



Written by [Bob Adelman](#) on May 16, 2024

New Mexico's 7-day Waiting Period for Gun Purchases Challenged in Court

[Two pro-Second Amendment groups filed suit to challenge](#) New Mexico Governor Michelle Lujan Grisham's new law mandating a seven-day "cooling-off period" after gun purchases.

Grisham declared, with a straight face, that the new law "will prevent impulsive acts of violence and self-harm." It will also, in her words, "give law enforcement the time they need to complete [the] necessary background checks to keep New Mexicans safe."

There are two problems with her claim.

First, there is scant evidence that a "cooling off period" of seven days has any measurable impact on gun violence. The Rand Corporation concluded its study of five "qualifying" studies on the issue and reported last January that "considering these studies and our assessment of their strengths, we find *limited evidence that waiting periods may reduce firearm homicides.* (Emphasis in original.)

Second, it does not take law enforcement seven days to complete a background check. Computer technology, as any gun owner knows, allows the NICS background-check system to run a check in seconds, not days.

Governor Grisham had plenty of support from the usual suspects. Sean Holihan, state director for the notorious anti-gun group GIFFORDS, intoned, "Waiting periods create a buffer between the time a gun is purchased and possessed, which can help prevent impulsive acts of gun violence. This period can also give law enforcement the additional time they need to complete background checks."

The bill's original sponsor, State Representative Andrea Romero, sounded as if she was reading from the same script: "This 7-day cooling off period will help prevent impulsive acts of violence and self-harm, and give law enforcement the time they need to complete [the] necessary background checks to keep New Mexicans safe."

All of this charade proves just one thing: The war against the private ownership of firearms by law-abiding citizens continues apace. It also continues to ignore the U.S. Supreme Court's *Bruen* ruling, which requires governments to show an historical "analogue" for any gun control.

Perhaps that's why the lawsuit is only nine pages long. It doesn't take long for the plaintiffs, two offended New Mexico citizens assisted by the legal arm of the National Rifle Association and the Mountain States Legal Foundation, to make their highly cogent and persuasive case against Grisham and the state's attorney general, Raul Torrez:

With limited exceptions, the Waiting Period Act makes it unlawful for any person who sells a firearm to a purchaser to deliver the purchaser's property to them until a minimum of seven calendar days after the sale has occurred, even if a clean background check comes back



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immediately.

Violation of the Waiting Period Act results in criminal charges being filed against both the seller and the purchaser of the firearm.

Because the Waiting Period Act burdens the right to keep and bear arms, and because the government could never meet its burden to establish a historical analogue to justify its regulation, it is unconstitutional under the Second Amendment to the United States Constitution, as made applicable to the states by the Fourteenth Amendment.

The lawsuit rolled out *Bruen*:

In *Bruen*, the [Supreme] Court held: “the standard for applying the Second Amendment is as follows: When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.”

Not only is the latest attempt by anti-freedom Grisham unconstitutional under *Bruen*, it is also “arbitrary, unnecessary, burdensome, and useless,” according to the filing.

It nails the case against Grisham and the state’s AG to the wall:

Since the Second Amendment presumptively protects Plaintiffs’ conduct, the State must justify the Waiting Period Act by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.

It is impossible for the State to meet this burden because there is no historical tradition of firearms being regulated in this manner either at the time of our founding and the ratification of the Second Amendment, or during the Reconstruction era and the ratification of the Fourteenth Amendment.

In summary, the plain text of the Second Amendment covers Plaintiffs’ conduct. Therefore, the Waiting Period Act is presumptively unconstitutional.

The State is unable to rebut this presumption because the Waiting Period Act is not consistent with the Nation’s historical tradition of firearm regulation.

Therefore, New Mexico’s Waiting Period Act is unconstitutional.

It’s too early, of course, to know how Grisham and her AG are going to respond. The sensible thing to do would be to concede the point and move to rescind the law. But that won’t happen. There’s a war going on against the Second Amendment, and Grisham and her compliant AG and the Democrats who control both houses are intent on pursuing that agenda.

That’s the lesson here: *Bruen* doesn’t matter. The Second Amendment doesn’t matter. History, experience, and common sense don’t matter. What does matter for the Left is that the war against the private ownership of firearms must continue until every law-abiding gun owner in the country is disarmed.



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