

# Alcohol misuse and gun violence

**AN EVIDENCE-BASED APPROACH  
FOR STATE POLICY**



**Center for  
Gun Violence Solutions**



**CONSORTIUM FOR  
RISK-BASED FIREARM POLICY**

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## About Us

### The Consortium for Risk-Based Firearm Policy

The Consortium for Risk-Based Firearm Policy comprises more than 30 leading experts committed to advancing evidence-based gun violence prevention policies. The Consortium is led by a steering committee of six experienced researchers working on the intersections of gun violence prevention, public health, law, behavioral health, medicine, and criminology.

Since its creation in 2013, it has published six reports offering evidence-based gun violence prevention policy recommendations. In turn, federal and state policymakers have come to rely upon the Consortium's recommendations to craft legislation and executive action and to inform implementation efforts which continue to shape the policy landscape of the gun violence prevention movement.

 [@Consortium\\_RBFP](https://twitter.com/Consortium_RBFP)

 [www.riskbasedfirearmpolicy.org](http://www.riskbasedfirearmpolicy.org)

### The Johns Hopkins Center for Gun Violence Solutions

The Center for Gun Violence Solutions at the Johns Hopkins Bloomberg School of Public Health combines the expertise of highly respected gun violence researchers with the skills of deeply experienced gun violence prevention advocates. The Center uses a public health approach to research and evaluate a range of innovative solutions to gun violence and engage in policy development, advocacy, and community collaboration. Because gun violence disproportionately impacts communities of color, we ground our work in equity and seek insights from those most impacted on appropriate solutions.

Founded at the Bloomberg School in 1995, the former Center for Gun Violence Prevention and Policy has been widely recognized for its high-quality research, analysis, and innovative approaches to prevent gun violence. After merging with the Educational Fund to Stop Gun Violence in 2022, a nonprofit dedicated to advocating for evidence-based solutions to gun violence, the merged Center draws upon decades of experience to make our communities safer and save lives.

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 <https://publichealth.jhu.edu/gun-violence-solutions>

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## Summary of Policy Recommendations



### 1 Limiting access to firearms by persons with a record of alcohol misuse

- 1.1 States should enact laws to temporarily prohibit purchase and possession of firearms by persons convicted of two or more offenses of driving under the influence of alcohol or driving while intoxicated within a five-year period.
- 1.2 States should adopt concealed carry laws to temporarily prohibit anyone with a court record of alcohol misuse within the past five years from receiving a concealed carry license.
- 1.3 States should ensure that alcohol offenses that are firearm prohibitory under state or federal law are entered into the NICS in a timely manner.
- 1.4 States should provide funding for education about the intersection of alcohol-related convictions and gun violence, including courses and materials for different actors involved in the legal system.
- 1.5 Courts should consider evidence of alcohol misuse as a factor when making determinations that affect decisions about firearm prohibitions.



### 2 Limiting access to guns when and where alcohol is consumed

- 2.1 States and cities should prohibit the public carry or possession of firearms in locations where alcohol is consumed on the premises.
- 2.2 States should prohibit individuals from carrying or possessing firearms while intoxicated.

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#### *Additional policy considerations related to the environment where alcohol is sold and consumed*

We recognize that firearm policies work best when accompanied by evidence-based solutions aimed at addressing risks in environments where alcohol is sold and consumed. In this regard, we suggest considering the following policies supported by the Centers for Disease Control and Prevention (CDC) and the Community Preventive Service Task Force (CPSTF):<sup>1</sup>

1. Limiting alcohol outlet density through the use of regulatory authority (licensing and zoning)
2. Limiting the hours and days of sale when alcohol is sold
3. Increasing the price of alcohol by raising taxes

## Introduction

Alcohol use and gun violence are leading causes of preventable injury and death in the United States. Alcohol kills 140,000 people annually;<sup>2</sup> guns kill more than 48,000.<sup>3</sup> Both of them are public health crises demanding strong policies.

These issues are most deadly when they intersect with one another.

**An estimated 1 in 3 gun homicide perpetrators drank heavily before murdering their victims, 30% of gun homicide victims drank heavily before being killed, and a quarter of gun suicide victims were heavily drinking before they died by suicide.**<sup>4,5</sup> Despite alcohol clearly being a strong risk factor for gun violence, few attempts have been made to address this intersection.

In 2013, the Consortium issued its first policy recommendation related to risky alcohol use and firearm access.<sup>1</sup> Five years later, the Consortium convened leading experts to reassess this recommendation about firearm prohibitions associated with DUIs as an effective policy measure to prevent firearm-related deaths while ensuring racial equity in enforcement.

During the COVID-19 pandemic, excessive drinking increased by 21% and alcohol-related deaths increased approximately 25%.<sup>6</sup> At the same time, gun sales increased by 40%, gun homicides by 35%, and gun suicides had the largest one-year increase ever recorded.<sup>7,8</sup>

These alarming trends urge us to think about alcohol misuse as a risk factor for gun violence. To better understand this connection, the Consortium, in partnership with the Center for Gun Violence Solutions, developed this report to highlight the available research to inform policy. As detailed in this report, alcohol misuse is associated with a risk of dangerous firearm behaviors, interpersonal firearm violence, and gun suicide. Although data about how this dangerous intersection affects different communities is limited, people of color are disproportionately affected by both gun violence and alcohol misuse.

This report summarizes the connection between alcohol and firearm use, reviews existing state laws, and makes a core set of recommendations for addressing the problem at the state level:

- 1 Limiting access to firearms by persons with a record of alcohol misuse**
- 2 Limiting access to guns when and where alcohol is consumed**

If these policy recommendations are to be effective, it is also important to address the environment where alcohol is sold and consumed. We therefore consider additional policies known to be effective in reducing excessive alcohol consumption and its related harms. In the last section, the report reviews key legal considerations that can help policymakers successfully implement the policies recommended in the report.

The comprehensive approach of this report highlights the often-unexplored link between alcohol and gun violence. It is intended to become an essential resource for researchers, practitioners, policymakers, law enforcement professionals, and others working to reduce gun violence.

*Heavy drinking was involved in:*



**Nearly one third of all gun homicides**



**A quarter of all gun suicides**

i Appendix 1 outlines the recommendations made by the Consortium in 2013



## Alcohol Misuse as a Risk Factor for Gun Violence

Alcohol misuse and gun violence affect the health and well-being of individuals and their communities. Both pose unique challenges and are leading causes of preventable injury and death in the United States.

In 2021, nearly 49,000 people in the United States were killed by guns.<sup>9</sup> This equates to more than 130 people dying from gun violence daily—and nearly 200 more non-fatal firearm injuries are treated in hospital emergency departments every day.<sup>10</sup> Similarly, excessive alcohol use caused more than 140,000 deaths in the United States each year during 2015–2019, or more than 380 people dying from excessive alcohol use every day.<sup>11</sup>

Among high-income countries, the United States is an outlier in terms of gun violence and civilian gun ownership.<sup>12,13</sup> Four in 10 adults in the country report living in a household with a gun, including 30% who say they personally own one.<sup>14</sup> Additionally, gun sales estimates increased by 40% during the COVID-19 pandemic when compared to previous years, and millions of these new purchases were by first-time gun buyers.<sup>15,16</sup>

Each year, millions of violent crimes are perpetrated in which the victim perceives the offender to be under the influence of alcohol at the time of the offense.<sup>17</sup> The disinhibition and diminished cognitive capacity attributable to alcohol increases the risk of violence in multiple ways.<sup>18</sup> The combination of disinhibition and excitability can quickly lead to violent and aggressive behavior. Therefore, alcohol misuse is strongly associated with violent crimes and domestic violence.<sup>19</sup>

The intersection of alcohol misuse and guns is particularly dangerous. Specifically, alcohol misuse is a risk factor for all forms of gun violence.<sup>20,21,22</sup> Studies show that as many as 34% of firearm homicide perpetrators, 30% of firearm homicide victims, and 25% of firearm suicide victims engaged in “heavy alcohol use” prior to death.<sup>23, 24</sup>

Alcohol consumption in the United States is widespread. Most of U.S. adults drink alcohol, and millions drink heavily without engaging in firearm violence. Alcohol consumption is a contributing factor that increases the risk of firearm violence on a population level.<sup>25</sup>

Alcohol misuse is associated with increased risk of gun violence. In fact, gun owners are more likely to misuse alcohol than those who don’t own guns.<sup>26</sup> And this problem is pervasive—**over 15 million gun owners are estimated to binge drink or drink heavily in any given month.**<sup>27</sup> Furthermore, gun owners who misuse alcohol are more likely to carry their firearms in public.<sup>28</sup> In addition, there is a demonstrated link between alcohol misuse and the likelihood of:

- **Exhibiting risky firearm behavior (e.g., carrying guns in public, threatening with a gun, and unsafely storing guns)**
- **Engaging in interpersonal firearm violence**
- **Dying by gun suicide**

The Consortium uses the term *alcohol misuse* to refer collectively to excessive use, abuse, and dependence, which have distinct definitions.



## Alcohol misuse and exhibiting risky firearm behaviors

Gun owners who misuse alcohol are more likely to engage in risky gun behavior including making violent threats with a firearm and unsafely storing their guns. A large body of research, from both epidemiology and neuroscience, has established a link between chronic alcohol misuse and increased risk of aggression.<sup>29</sup> Research also finds that alcohol misuse is associated with a combination of aggression and firearm use.<sup>30</sup> A 2015 paper by Swanson and colleagues showed that individuals who met the criteria for alcohol or illicit drug abuse or dependence disorders were over **2.4 times as likely to report impulsive angry behavior and to carry guns in public** compared to those who did not misuse alcohol or illicit substances.<sup>31</sup> A similar 2008 study found that those who reported threatening others with a firearm were approximately three times as likely to meet the DSM-IV criteria for alcohol abuse or dependence compared to those who did not make threats with a firearm.<sup>32</sup> Even after controlling for a wide range of mental disorders, alcohol abuse or dependence was associated with an increased likelihood of threatening others with a firearm.<sup>33</sup>

The phrase “alcohol abuse” has been widely used in the clinical literature to refer to unhealthy or dangerous behaviors associated with alcohol use. However, contemporary clinicians and researchers increasingly prefer to use the clinical terminology now endorsed by the American Psychiatric Association, “Alcohol Use Disorder” (AUD), which is defined as “a chronic relapsing brain disorder characterized by an impaired ability to stop or control alcohol use despite adverse social, occupational, or health consequences.”<sup>34</sup>



Alcohol misuse is also associated with unsafe gun storage practices. A 2001 study of gun storage practices in rural Iowa found that guns were **twice as likely to be stored unlocked and loaded in households with people who reported abusing alcohol**.<sup>35</sup> More recently, a 2019 study in Washington found that in households with children, firearms were 20% more likely to be stored unsafely (not locked or stored loaded) when the adult reported chronic alcohol use or binge drinking.<sup>36</sup> Gun owners who misuse alcohol have also been shown to be less likely to change unsafe gun storage practices over time as they raise children in their home compared to gun owners that do not misuse alcohol and have children.<sup>37</sup>

### *Binge Drinking and Heavy Alcohol Use*

**Binge drinking**, as defined by The National Institute on Alcohol Abuse and Alcoholism, is a pattern of alcohol consumption yielding a blood alcohol concentration (BAC) level of 0.08 g/dL; approximately four drinks for women and five drinks for men over the course of two hours.<sup>38</sup>

**Heavy alcohol use** is defined by the Substance Abuse and Mental Health Services Administration (SAMHSA) as “binge drinking on five or more days in the past month.”

## Alcohol misuse and interpersonal firearm violence

There is compelling evidence linking alcohol misuse to an increased risk of perpetrating interpersonal gun violence among legal gun owners. A series of studies from the Violence Prevention Research Program at the University of California, Davis, found that among legal gun owners, alcohol misuse (as measured through DUI and other alcohol-related convictions) increases the risk of interpersonal gun violence including intimate partner violence.<sup>39</sup>

These studies use documented alcohol-related convictions as a proxy for alcohol misuse rather than relying on self-reported survey data on alcohol use. This proxy captures individuals who have exhibited highly risky alcohol misuse behaviors. These studies are particularly relevant considering that based on national estimates, on average, a person arrested for DUI has driven while intoxicated 80 times before their first arrest.<sup>40</sup> In fact, approximately 90% of individuals arrested for two DUIs meet the clinical definition for alcohol abuse or dependence.<sup>41,42</sup>

The UC Davis team published three studies examining handgun purchase records and alcohol-related charges in California. These are their main findings:

➤ *Alcohol misuse was a strong predictor of future violence*

Their first study analyzed gun purchase data and arrest records of over 4,000 Californians who purchased handguns in 1977. Arrest records prior to purchasing a firearm were obtained, and the study population was divided into two groups: those with a prior conviction for an alcohol-related crime and those with no prior criminal history. The study team then tracked arrest records of both groups from 1977 through 1999. One-third (32.8%) of handgun purchasers with prior alcohol-related convictions were subsequently arrested for a violent or firearm-related crime compared to 5.7% of those with no prior criminal history. After controlling for sociodemographic variables, individuals with a prior alcohol-related conviction had 4.2 times higher risk for violent or gun-related crimes compared to those gun purchasers with no prior criminal history. The authors found that alcohol misuse, as defined by alcohol-related convictions, was a better predictor of future violence than other risk factors including age, sex, and even a criminal history of violence.<sup>43</sup>

Individuals with a prior alcohol-related conviction had 4.2 times higher risk for violent or gun-related crimes compared to those gun purchasers with no prior criminal history.

➤ *A prior DUI was associated with an increase in the risk for firearm-related violent crime*

A 2019 study included a larger and updated analysis of legal handgun purchase data in California—all legal handgun purchasers in 2001 aged 21 to 49 years, almost 80,000 people. Of those purchasers, 1,495 had DUI convictions prior to purchasing a gun in 2001. Among those with prior DUI convictions, 8.8% were subsequently arrested for violent crimes from 2001 to 2013 compared to 1.8% of individuals with no prior criminal history. A multivariable analysis which controlled for a wide range of factors found that a prior DUI was associated with a 2.8 increase in the risk of arrest for firearm-related violent crime and a 3.3 increase in any type of criminal arrest.<sup>44</sup>

➤ *Purchasers with a prior DUI had an increased risk of an intimate partner violence arrest or charge compared to those without any criminal history*

There is also a strong link between alcohol misuse and an increased risk of intimate partner violence. UC Davis researchers investigated this link by using the 2001 gun purchaser dataset previously mentioned to examine gun purchasers with DUI convictions and their risk of committing intimate partner violence (IPV). The authors found that IPV was the most common offense among individuals with a DUI conviction prior to purchasing a firearm in 2001; 6% were subsequently arrested for an intimate partner offense compared to 1% of individuals with no prior DUI conviction. A multivariable analysis found a 2.7 fold increase in the risk of an IPV arrest among purchasers with a prior DUI compared to those without a DUI conviction.<sup>45</sup>

These findings are supported by a robust body of research evidence showing a strong association between alcohol intoxication and IPV specifically, and violent crime in general.<sup>46</sup> A study examining the criminal records of repeat DUI offenders in a treatment program found that 40% had committed other crimes against persons or property before entering the program.<sup>47</sup>

## Alcohol misuse and gun suicide

Studies suggest that the probability of being a victim of an intentional self-inflicted firearm injury or suicide was 4 to 6 times greater after consuming alcohol.<sup>48</sup> Consuming alcohol is considered a proximal risk factor for suicidal behavior due to its variety of effects on the body, including affecting behaviors and moods.<sup>49</sup> Alcohol intoxication can increase the risk of suicide by intensifying depressed mood, psychological distress, and feelings of hopelessness while simultaneously heightening impulsivity, decreasing inhibitions, and reducing the ability to think rationally, impairing judgment about the long-term consequences of one's actions.<sup>50,51</sup> The intersection of these risks may result in deadly consequences, especially when a firearm is involved.

Alcohol use is significantly associated with the use of a firearm as a suicide method, with the strongest association for heavy alcohol users. When compared to nondrinkers, heavy drinkers are significantly more likely to use firearms over other suicide means.<sup>52</sup> On average, 35% of U.S. firearm suicide decedents consumed alcohol prior to their death and 25% drank heavily prior to their death.<sup>53</sup>

On average, 35% of U.S. firearm suicide decedents consumed alcohol prior to their death and 25% drank heavily prior to their death.

The relationship between alcohol misuse and increased risk of gun suicide has been thoroughly established in the literature.<sup>54,55</sup> Research has found that chronic alcohol misuse is associated with suicide, yet few studies have connected it to firearm suicide specifically. One such study that aims to fill this research gap was conducted in 2021 by the gun violence prevention research team at UC Davis. This study examined whether a history of alcohol offenses was associated with an increased risk of gun suicide among gun owners in California. The research team used a dataset and methods similar to those used in the research they conducted on alcohol offenses and interpersonal violence (outlined in the section above), analyzing criminal justice records of over 100,000 men who purchased a gun in 2001 in California. Their findings showed that individuals with an alcohol-related charge prior to purchasing a gun in 2001 were 2.2 times as likely to die by gun suicide when compared to those without any prior charges. The authors also found that the risk for suicide was highest among those with more than one alcohol-related charge.<sup>56</sup>

## Research on alcohol misuse and gun violence to inform risk-based policy

**Taken as a whole, this research indicates that gun owners misuse alcohol at higher rates than non-gun owners; it illustrates that alcohol misuse is associated with dangerous gun behaviors, like making threats with a gun or leaving firearms accessible to children; and it demonstrates that alcohol misuse, as documented from an alcohol-related offense, is a risk factor for future interpersonal and self-directed violence.**

While the research, to date, does not establish a causal link between alcohol misuse and gun violence, it does consistently show that alcohol misuse is a strong risk factor for violence, and that the combination of gun access and alcohol misuse is often deadly.

This evidence also illustrates that to address this dangerous intersection, there are clear policy options that can be implemented based on the intersection of alcohol misuse and gun violence. For example, firearm laws can be designed to prevent individuals who chronically misuse alcohol from purchasing, possessing, or carrying firearms. Despite the evidence, few states have laws with clear language that is conducive to enforcement. As a result, policy evaluations are scarce. The few relevant policy studies to date, however, suggest promising results:

- Female firearm homicide was 19% lower in the five states (Connecticut, Indiana, Massachusetts, New York, and Oklahoma) with DUI penalties that activate federal firearm prohibitions after one or two DUI convictions compared to states without such laws.<sup>57</sup>
- Researchers used statistical modeling to examine the effect on gun violence of a hypothetical law prohibiting individuals with an alcohol-related misdemeanor from purchasing a firearm for five years. They found that this policy would be associated with small reductions in overall firearm suicide and homicide rates and larger reductions among those charged with an alcohol-related misdemeanor.<sup>58</sup>



## Disproportionate Impacts

Alcohol misuse, like gun violence, is a public health epidemic in the United States, and the problem is worsening. The burden of these compounding crises is not distributed equally. They disproportionately affect the health and well-being of people of color and their communities.

Social determinants of health such as poverty, unequal access to health care, lack of education, stigma, and racism are underlying, contributing factors of health inequities.<sup>59</sup> A list of individual, family, community, and social risk factors for violent crime compiled by the CDC and based on the best available evidence does not include race or ethnicity. However, people of color are more likely to experience housing instability, high rates of unemployment, inadequate social services, and poverty<sup>60</sup> and consequently are disproportionately impacted by interpersonal gun violence.

The harms brought by these racial disparities present a troubling paradox. Alcohol consumption, gun ownership, and gun violence vary greatly by race and ethnicity. Data shows that alcohol consumption (all use, binge, and heavy use) is most prevalent for white people (see table) and gun ownership is most common among adult white males. However, people of color and their communities are disproportionately impacted by the outcomes of alcohol misuse and interpersonal gun violence.

2019 Alcohol Use in Past Month Among Persons Aged 12 or Older <sup>61</sup>			
Race	Any alcohol use	Binge alcohol use <sup>ii</sup>	Heavy alcohol use <sup>iii</sup>
<b>White</b>	56.1%	25%	6.9%
<b>Black or African American</b>	42.8%	22.7%	3.6%
<b>American Indian Alaska Native</b>	32.1%	20.9%	5.4%
<b>Asian, Native Hawaiian, and Other Pacific Islander</b>	41.5%	23.8%	4.1%
<b>Asian</b>	39.3%	13.4%	2.4%
<b>Hispanic/Latino</b>	41.7%	24.2%	4.4%

Black and Hispanic/Latino men are more likely to report dependence symptoms and negative social consequences of drinking even when the rates of alcohol dependence and abuse are roughly comparable, or even greater, among white men. This “alcohol harm paradox” explains that while groups that have been historically marginalized consume less alcohol, they nonetheless experience more alcohol-related problems. For example, while alcohol consumption is most prevalent among white people, Black people were two times more likely, and Latino/Hispanic nearly three times more likely than white people to report DSM-IV<sup>iv</sup> alcohol dependence.<sup>62</sup> This is understood in the context of structural inequities that result in alcohol-related behaviors being more commonly pathologized and criminalized among those groups experiencing long-standing marginalization.

Black and Hispanic/Latino people are also disproportionately affected by gun violence. The same structural factors that lead to the “alcohol harm paradox” contribute to a paradox in gun violence victimization. White people are most likely to own a gun in the U.S. but suffer far lower rates of interpersonal gun violence.<sup>63</sup> According to the CDC, Black people were 14 times, American Indian/Alaska Native 3.5 times, and Latino/Hispanic people were 2.5 times as likely to die by firearm homicide compared to their white counterparts in 2021.<sup>64</sup>

Additional intersectionalities between demographic categories can exacerbate the risks associated with gun violence and alcohol misuse. It is important to recognize how other characteristics like ethnicity, class, gender, sexuality, and skin tone intersect to create unique challenges for different demographic groups.<sup>65</sup>

At the center of these racial disparities is a history of structural inequalities in the U.S., most notably structural racism and discrimination. Residential segregation and community divestment disproportionately affect minoritized racial and ethnic groups, gender identities, and other people with marginalized identities.<sup>66</sup> The evidence shows how these factors increase the harms of alcohol misuse and gun violence and exacerbate racial disparities. They must be adequately addressed to reduce gun violence and promote health equity. Policies which touch on the intersection of firearms and alcohol misuse should be informed by empirical evidence *and* community engagement so they can reduce disparities.

ii The Substance Abuse and Mental Health Services Administration (SAMHSA), which conducts the annual National Survey on Drug Use and Health (NSDUH), defines binge drinking as five or more alcoholic drinks for males or four or more alcoholic drinks for females on the same occasion (i.e., at the same time or within a couple of hours of each other) on at least one day in the past month.

iii SAMHSA defines heavy alcohol use as binge drinking on five or more days in the past month.

iv Diagnostic and Statistical Manual of Mental Disorders



## Alcohol-Related Firearm Laws

Alcohol-related firearm laws vary widely among states. This section provides a general overview of these laws to better explain the current context of firearm prohibitions and to highlight the importance of implementing evidence-based policies to help mitigate the risks associated with the intersection of firearms and alcohol described in the previous section.

Federal law does not directly address risks at the intersection of firearms and alcohol. However, it does prohibit anyone “convicted in any court of a crime punishable by imprisonment for a term exceeding one year” from purchasing or possessing firearms.<sup>67</sup> This “felon-in-possession prohibition” includes state misdemeanor offenses punishable by a term of imprisonment of two years or more.<sup>68</sup> As a result, some state alcohol-related convictions prohibit offenders from purchasing or possessing firearms under federal law.<sup>69</sup>



**To read more about state alcohol-related offenses that would prohibit offenders from purchasing or possessing firearms under federal law, see Appendix 2.**

In contrast to federal law, all states have laws related to the intersection of firearms and alcohol use. Most of these firearm laws fall into four different categories:

- **Firearm purchase, possession, and carrying prohibitions**
- **Firearm permit/license to carry disqualification**
- **Firearm carrying prohibition where alcohol is served**
- **Prohibitions for sellers of firearms**

### Firearm purchase, possession, and carrying prohibitions

State prohibitions on purchase, possession, and carrying of firearms related to alcohol consumption or alcohol misuse vary. For example, seven states prohibit persons who are a “habitual drunkard,” a “habitual or chronic alcoholic,” or “habitually addicted to alcohol” from possessing or carrying a firearm.<sup>70</sup> Proving that a person is a “habitual drunkard” or a “habitual or chronic alcoholic” can be a difficult and fact-specific task and is rarely undertaken by prosecutors or found by the courts.<sup>71</sup> This is likely because statutes fail to provide clear and objective criteria for determining if an individual is a *habitual drunkard*. Additionally, this term does not match any diagnosis about alcohol or drug use, making it stigmatizing and subject to bias.

Some states use objective criteria to prohibit purchase and possession of firearms, like previous convictions for alcohol-related offenses. This is a more effective approach since research evidence suggests that a prior DUI is associated with a 2.8 increase in the risk for firearm-related violent crime.<sup>72</sup> Maryland law, for example, prohibits a person who is a “habitual drunkard” from possessing a regulated firearm and defines “habitual drunkard” to mean a person who has been convicted of driving under the influence of alcohol, driving while impaired by alcohol, or driving while under the influence of drugs and/or alcohol within the past year.<sup>73,74</sup> Pennsylvania and the District of Columbia also prohibit firearm purchase or possession based on convictions for driving under the influence of alcohol.<sup>75</sup> However, firearm prohibitions based on such convictions raise legal and equity concerns that will be discussed further when we consider policy recommendations.

Five states and the District of Columbia prohibit persons who are committed to treatment facilities for alcohol misuse or who receive treatment for alcohol misuse from possessing a firearm.<sup>76</sup> In

Hawaii, for example, any person who “is or has been under treatment or counseling for addiction to, abuse of, or dependence upon ... intoxicating liquor” is prohibited from owning, possessing, or controlling any firearm or ammunition.<sup>77</sup>

Currently, 24 states prohibit the possession or carrying of a firearm, or carrying of a concealed firearm “while the person is under the influence of intoxicating liquor” or their “physical or mental condition is impaired as a result of the introduction of an intoxicating liquor[.]”<sup>78</sup> In Louisiana, for example, an otherwise valid permit to carry a concealed firearm is considered suspended and invalid if the permit holder is under the influence of alcohol.<sup>79</sup>

## Firearm permit/license to carry disqualification

Thirty-five states and the District of Columbia disqualify individuals from obtaining concealed carry permits for alcohol-related reasons.<sup>80</sup> Convictions for driving under the influence are more commonly a disqualifier for concealed weapons permits than for prohibiting purchase and possession. For example, under Illinois law, law enforcement cannot issue a concealed carry license to an applicant with two or more DUI convictions within five years of applying for the license.<sup>81,82</sup> However, that same DUI history would not prohibit someone from purchasing or possessing guns.

In Nevada, a sheriff must deny an application or revoke a permit for a concealed firearm if the sheriff determines that the person “[h]as habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired.” There is a presumption that such a condition exists if, in the past five years, the person has been either convicted of driving under the influence of alcohol or participated in a court-ordered alcohol treatment program.<sup>83</sup> Nevada does not prohibit persons convicted of driving under the influence from purchasing or possessing firearms.<sup>84</sup>

Some states, such as Indiana, disqualify individuals from receiving a concealed weapons permit for broader alcohol-related convictions. The Indiana Superintendent of State Police shall issue a permit to an applicant if, among other qualifications, the individual “is a proper person to be licensed.”<sup>85</sup> A “proper person” is an individual who “does not have a record of being an alcohol or drug abuser.”<sup>86</sup> An “alcohol abuser” is “an individual who has had two or more alcohol-related offenses, any one of which resulted in conviction by a court or treatment in an alcohol abuse facility within three years prior to the date of the application.”<sup>87</sup>

## Firearm carrying prohibition where alcohol is served

Twenty-three states and the District of Columbia prohibit persons from possessing or carrying a firearm in places where alcohol is sold and/or consumed.<sup>88</sup> Some prohibitions apply only to establishments that derive a threshold income from sales of alcohol.<sup>89</sup>

Some states, such as Nebraska, prohibit only carrying concealed firearms.<sup>90</sup> Other states specifically exempt concealed permit holders from the prohibition on carrying guns in bars.<sup>91</sup>

## Prohibitions for sellers of firearms

Seventeen states prohibit firearm sales based on risky alcohol behaviors.<sup>92</sup> For example, Alabama law provides that “no person shall deliver a pistol to any person who he or she has reasonable cause to believe is ... an habitual drunkard[.]”<sup>93</sup> In Pennsylvania, it is unlawful for any person to “knowingly or intentionally sell[], deliver[] or transfer[] a firearm under circumstances intended to provide a firearm to any person, purchaser or transferee” “who has been convicted of driving under the influence of alcohol ... on three or more separate occasions within a five-year period.”<sup>94</sup>



## Policy Recommendations

Considering the intersection between alcohol misuse and firearm violence, the Consortium and the Center for Gun Violence Solutions developed these policy recommendations as potential solutions to mitigate the risks associated with this dangerous intersection.



### 1 Limiting access to firearms by persons with a record of alcohol misuse

- 1.1 States should enact laws to temporarily prohibit purchase and possession of firearms by persons convicted of two or more offenses of driving under the influence of alcohol or related driving impairment offenses within a five-year period.
- 1.2 States should adopt concealed carry laws to temporarily prohibit anyone with a court record of alcohol misuse within the past five years from receiving a concealed carry license.
- 1.3 States should ensure that alcohol offenses that are firearm prohibitory under state or federal law are entered into the NICS in a timely manner.
- 1.4 States should provide funding for education about the intersection of alcohol-related convictions and gun violence, including courses and materials for different actors involved in the legal system.
- 1.5 Courts should consider evidence of alcohol misuse as a factor when making determinations that affect decisions about firearm prohibitions.

#### 1.1 States should enact laws to temporarily prohibit purchase and possession of firearms by persons convicted of two or more offenses of driving under the influence of alcohol or driving while intoxicated within a five-year period.

Most states do not have laws prohibiting individuals who misuse alcohol from purchasing or possessing firearms. States that do often fail to provide clear definitions of who is disqualified, making such policies difficult to enforce.<sup>95</sup> We therefore recommend creating a clear standard prohibiting individuals convicted of two DUI/DWI convictions within a five-year period from possessing or purchasing a firearm for at least five years.

The use of DUIs as criteria to prohibit firearm ownership is justified by research. Data estimates from the CDC and FBI suggest that the average person arrested for DUI has driven while intoxicated 80 times before his or her first arrest.<sup>96, 97</sup> Considering that approximately 90% of individuals arrested for two DUIs meet the clinical definition for alcohol abuse or dependence, this recommendation can minimize risks associated with the intersection of alcohol and firearms.

States should also consider including other driving impairment offenses such as being in physical control of a vehicle while under the influence or intoxicated as firearm prohibitory. Under such laws, providing a clear definition of “driving or being in physical control of a vehicle under the influence or intoxicated” is essential for enforcement.

Enacting state-level firearm prohibitions outlined in this recommendation allows state law enforcement officers, prosecutors, and courts to better enforce state laws without relying on the federal felon in possession prohibition (see *Alcohol Related Firearm Laws* section above).<sup>98</sup>

### **1.2 States should adopt concealed carry laws to temporarily prohibit anyone with a court record of alcohol misuse within the past five years from receiving a concealed carry license.**

We recommend that states enact laws prohibiting issuance of a license to carry a concealed firearm (and requiring revocation of such a license) to persons:

- Convicted of one DUI/DWI offense or a DUI/DWI charge that was pleaded down to a lesser offense
- Ordered to receive involuntary treatment for alcohol misuse or placed under a conservatorship for alcohol misuse
- Convicted of public intoxication
- Convicted of drunk and disorderly conduct or
- Subjected to any other court records including a clear judicial finding documenting a history of alcohol misuse, excluding offenders under 21

Addressing firearm carry licensing is helpful to reduce the risks related to alcohol misuse and firearms. While the use of court records stating that a person has a history of alcohol misuse is an effective criteria for prohibiting concealed carry permits, it is important to note that court records do not include “alcohol misuse” as an offense. Additionally, this recommendation should not include offenses of other alcohol misuse of those under age 21 whose offenses are underage drinking or open container offenses. Underage drinking, while risky behavior, is a relatively common occurrence. 53% of college students aged 18–22 report drinking alcohol in the past month.<sup>99</sup>

### **1.3 States should ensure that alcohol offenses that are firearm prohibitory under state or federal law are entered into the NICS in a timely manner.**

This recommendation is derived from previous Consortium guidelines about general policy reforms in the report “Guns, Public Health, and Mental Illness: An Evidence Based Approach for State Policy.” Successful implementation of any firearm prohibition or expansion of state law depends on states entering all relevant records into the NICS firearm background check system and on all firearm sales requiring a background check.<sup>100</sup>

NICS is the federal background check system that licensed gun dealers must use at the point of sale to verify that the purchaser is not prohibited from purchasing and possessing a gun. The system relies, in part, on input from the states. States submit the names of individuals prohibited from having a gun under federal law to the federal NICS system.

However, reporting by states is voluntary, and many states do not report complete records into NICS. The NICS Indices contains information on individuals who are prohibited from receiving firearms by federal or state law. This database helps ensure that firearms are not sold or transferred to prohibited individuals. The quality and completeness of the NICS databases depend on the information submitted by states. Therefore, it is crucial for states to keep complete records that include alcohol offenses that are firearm prohibitory under state or federal law and update them regularly. When these records are entered, the contributing agency must: ensure information submitted to the NICS Indices is valid and accurate, maintain all source

documentation, update NICS Indices information when necessary, and remove an individual from the NICS Indices if their prohibition is no longer valid.<sup>101</sup>

Even if every record of firearm disqualification from an alcohol-related offense were submitted to NICS, new firearm prohibitions would still not be fully effective without a background check on all gun sales. Current federal law requires a background check when a firearm is purchased from a licensed firearm dealer, but not from a private, unlicensed seller. Although universal background checks are law in some states, they are essential to the effectiveness of this recommendation.<sup>102</sup>

#### **1.4 States should provide funding for education about the intersection of alcohol-related convictions and gun violence, including courses and materials for different actors involved in the legal system.**

Research about the intersection of alcohol and gun violence can be used to inform policy and law enforcement practice, but different actors involved throughout the legal system (e.g., prosecutors and judicial officers) also play an important role that can affect how laws are applied. Funding for education and training options for different actors involved in the legal system is necessary to equip them with resources to better understand the risk of violence associated with alcohol misuse.

Most states require judicial officers, and members of the bar, to complete continuing legal education credits. These program requirements are a good opportunity to provide different education options such as trainings (in person or online) and webinars. Online resources, like those offered by the National Judicial College, are particularly helpful for overburdened courts.

Other valuable options for education are judicial conferences, benchcards, benchbooks, inserts on benchbooks, and information included in state bar association magazines. Judicial conferences typically occur twice a year, and many other conferences are hosted by organizations like the National Council of Juvenile and Family Court Judges. Benchbooks and benchcards can provide judges with useful questions and guidelines to help make decisions related to alcohol misuse as alcohol-related offenses are predictors of future violence.

States should provide funding for different types of education programs and resources. A diversity of options is needed to provide the different actors involved in the legal system with information necessary to their scope of work. For example, prosecutors need to have empirical knowledge about alcohol misuse as a risk factor for gun violence to screen their cases adequately. Trainings for prosecutors could be provided by the National District Attorneys Association or the Association of Prosecuting Attorneys.

#### **1.5 Courts should consider evidence of alcohol misuse as a factor when making determinations that affect decisions about firearm prohibitions.**

When deciding whether to issue a finding that includes a firearm prohibition, judges must evaluate all relevant known risk factors that an individual may pose. The association between alcohol misuse and firearm violence is part of any assessment of an individual's risk of gun violence.

Courts asked to issue civil protection orders such as extreme risk protection orders (ERPOs, also sometimes referred to as "red flag laws") as well as criminal protection orders, should consider evidence of alcohol misuse in relation to firearm prohibitions and orders to surrender firearms. Courts should also consider evidence of alcohol misuse in other relevant cases such as criminal cases involving domestic violence, sexual violence, and stalking in determining whether to prohibit firearm purchase and possession as a condition of pre-trial release, probation, or parole.



## 2 Limiting access to guns when and where alcohol is consumed

- 2.1 States and cities should prohibit the public carry or possession of firearms in locations where alcohol is consumed on the premises.
  - 2.2 States should prohibit individuals from carrying or possessing firearms while intoxicated.
- 

### 2.1 States and cities should prohibit the public carry or possession of firearms in locations where alcohol is consumed on the premises.

We recommend adopting policies that prohibit firearms in locations where alcohol is consumed. Different from most policies addressing alcohol and firearms, these policies are place-based, rather than person-based. Some states already restrict firearm possession in places such as bars where alcohol is sold for on-site consumption. However, existing place-based policies are not restrictive enough. Concealed carry permit holders are often exempt from these laws, allowing contact between intoxicated individuals and firearms. This recommendation is especially timely given the growing number of state laws allowing the carrying of concealed weapons in establishments that serve alcohol.

Alcohol consumption is associated with an increased risk of firearm injury and being in places where alcohol is consumed and firearms are present also increases that risk.<sup>103</sup> We recommend prohibiting carrying and possessing firearms in locations where alcohol is consumed on the premises including, but not limited to, bars, restaurants, sporting arenas, outdoor festivals, and events that serve alcohol.

Currently, about half of states have some level of gun prohibition in bars and restaurants that serve alcohol. A few more states have some limitations that fall short of a prohibition (i.e., allowing, but not requiring, guns to be prohibited in those spaces).

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### 2.2 States should prohibit individuals from carrying or possessing firearms while intoxicated.

Each year, millions of criminal offenses are committed by people under the influence of alcohol.<sup>104</sup> Policy measures that restrict the use of firearms while intoxicated may prevent some violent crimes.

Policies restricting firearm access by people who are intoxicated are one of the most common alcohol policy interventions. However, there are important differences among states on what these restrictions include. We recommend including explicit language that encompasses “accessing, having in their custody or control, receiving, possessing, purchasing or attempting to purchase” firearms as model language for states.

Definitions of intoxication are sometimes provided in statute—a threshold BAC, for instance, but in most states the standard is qualitative and vague. While most states have laws restricting firearm possession by people who are intoxicated, states should consider adding specific criteria for determining intoxication—for example, using a threshold BAC such as the level used in the state’s DUI statute.



## Racial Equity Impact Assessments

The Consortium seeks to develop firearm policy recommendations based on risk of violence. Considering the context and consequences of those risks is also part of the equation that factors into our recommendations. A core component of our public health approach is assessing through research, evaluation, and the best available evidence that programs and policies are effective and strive for equitable outcomes. To achieve this, we use the Racial Equity Impact Assessment (REIA) tool for Gun Violence Prevention to inform our recommendations.<sup>105</sup>

Racial equity impact assessments (REIAs) identify and assess factors bearing on racial equity that should be considered when formulating, drafting, analyzing, or implementing policy.

A racial equity impact analysis can identify potential unintended consequences that could create, perpetuate, or worsen racial inequities, and is an important part of our process.



### REIA of Policy Recommendation 1

The impact of gun violence on people of color and their communities is devastating, but so too is the overreliance on a heavily punitive criminal legal system to prevent gun violence. In this context, racial disparities need to be acknowledged in the criminal legal system. Black males are stopped by police, arrested, denied bail, convicted (perhaps wrongfully), and sentenced at higher rates than their white counterparts.

DUI enforcement can lead to racial disparities. A 15-year analysis of DUI enforcement in California concluded that Hispanic/Latino men were convicted of DUIs at 1.66 times a higher rate than white men.<sup>106</sup> This finding is indicative of a racial disparities in traffic stops, and these disparities are multiplied when subsequent arrests are tied to traffic violations. Any new policy regarding traffic violations should be crafted with careful consideration of the unanticipated consequences they could have for people of color and their communities.

Legislative language can mitigate some of these concerns. For example, alcohol-related firearm laws need to include objective criteria (such as BAC levels) to warrant a charge and avoid the use of subjective criteria or stigmatizing language such as “habitual drunkard.” Clear criteria and protocols for enforcing traffic stops and checkpoints can also reduce officer discretion in traffic stops and thereby reduce the risk of racially biased interventions.

Police departments should require officers to document and record the justification for each traffic stop they conduct. These reports made by officers should be analyzed frequently to ensure that stops are supported by reasonable suspicion or probable cause and are consistent with department policy.<sup>107</sup>

There is a growing push in criminal justice reform to limit police involvement in traffic stops due to its potential racial disparities in enforcement.<sup>108</sup> These efforts include ending pretextual and investigative stops related to minor traffic violations not related to traffic safety.<sup>109</sup> However, driving under the influence of alcohol is one of the biggest traffic safety concerns, as 30% of deaths from traffic accidents involve drunk driving, warranting the involvement of law enforcement agencies.<sup>110</sup>

One of the most used tools for addressing racism within law enforcement agencies is offering implicit bias training. According to a 2019 survey of 150 large police departments, 69% offered some form of implicit bias training. However, evidence that it reduces biases in police activities and interactions with the public is lacking.<sup>111</sup> The only study that rigorously examined the impact of implicit bias training on officer behaviors found no evidence that such training diminished racial disparities in policing.

Limited evidence that implicit bias training affects racially disparate policing by itself has led researchers to recommend pairing this training with other policy changes that can help guide actionable practice.<sup>112</sup> The Council on Criminal Justice Task Force on Policing offers the following examples:<sup>113</sup>

- Providing de-escalation training and training that teaches procedural justice principles, such as treating people neutrally and equitably
- Addressing departmental culture and behavioral norms, as well as dominant cultural norms that perpetuate biases of all kinds
- Addressing inequitable policing practices through focused supervisory oversight
- Reducing the volume of proactive police stops, frisks, and searches of community members
- Exploring reconciliation processes that help officers understand the history of harm that has shaped relationships between police and Black and Brown communities, along with other marginalized populations

Collecting data to assess whether these recommendations are effective at mitigating racial disparities is a high priority for research. Data about traffic stops, administering field sobriety tests, and alcohol-related traffic accidents can be useful to monitor racial disparities in enforcement. Data monitoring should also include court data to identify disparate racial outcomes for case dismissals and ensure adequate racial and ethnic representation on juries.<sup>114</sup>

Data are needed not just to measure outcomes, but also to signify the importance of reducing race disparities in policing and law enforcement. Making empirical, evidence-based information available about the risks of alcohol misuse and gun violence can help minimize the individual, social, family, and community risk factors for potential victims of gun violence.



## REIA of Policy Recommendation 2

This policy recommendation involves the criminal legal system and relies on interactions that have historically created racial disparities among those who are stopped by police, arrested, denied bail, convicted, perhaps wrongfully, and sentenced.

Limiting possessing and carrying firearms when and where alcohol is consumed warrants a careful analysis of existing illegal possession data and how it affects different racial and ethnic groups. Not all of those who possess a gun (either legally or illegally) intend to use it in an illegal way. However, the consumption of alcohol while possessing a gun can significantly increase the chances of injury occurring.

Jurisdictions or establishments considering implementation of prohibitions for carrying or possessing firearms while intoxicated should ensure that the criteria for such prohibitions are evidence-based to avoid the potential for racial inequities that result from implementation. For

example, if an establishment is implementing prohibitions of firearms due to alcohol being present, policies should be developed based on the best available evidence for risk to guide how the prohibitions will be implemented: Will searches of persons entering private premises like bars and clubs be conducted? If so, how will they be conducted? How will individuals be selected for searches? It is important that such policies are developed to limit individual discretion that can be influenced by biases and stereotypes and ultimately result in racial inequities.

When states prohibit individuals from carrying or possessing firearms while intoxicated, they need to consider clear protocols of enforcement. Policies and institutional decisions about their implementation determine law enforcement’s location, and activities. These decisions can generate racial disparities in police and encounters with citizens, which may or may not align with actual crimes.<sup>115</sup> When public intoxication arrests do not include clear criteria for enforcement, they could be used to target minorities or marginalized groups. For example, A report by UC Berkeley Law School found that law enforcement in Irving, Texas, engaged in racial profiling of Latino/Hispanics in order to filter them through the Criminal Alien Program (CAP)<sup>v</sup> screening system.<sup>116</sup> The data indicates that misdemeanor arrests such as public intoxication, and minor traffic violations of Latino/Hispanic residents rose substantially and relative to white and Black residents when law enforcement started having access to Immigration and Customs Enforcement (ICE) in the local jail.<sup>117</sup>

Including specific criteria for determining intoxication – for example, using a threshold BAC such as the level used in the state’s DUI statute could help mitigate potential disparities when implementing this recommendation. Additional strategies such as law enforcement training in de-escalation, and procedural justice, as well as requiring rigorous data collection and analysis of stops and arrests might contribute to a more equitable enforcement.

**Due to the dangerous intersection of firearms and alcohol misuse, we believe that our recommendations are necessary and, with mitigation efforts that we have outlined, can be implemented in a way that increases equity by saving lives without causing unnecessary unintended collateral consequences. However, data collection moving forward will be essential to monitor for any harmful impacts.**



## **Additional Policy Considerations Related to the Environment Where Alcohol Is Sold and Consumed**

Firearm policy does not exist in a vacuum. For our policy recommendations to be effective, the Consortium and the Center for Gun Violence Solutions suggest considering the environment where alcohol is sold and consumed because it impacts the health and well-being of individuals and their communities. These recommendations are also endorsed by the CDC and the U.S. Community Preventive Services Task Force to deter excessive drinking.

- 1. Limiting alcohol outlet density.**
- 2. Limiting the hours and days of sale in which alcohol is sold.**
- 3. Increasing the price of alcohol by raising taxes.**

<sup>v</sup> The CAP program promoted federal local partnerships to target serious criminal offenders for deportation.

## 1. Limiting alcohol outlet density through the use of regulatory authority (licensing and zoning)

One environmental approach to reduce firearm violence is to focus on alcohol outlets. Alcohol outlets can typically be categorized as on-premise establishments, such as bars and taverns in which alcohol is both purchased and consumed, and off-premise establishments, such as liquor stores and take-outs where alcohol is purchased but must be consumed elsewhere.<sup>118</sup>

Data show that alcohol outlet density, which is a measure of the number of alcohol retailers per area or per population, is an environmental risk factor for excessive drinking.<sup>119</sup> High alcohol outlet density is associated with community violence and with many social harms among neighborhoods in and around the alcohol outlets, such as disorderly conduct, noise, neighborhood disruption, public nuisance, and property damage.<sup>120</sup> Additionally, high alcohol outlet density is also linked with many alcohol-attributable effects among neighborhoods farther away from alcohol outlets, such as alcohol-impaired driving, pedestrian injuries, domestic violence, and child abuse and neglect.<sup>121</sup>

Limiting alcohol outlet density both decreases the availability of alcohol and can limit opportunities for drinkers to interact with one another. This, in turn, may reduce excessive alcohol consumption and related harms, including violence and alcohol-related crimes.<sup>122</sup> For example, In Baltimore City, where the firearm homicide rate is the second highest in the country and eight times the national average, there is a significant negative relationship between alcohol outlet density and life expectancy.<sup>123, 124</sup>

## 2. Limiting the hours and days of sale on which alcohol is sold

Limiting the hours and days when alcohol can be sold can prevent excessive alcohol consumption and related harms. In the United States, these policies may be made at the state level and, where not prohibited by state preemption laws, at local levels.<sup>125</sup>

Policies that restrict the sale of alcohol by limiting the hours and days of sale can be useful interventions to reduce violence. Evidence for this recommendation is based on studies suggesting a 10% homicide reduction associated with restricting days of sale.<sup>126</sup> Studies show that removing limits in on-premises settings is associated with small increases in levels of consumption and substantial increases in motor vehicle accidents.<sup>127</sup> Studies also suggest that the increase of alcohol sales caused by removing limits on days were correlated with increases in serious crimes, including violent crime, by 10%.<sup>128</sup> Studies have found that when localities increase the hours of sale, increasing the period of sale by 2 or more hours was associated with increases in vehicle crash injuries, emergency room admissions, and alcohol-related assault and injury.<sup>129, 130</sup>

## 3. Increasing the price of alcohol by raising taxes

Alcohol taxes are implemented at the state and federal levels and are beverage-specific (i.e., they differ for beer, wine, and spirits). In the United States, these taxes are usually based on the amount of beverage purchased (not on the sales price), so their effects can erode over time due to inflation if they are not adjusted regularly. Studies show that alcoholic beverages in the U.S. are much more affordable now than they were 70 years ago as federal and state taxes have been declining over time.<sup>131</sup>

Increasing taxes and prices on alcoholic beverages is an effective (and low-cost) public health strategy for reducing alcohol-related harm. A large body of evidence shows that higher alcohol taxes are associated with less excessive drinking and lower rates of disease and injury deaths. For example, after Illinois and Maryland raised alcohol taxes, the states reported reductions in binge drinking and car crashes involving intoxication.<sup>132</sup> According to the CDC, as the price of alcohol

increases, consumption predictably decreases. For example, studies show that with a 10% increase in the price of beer, alcohol consumption is expected to decrease 5%.<sup>133</sup> In addition, evidence shows higher alcohol prices make substantial reductions in underage drinking.<sup>134</sup> Studies across diverse places and populations were consistent in showing that alcohol tax rates affect how much people drink, and those consumption patterns translate to a wide range of alcohol-related problems.<sup>135</sup>



## REIA of Additional Policy Considerations

Alcohol outlets, including both on- and off-premises outlets, are usually concentrated among low-income areas. Also, research has found that a high density of off-premises alcohol outlets was associated with higher levels of poverty and with higher proportions of Black and Hispanic/Latino neighborhoods.<sup>136</sup> The disparate presence of alcohol outlet density in marginalized communities has been identified as a driver of violence and related crimes. Therefore, addressing alcohol outlet density and alcohol availability can be an effective strategy to address gun violence in these communities.

Communities with high concentrations of retail alcohol outlets are at higher risk of excessive drinking and related harms caused by having an increased access to alcohol, the social aggregation of people who misuse alcohol, and the potential price competition among alcohol outlets.

Increasing alcohol pricing by raising taxes is an evidence-based solution that can help reduce excessive drinking and the health inequities caused by excessive drinking. Opponents of tax increases, mostly from the alcohol industry, argue that alcohol taxation is regressive because it can disadvantage low-income moderate drinkers.<sup>137</sup> While it is true that increasing the price of alcohol by raising taxes can affect low-income moderate drinkers, evidence suggests it also leads to decreases in consumption and alcohol-related harm.

Marginalized communities and people of color are more likely to experience health harms, violence, and negative effects of drinking than their white counterparts; even when the rates of alcohol misuse are similar, or even greater, among white men. Targeting those who are most at risk of harm from drinking and decreasing health inequalities can be achieved through taxes that target cheap, high-strength alcohol: minimum unit pricing and volumetric taxation.<sup>138</sup>

Research suggests that minimum unit pricing, which is alcohol-content-based taxation, leads to larger reductions in health inequalities across income groups. Volumetric taxation, which is a tax levied on the alcohol content per volume of the product, would have the largest impact on harmful drinking with minimal effects on those drinking in moderation.<sup>139</sup> These two policies target excessive drinking without targeting those from low-income groups.

Another proven policy that can deter excessive drinking is limiting the hours and days of sale on which alcoholic beverages are sold. This policy also requires a careful racial equity analysis because these limitations on hours of sale are usually enforced on Sundays. Sunday alcohol sales restrictions could be considered a remnant of “blue laws” that restricted commerce on Sundays. The term blue law commonly refers to the prohibition of alcohol sales on Sunday, but it historically defined a body of regulations designed to preserve the Christian Sabbath by proscribing most labor on that day.<sup>140</sup>

All three policy considerations we are including need to be implemented according to local contexts. Jurisdictions need to include members of their communities in their decision-making process, from identifying priorities to evaluating results. People with diverse backgrounds and lived experience contribute with expertise that is just as valuable as research credentials. These policies could help minimize the risk factors associated with alcohol misuse. At the individual level, they aim to reduce excessive consumption; at the community level, they aim to reduce all risk factors that are associated with a high prevalence of alcohol consumption and sales.



## Legal Considerations

Firearms occupy a unique legal space at the intersection of public health and constitutional law. Although firearms pose a grave public health risk to individuals and communities, the Second Amendment to the U.S. Constitution, as interpreted in recent years by the United States Supreme Court, imposes significant limitations on the reach of firearm regulation. The Second Amendment to the U.S. Constitution provides that “[a] well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” Even if a firearm restriction is supported by a wealth of public health research, it cannot be enforced if the courts rule that it is more restrictive than allowed by the Second Amendment or by analogous limitations of many state constitutions.

Summarizing the still-developing constitutional restrictions on firearm regulation is well beyond the reach of this report. It suffices to say that the Supreme Court has decided three foundational cases and that state and federal courts often disagree about the implications of these three decisions. In *District of Columbia v. Heller*, decided in 2008, the Supreme Court held for the first time that the Second Amendment protects an individual right to possess a handgun in the home for the purpose of self-defense.<sup>141</sup> Two years after *Heller*, the Supreme Court applied the Second Amendment to the states in *McDonald v. Chicago*.<sup>142</sup> In 2022, the Supreme Court decided *New York State Rifle & Pistol Association v. Bruen*,<sup>143</sup> establishing that in order for a modern firearm law to be constitutional under the Second Amendment, the government must show that it is relevantly similar to historical firearm laws.<sup>144</sup> Lower courts have grappled significantly with how to apply this new standard.<sup>145</sup>

As of the publication of this report, just one federal district court has analyzed whether a firearm prohibition related to alcohol is constitutional under the ruling in *Bruen*. The United States District Court for the Eastern District of Kentucky in *United States v. Goins* upheld the federal law prohibiting persons convicted of felony offenses from possessing firearms against a challenge from a defendant who pled guilty to, among other things, a DUI and committing a DUI with a suspended license.<sup>146</sup> The court noted that “history supports disarming individuals who, like Mr. Goins, have committed crimes that indicate they are a danger to public safety.”<sup>147</sup> In the court’s opinion, Mr. Goins’ four convictions for driving under the influence are more than enough evidence that he remains a threat to public safety.<sup>148</sup>

For purposes of this report, the most important implication of the Supreme Court’s reasoning is that the risks of alcohol consumption have been well known throughout the history of this country and that states and localities have embraced a wide range of restrictions aiming to reduce dangerous alcohol consumption. Whether a specific restriction will be upheld in a modern society will ultimately depend on whether the restriction actually reduces harm and is fairly applied. There will be ample time in the coming years to opine about the implications of developing Second Amendment law.

### *Need for Additional Historical Research*

The new historical test established in *Bruen* and the widely divergent application of the test by the lower courts in the wake of the ruling show how critically important it is to conduct and publish research on historical firearm laws and the reason for their enactment.





## Conclusion

The intersection of alcohol misuse and firearms has devastating consequences. Studies show that as many as 34% of firearm homicide perpetrators, 30% of firearm homicide victims, and 25% of firearm suicide victims were intoxicated prior to death.<sup>149, 150</sup>

While research does not establish a causal link between alcohol misuse and gun violence, it does consistently show that alcohol misuse is a strong risk factor for gun violence, and that the combination of gun access and alcohol misuse is often deadly and disproportionately affects people of color and their communities.

To address the risks associated with firearms and alcohol misuse, this report provides two sets of policy recommendations:

- 1 Limiting access to firearms by persons with a record of alcohol misuse**
- 2 Limiting access to guns when and where alcohol is consumed**

These policy recommendations have the potential to save lives. We developed these firearm policy recommendations based on risk of violence. Considering the context and consequences of those risks is also part of the equation that factors into our recommendations. A core component of our public health approach is assessing through research, evaluation, and the best available evidence that programs and policies are effective and strive for equitable outcomes. To achieve this, we assessed the risk factors by reviewing existing literature, convening leading researchers and practitioners to discuss the evidence, and using the Racial Equity Impact Assessment (REIA) tool for Gun Violence Prevention to inform our recommendations.

We recognize that firearm policy does not work in a vacuum. This report includes three additional policy considerations related to the environment where alcohol is sold and consumed that aim to deter excessive alcohol consumption.

An important challenge to this report was the limited research related to alcohol and firearms. For our recommendations to be effective, there needs to be a systematic approach to monitoring and evaluating implementation of these policies. Additionally, the complex legal landscape after *Bruen* merits careful study to assess potential implementation challenges.

## APPENDIX 1:

### Consortium's 2013 DUI Recommendation

In 2013, the Consortium issued *Guns, Public Health and Mental Illness: An Evidence-Based Approach for State Policy*, which included a recommendation to prohibit individuals convicted of two or more DUIs in a five-year period to be prohibited from purchasing and possessing firearms (recommendation #2.3). The following text is excerpted directly from the 2013 report.

#### Recommendation 2.3:

**Individuals convicted of two or more DWI or DUIs in a period of five years should be prohibited from purchasing and possessing firearms for at least five years.**

The research consistently shows that alcohol abuse is associated with violence toward self and others.<sup>151</sup> For example, one study of adults in three large urban areas in the United States found that adults who abused alcohol were at increased risk for both homicide and suicide compared to adults who did not drink alcohol.<sup>152</sup> Another study found a strong association between victim and perpetrator alcohol abuse and intimate partner homicide.<sup>153</sup> Importantly, several studies have shown that firearm owners are at increased risk of abusing alcohol.<sup>154</sup> A 2011 study found that gun owners were more likely than people who lived in a home without a gun to binge drink, drive under the influence of alcohol, and have at least 60 drinks per month.<sup>155</sup> The same study also found that firearm owners who drank abusively were more likely than other firearm owners to engage in risky behaviors with firearms.<sup>156</sup>

While multiple states have laws prohibiting individuals who abuse alcohol from purchasing and possessing firearms, the majority of laws fail to provide precise definitions of who is disqualified, making such policies difficult to implement.<sup>157</sup> One exception is Pennsylvania, which prohibits persons who have been convicted of three or more drunken driving offenses in a five-year period from having a gun.<sup>158</sup> In addition to providing a specific definition of alcohol abuser, use of DWI or DUIs as criteria to prohibit firearm ownership is strongly justified by the research evidence. One study found that compared to individuals with a single DUI arrest, those with multiple DUI arrests were more than three times as likely to be arrested for other misdemeanor and felony crimes.<sup>159</sup> In addition, studies have shown that people who drive under the influence are at increased risk of abusing illicit drugs<sup>160</sup> and being arrested multiple times.<sup>161</sup>

Most state laws prohibiting firearm ownership among individuals who abuse alcohol are difficult to enforce and unlikely to be effective because the definition of abuse is not clearly enunciated. We therefore recommend that individuals convicted of two or more DWI or DUIs in a period of five years be prohibited by federal law from purchasing or possessing a firearm for at least five years.

**APPENDIX 2:**

**State DUI/DWI Offenses that Trigger 18 U.S.C. 922(g)(1) Firearm Prohibition<sup>vi</sup>**

State	No. of DUI Offenses	Liability Period, Years	Statute
Alabama	4	10	Ala Code §32-5A-191(h), (p)(1) (2020)
Alaska	3	10	Alaska Stat §28.35.030(n) (2019)
Arizona	3	7	Ariz Rev Stat §28-1383(O) (2019)
Arkansas	4	10	Ark Code Ann §5-65-111(d) (2017)
California	N/A	N/A	Cal Veh Code §23152 (2017); Cal Veh Code §23550(a) (2011)
Colorado	4	Lifetime	Colo Rev Stat §42-4-1301(1) (2016)
Connecticut	2	10	Conn Gen Stat §14-227a (g)(2) (2016)
Delaware	3	Lifetime	Del Code Ann tit 21, §4177(d)(3) (2018)
Florida	3	10	Fla Stat §316.193(2)(b)(1) (2019)
Georgia	4	10	Ga Code Ann §40-6-391(c)(4) (2016)
Hawaii	3	10	Haw Rev Stat §291E-61.5(b), (d), (h) (2021)
Idaho	3	10	Idaho Code Ann §18-8001 (2018)
Illinois	3	Lifetime	625 Ill Comp Stat 5/11-501(d)(2) (2019)
Indiana	2	7	Ind Code §9-30-5-3(a)(1) (2020)
Iowa	3	12	Iowa Code §§321J.2(2)(c),(8) (2021); 321.12(4) (2016)
Kansas	3;4	10; Lifetime	Kan Stat Ann §8-1567(b)(1)(D),(E),(3) (2022)
Kentucky	4	10	Ky Rev Stat Ann §189A.010(5)(d) (2020)
Louisiana	3	10	La Stat Ann §14:98-14:98.4 (2018)
Maine	3	10	Me Stat tit 29, §2411(C) (2017)
Maryland	3	Lifetime	Md Code Ann Transp §21-902(h) (2019)
Massachusetts	1	Lifetime	Mass Gen Laws ch 90, §24(1)(a)(1) (2018)
Michigan	3	Lifetime	Mich Comp Laws §257.625(9)(c) (2021)
Minnesota	4	10	Minn Stat §169A.20 (2018); Minn Stat §169A.24 (2020)
Mississippi	3	5	Miss Code Ann §63-11-30(2)(c),(d) (2022)
	4	Lifetime	
Missouri	3	Lifetime	Mo Rev Stat §§ 577.001 (2020); 577.010 (2017)
Montana	4	Lifetime	Mont Code Ann. § 61-8-1008(1)(a),(2) (2022)
Nebraska	4	Lifetime	Neb Rev Stat §60-6,197.03(7) (2016)
Nevada	3	7	Nev Rev Stat §484C.400(1)(c) (2021); Nev Rev Stat §484C.410 (2015)

<sup>vi</sup> This chart does not include enhanced DUIs (for example, some states penalize as a felony or qualifying misdemeanor, DUIs with a very high BAC).

State	No. of DUI Offenses	Liability Period, Years	Statute
New Hampshire	4	10	NH Rev Stat Ann §265-A:18(IV)(c) (2020)
New Jersey	N/A	N/A	NJ Rev Stat §39:4-50 (2019)
New Mexico	4	Lifetime	NM Stat Ann §66-8-102(G) (2016)
New York	2	10	NY Veh & Traf §1192 (2009); NY Veh & Traf §1193(c) (2014)
North Carolina	4	10	NC Gen Stat §20-138.1; §20-138.5 (2006)
North Dakota	4	15	ND Cent Code §39-08-01(5)(d) (2019)
Ohio	4	10	Ohio Rev Code Ann §4511.19(G)(1)(d) (2017)
	6	20	
Oklahoma	2	10	Okla Stat tit 47, §11-902(C)(2) (2020)
Oregon	4	10	Or Rev Stat §813.010(5) (2021); Or Rev Stat §813.011 (2021)
Pennsylvania	4	10	18 Pa Stat and Cons Stat Ann § 1104(1) (1973); 75 Pa Cons Stat §3802 (2006); 75 Pa Cons Stat §3803(a)(3),(4),(4.1) (2018); 30 Pa Cons Stat §923 (2012)
Rhode Island	3	5	6 RI Gen Laws §31-27-2(3) (2022)
South Carolina	3	10	SC Code Ann §56-5-2930(A)(3),(D) (2009); SC Code Ann. § 56-5-2933(A)(3),(D) (2009)
South Dakota	3	10	SD Codified Laws §32-23-4 (2022); SD Codified Laws § 32-23-4.1 (2013); SD Codified Laws § 32-23-4.5 (2010)
Tennessee	4	10	Tenn Code Ann §55-10-402(a)(4) (2021); Tenn Code Ann § 55-10-405 (2022)
Texas	3	Lifetime	Tex Penal Code Ann §49.04 (2011); Tex Penal Code Ann §49.045 (2003); Tex Penal Code Ann §49.09(b)(2) (2019)
Utah	3	10	Utah Code Ann §41-6A-502; §41-6A-503(3)(a) (2022)
Vermont	3	20	Vt Stat Ann tit 23, §1201; §1210(d) (2019)
Virginia	3	10	Va Code Ann §18.2-270(C) (2014)
Washington	4	10	Wash Rev Code §46.61.502(6) (2022)
West Virginia	3	10	W Va Code §17C-5-2(m),(n) (2020)
Wisconsin	4	Lifetime	Wis Stat §346.63 (2016); Wis Stat §345.65(4) (2020)
Wyoming	4	10	Wyo Stat Ann §31-5-233(e) (2019)
D.C.	N/A	N/A	DC Code §50-2206.11; §50-2206.13 (2019)

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- 89 E.g. Tex. Penal Code Ann. § 46.035(b)(1) (2021).
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