Thinking Carefully about Mental Illness, Gun Violence, and the Law: Balancing Risk and Rights for Effective Policy

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Population attributable risk of minor or serious violent behavior towards others

Serious mental illness contributes very little to overall violence towards others


• Young, male
• Substance abuse
• Impulsive anger
• Poverty
• Childhood physical abuse
• Exposure to violence in the social environment


Population attributable risk of minor or serious violent behavior towards others

Predicted probability of serious violent behavior in persons with serious mental illness by combined risk factors, controlling for significant covariates in logistic regression model (S site N=802)

Gun-involved violence among discharged psychiatric patients (N=951): New analysis of MacArthur Violence Risk Assessment Study

Any gun violence in year: 2% of total sample


Risk-related characteristics of 23 psychiatric patients who engaged in gun violence (Steadman et al., 2015)

Population Attributable Risk (PAR) of suicide associated with diagnosable mental illness:

Current starting point for federal firearms policy

-- Constitutional right:
  - Right is “not unlimited”
    - Court emphasized that “nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill.”
      - Mental health prohibitor: involuntary civil commitment or other mental health adjudication

-- Focus on dangerous people, not so much the guns
  - Court’s decision seems to imply: In this country, we are prevented from solving the problem of gun violence by broadly limiting the public’s legal access to firearms. Instead, we must focus more narrowly on how best to identify people at significant risk of harming others or themselves who should not have access to guns.

Federal law categorically excludes some people with mental illness from accessing firearms

- 18 U.S.C. 922(d):
  - Prohibited from possessing or purchasing a firearm if (among other things)
    - committed to a mental institution
    - adjudicated as a mental defective
      - Legal authority determines: dangerous or incompetent to manage own affairs due to a mental illness; incompetent to stand trial or acquitted by reason of insanity
Increasing number of mental health records in NICS

Mental health records accounted for 34% of records in NICS index in 2014

To date, 99.4% of mental health records in NICS have not resulted in a federal gun denial.

Mental health records accounted for 7% of records in NICS index in 2007

Mental health records accounted for 34% of records in NICS index in 2014.

Mean monthly predicted probabilities of first violent crime for SMI individuals with and without a gun-disqualifying mental health record, before and after NICS reporting began in Connecticut (n=23,382)

NICS reporting in effect

Gun-disqualifying mental health record

No gun-disqualifying mental health record (voluntary admission only)

Mean monthly predicted probability of first violent crime


Suicidality

Interpersonal violence

Mental illness

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Some at high risk may not be identified by existing criteria for gun restriction: impulsive angry behavior combined with access to guns

Risk-based preemptive gun removal laws

Involuntary commitment identifies many who are not violent: Characteristics of violent behavior in 4 months prior to involuntary hospital admission (Duke Mental Health Study; N=331)

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Probable cause

Significant risk

Opportunity for rights restoration

Number and type of firearms removed

- Average: 7.4 firearms per case
  - Only 1 firearm: 22% of cases
  - Range from 1 – 231

- Types of weapons
  - Handguns: 90%
  - Rifles: 67%
  - All those with more than one weapon owned handguns

Number and risk warrant gun-removal cases in Connecticut 1999-2013

764 cases

Descriptive information on implementation of Connecticut’s “risk warrant” gun removal law: GS § 29-38c (1999 - 2013)

Characteristics of gun removal cases: (N=764)

- Gender: 93% male
- Age: mean 46.2 years (SD 15.0); range 12-92
- Marital status: 73% unmarried, widowowed or divorced
- Mental health or substance use treatment record: 46%
- Risk of harm to self: 62%
- Calls to police come from family/friends: 45% of cases
- Transported to ED/hospital: 55%

Proportion in treatment before and after gun removal event

Suicide means in gun removal cases

CT adult population suicide data 2012
(Sources: CDC WISQARS and hospital ED reports)

CT gun seizure cases: suicide outcomes
(Sources: Risk-warrant data and state DPH vital records)

Estimated number of averted suicides:
103

For every 7 risk-based gun seizures...
Estimated number of averted suicides: 49

Consortium for Risk-Based Firearm Policy: Recommendations for state gun policy reforms
• Prohibit firearms, on a temporary basis, from persons with behavioral indicators and evidence of risk of harm to self or others. Proposed indicators of risk, which currently do not result in disqualification from firearms in many states, include:
  o violent misdemeanor convictions
  o temporary domestic violence restraining orders
  o two or more DUI’s or DWI’s in 5 years
  o two or more illicit drug offense convictions in 5 years
  o mental health: short-term involuntarily hospitalization in a psychiatric emergency not subject to formal civil commitment in an adjudicative procedure.

Principles to guide gun policy reforms related to mental illness
• Prioritize contemporaneous risk assessment based on evidence of behaviors that correlate with violence and self-harm at specific times, not mental illness or treatment history per se as a category of exclusion
• Preempt existing gun access, rather than simply thwarting a new gun purchase by a dangerous person
• Provide legal due process for deprivation of gun rights
• Preserve confidential therapeutic relationships
• Prevent the unpredictable through universal background checks, but also by reducing the social determinants of violence and investing in improved access to mental health and substance abuse services

Consortium for Risk-Based Firearm Policy: Recommendations for state gun policy reforms (cont.)
• Make the expanded disqualification contingent upon states also having a meaningful, expedient, and clinically-informed process for restoring gun rights to individuals who are subject to temporary prohibition.
• Enact “dangerous persons” preemptive gun removal laws with a judicial proceeding to restore firearms based on evidence of risk

Practical takeaways
• Equating dangerousness with mental illness to explain gun violence is unfair and stigmatizing to people with mental illness, and distracts attention from the main problem—which is ready access to firearms by people who do pose a significant risk of violence
• When assessing risk of interpersonal violent behavior in psychiatric patients, consider a range of factors other than psychopathology; serious violence is more common in young males who drink alcohol in excess or use illegal drugs, have a history of violent victimization in early life, a history of previous violent behavior, and are exposed to violence in the current environment
• Suicide accounts for the majority of gun fatalities, and mental illness is a major risk factor for suicide; given the high lethality of firearms in suicide attempts, removing guns from persons at risk of suicide could save lives