

# United States Senate

WASHINGTON, DC 20510

## VIA ELECTRONIC TRANSMISSION

September 13, 2023

The Honorable Merrick Garland  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, N.E.  
Washington, D.C. 20530

Attorney General Garland:

We write to you with an urgent request to protect the constitutional rights of the citizens of New Mexico from the unconstitutional actions of Governor Michelle Lujan Grisham. Governor Grisham has issued an order which is being used to blatantly trample on the Second Amendment rights of the citizens of New Mexico, and the Department of Justice (DOJ) must act swiftly to stop this unconstitutional power grab.

On September 6, 2023, an 11-year old boy lost his life to senseless gun violence outside of a baseball stadium following a game.<sup>1</sup> This horrific violence is inexcusable, and we have faith that law enforcement will bring those responsible to justice. We are committed to working with you and your Department to combat violent crime in communities across the nation.

On September 8, 2023, Governor Grisham responded to this tragedy by issuing Executive Order 2023-130, Declaring State of Public Health Emergency Due to Gun Violence.<sup>2</sup> The New Mexico Department of Health subsequently issued an unconstitutional public health order which declares gun violence a public health emergency under New Mexico statute, and prohibits the open or concealed carry of firearms in Albuquerque and Bernalillo County.<sup>3</sup>

While the public health order may invoke state law to authorize this unconstitutional infringement, it should be no match for the authority which the DOJ has to enforce our rights under the U.S. Constitution. That is why we are calling on you to enforce the Constitution and intervene on behalf of the constitutional rights of New Mexicans to stop this unconstitutional act from standing.

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<sup>1</sup> Miller, C. (2023, September 8). *Albuquerque police investigate road-rage shooting that killed 11-year-old*. Santa Fe New Mexican. [https://www.santafenewmexican.com/news/local\\_news/albuquerque-police-investigate-road-rage-shooting-that-killed-11-year-old/article\\_068e5416-4d96-11ee-b872-f3235a3a9b44.html](https://www.santafenewmexican.com/news/local_news/albuquerque-police-investigate-road-rage-shooting-that-killed-11-year-old/article_068e5416-4d96-11ee-b872-f3235a3a9b44.html)

<sup>2</sup> Governor Michelle Lujan Grisham. (2023, September 7). *Executive Order State of New Mexico*. <https://www.governor.state.nm.us/wp-content/uploads/2023/09/Executive-Order-2023-130-1.pdf>

<sup>3</sup> Secretary Patrick M. Allen. (2023, September 8). *Public Health Order New Mexico Department of Health*. <https://www.governor.state.nm.us/wp-content/uploads/2023/09/090823-PHO-guns-and-drug-abuse.pdf>

Article VI of the Constitution clearly states that “This Constitution . . . shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding.”

In *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment guaranteed “the individual right to possess and carry weapons in case of confrontation.”<sup>4</sup> But even more importantly, Governor Grisham’s actions have led to a direct violation of the Supreme Court’s ruling in *New York State Rifle & Pistol Association, Inc. v. Bruen*, which held that “the Second and Fourteenth Amendment protect an individuals’ right to carry a handgun for self-defense outside the home.”<sup>5</sup>

By preventing certain New Mexicans from exercising their constitutional rights to carry a handgun for self-defense outside the home, Governor Grisham is violating the Second Amendment, the Fourteenth Amendment, and Article IV of the Constitution. This is a chilling action, and it is imperative that your Department act immediately to show that this kind of unconstitutional abuse will not be tolerated in New Mexico or anywhere else in the United States.

We look forward to your swift response to our urgent concerns.

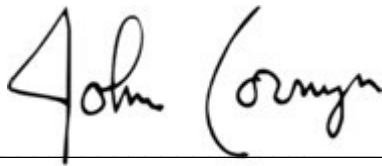
Sincerely,



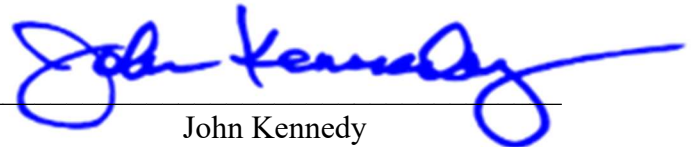
Thom Tillis  
United States Senator



Lindsey O. Graham  
Ranking Member  
Senate Judiciary Committee



John Cornyn  
United States Senator



John Kennedy  
United States Senator



Marsha Blackburn  
United States Senator



Tom Cotton  
United States Senator

<sup>4</sup> *District of Columbia v. Heller*, 554 U.S. 570 (2008).

<sup>5</sup> *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. \_\_\_\_ (2022).