorado Supporters – Unknown

4. Other Gaps in Colorado Law- Current Colorado firearms safety and gun violence prevention laws have the following gaps. This list may not be complete but provides a starting point for further consideration.

- No safe storage law (though federal law applies to handgun sales and requires locking device by dealers);
- [No state license](#) for gun dealers; (affects state enforcement capability, although federal license required)
- [No mandated reporting](#) of lost or stolen firearms;
- No Colorado law prohibits firearms purchase or possession after a 72-hour mental health hold expires, even if due process determines that a person poses a danger to the community or themselves;
- Three gaps in purchase/possession prohibitions; no Colorado law prohibits gun possession or requires gun relinquishment by:
 - People convicted of violent misdemeanors unrelated to domestic violence,
 - People with two or more DWIs or DUIs in a 5-year period,
 - People with two or more controlled substance misdemeanors in a 5-year period.
- No prohibition of bump stocks.

5. Other Policy Options- This memo was drafted to provide an overview of firearm safety and gun violence prevention policy options primarily responding to suicides as the largest group of Colorado firearm deaths. Many additional policy options for firearms safety and gun violence prevention exist. Additional suggestions are welcome and can be more fully briefed, including thoughts about the political landscape for policy adoption.

ⁱ The author would like to acknowledge that much of the information in this memo about policy options and research about their effectiveness derives from materials collected by the Giffords Law Center to Prevent Gun Violence.

ⁱⁱ [Shultz JM](#)¹, [Cohen AM](#)², [Muschert GW](#)³, [Flores de Apodaca R](#) “Fatal school shootings and the epidemiological context of firearm mortality in the United States”. [Disaster Health](#). 2013 Apr 1;1(2):84-101. doi: 10.4161/dish.26897. eCollection 2013 Apr-Dec.

ⁱⁱⁱ [Shultz JM](#), Id.

^{iv} Office of Suicide Prevention Annual Report – Suicide in Colorado, 2016-2017. Accessed 8-15-18 at:

https://www.colorado.gov/pacific/sites/default/files/PW_ISVP_OSP-2016-2017-Legislative-Report.pdf

Citing Violent Death Reporting System, Colorado Department of Public Health and Environment, 2010-2015.

- ^v James Silver, Andre Simons, and Sarah Craun, “A Study of the Pre-Attack Behaviors of Active Shooters in the United States,” Federal Bureau of Investigation, June 2018, <https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf/view>
- ^{vi} Consortium for Risk-Based Firearms Policy, *Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy* 7–8, 22 (Dec. 2013), at <http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/GPHMI-State.pdf>.
- ^{vii} Swanson, Jeffrey W. and Norko, Michael and Lin, Hsiu-Ju and Alanis-Hirsch, Kelly and Frisman, Linda and Baranoski, Madelon and Easter, Michele and Robertson, Allison G. and Swartz, Marvin and Bonnie, Richard J., “Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides?” (August 24, 2016). *Law and Contemporary Problems*. Available at SSRN: <https://ssrn.com/abstract=2828847>
- ^{viii} Kivisto, AJ, Phalen, PL. “Effects of Risk-Based Firearm Seizure Laws in Connecticut and Indiana on Suicide Rates, 1981-2015.” *Psychiatric Services* (August 2018); 69:855-862; doi: 10.1176/appi.ps.201700250.
- ^{ix} Mental Health America, Suicide, at <http://www.mentalhealthamerica.net/suicide>
- ^x Mark Folman, *Mother Jones*, “Mass Shootings: Maybe What We Need Is a Better Mental-Health Policy,” Nov. 9, 2012, at <https://www.motherjones.com/politics/2012/11/jared-loughner-mass-shootings-mental-illness>.
- ^{xi} Michael D. Anestis and Joye C. Anestis, “Suicide Rates and State Laws Regulating Access and Exposure to Handguns,” *Am. J of Pub. Health* 105 no. 10, (2015): 2049-58, at <https://www.ncbi.nlm.nih.gov/pubmed/26270305>.
- ^{xii} Anestis, Id.
- ^{xiii} C. Williams et al., “Impulsive Suicidal Behavior,” *J Clin Psychol.* 36 no. 1, (1980): 90-94, at [http://onlinelibrary.wiley.com/doi/10.1002/1097-4679\(198001\)36:1%3C90::AID-JCLP2270360104%3E3.0.CO;2-F/abstract](http://onlinelibrary.wiley.com/doi/10.1002/1097-4679(198001)36:1%3C90::AID-JCLP2270360104%3E3.0.CO;2-F/abstract);
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- ^{xiv} Michael D. Anestis, Joye C. Anestis, Sarah E. Butterworth, “Handgun Legislation and Changes in Statewide Overall Suicide Rates”, *American Journal of Public Health* 107, no. 4 (April 1, 2017): pp. 579-581. OI: 10.2105/AJPH.2016.303650, at: <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2016.303650>; Crifasi, C. et al. “Effects of changes in permit-to-purchase handgun laws in Connecticut and Missouri on suicide rates.” *Preventive Medicine* 79 (2015) 43–49.
- ^{xv} Michael Luca, Deepak Malhotra, and Christopher Poliquin, “Handgun Waiting Periods Reduce Gun Deaths,” *PNAS* (2017): 1-4
- ^{xvi} Luca, Id.
- ^{xvii} Luca, Id.
- ^{xviii} According to the FBI, 3,722 ineligible persons receive firearms through the default proceed provision in 2012. Criminal Justice Information Services Division of the Federal Bureau of Investigation, U.S. Dep’t of Justice, *National Instant Criminal Background Check System (NICS) Operations 2012*, at <http://www.fbi.gov/about-us/cjis/nics/reports/2012-operations-report>. In 2013, this figure was 3,375. Criminal Justice Information Services Division of the Federal Bureau of Investigation, U.S. Dep’t of Justice, *National Instant Criminal Background Check System (NICS) Operations 2013*, at <https://archives.fbi.gov/archives/about-us/cjis/nics/reports/2013-operations-report>.
- ^{xix} U.S. General Accounting Office, *Gun Control: Implementation of the National Instant Criminal Background Check System* 13 (Feb. 2000), at <http://www.gao.gov/new.items/g100064.pdf>
- ^{xx} Cal. Penal Code §§ 16370, 16670, 26840-26859, 31610-31700
- ^{xxi} Conn. Gen. Stat. §§ 29-33, 29-36f – 29-36i, 29-37a, 29-38g – 29-38j
- ^{xxii} Haw. Rev. Stat. Ann. §§ 134-2, 134-13. Hawaii also requires registration of all firearms.
- ^{xxiii} Iowa Code §§ 724.15 – 724.20
- ^{xxiv} 430 Ill. Comp. Stat. 65/1 – 65/15a
- ^{xxv} Md. Code Ann. Pub. Safety § 5-117.1. 2013 Md. SB 281 (2013)
- ^{xxvi} Mass. Gen. Laws Chapter 140, §§ 121, 129B, 129C, 131, 131A, 131E, 131P
- ^{xxvii} Mich. Comp. Laws §§ 28.422, 28.422a
- ^{xxviii} Neb. Rev. Stat. Ann. §§ 69-2404, 69-2407, 69-2409
- ^{xxix} N.J. Stat. Ann. § 2C:58-3
- ^{xxx} N.Y. Penal Law §§ 400.00 – 400.01
- ^{xxxi} N.C. Gen. Stat. §§ 14-402 – 14-404
- ^{xxxii} R. I. Gen. Laws §§ 11-47-35 – 11-47-35.1
- ^{xxxiii} D. C. Code Ann. §§ 7-2502.01 – 7-2502.10; D.C. Mun. Regs. tit. 24, D.C. Mun. Regs. tit. 24, §§ 2311 – 2320.
- ^{xxxiv} Haw. Rev. Stat. Ann. § 134-2(g)
- ^{xxxv} John Sides, *Gun owners vs. the NRA: What the polling shows*, Wash. Post (Dec. 2012) at <http://www.washingtonpost.com/blogs/wonkblog/wp/2012/12/23/gun-owners-vs-the-nra-what-the-polling-shows>.
- ^{xxxvi} Colleen L. Barry et al., *Perspective: After Newtown—Public Opinion on Gun Policy and Mental Illness*, 368 *New Eng. J. Med.* 1077-1081 (March 21, 2013) at http://www.nejm.org/doi/full/10.1056/NEJMp1300512?query=featured_home&&. See Table 1. Public Support for Gun Policies in 2013, Overall and by Gun-Ownership Status (N=2703).

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^{xxxix} Linda L. Dahlberg et al., *Guns in the Home and Risk of a Violent Death in the Home: Findings from a National Study*, 160 Am. J. Epidemiology 929, 929, 935 (2004).

^{xl} Garen J. Wintemute, *Guns, Fear, the Constitution, and the Public's Health*, 358 New England J. Med. 1421-1424 (April 3, 2008), at <http://content.nejm.org/cgi/content/full/NEJMp0800859>.) Another study in the Annals of Emergency Medicine similarly found that people who keep a gun in their home are almost twice as likely to die in a gun-related homicide and 16 times more likely to use a gun to commit suicide than people without a gun in their home. (Douglas Wiebe, *Homicide and Suicide Risks Associated with Firearms in the Home: A National Case-control Study*, 41 Annals of Emergency Medicine 771 (June 2003).

^{xli} Douglas J. Wiebe, *Firearms in U.S. Homes as a Risk Factor for Unintentional Gunshot Fatality*, 35 Accident Analysis & Prevention 711, 713-14 (2003).