GUN VIOLENCE, MENTAL ILLNESS, and the law

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CIT International Conference
Ft. Lauderdale, August 18, 2017
Serious mental illness in USA -- by the numbers

- Adults with SMI: 9.8 million
- Co-occurring SUD: 2.5 million
- No insurance: 1.9 million
- No treatment: 3.1 million
- Homeless: 100,000
- Jail/prison: 1 million

Source: Substance Abuse and Mental Health Services Administration. http://www.samhsa.gov/
3.1 million people with serious mental illness go without treatment in the US each year.

Gun violence in America
- 1 year
- 36,000 dead
- 81,000 injured

Firearm-related injury and mortality: A national epidemic

MENTAL ILLNESS

$318 billion

FIREARMS INJURY

$174 billion
April 16, 2007: a day of gun violence

Massacre by a mentally disturbed young man

56 gun casualties
- 23 Nonfatal
- 33 fatal

Virginia Tech
April 16, 2007: a day of gun violence

- **Virginia Tech**: 56 gun casualties
  - 23 nonfatal
  - 33 fatal

- **Elsewhere in the US**: 231 gun casualties
  - 148 nonfatal
  - 83 fatal

On the same day.
36,252 gun deaths in 2015
Suicides: 61%
Homicides: 36%
Police: 2%
Unintentional: 1%
US total
Gun are embedded in American culture
There are now more guns than people in the United States

By Christopher Ingraham  October 5, 2015

310,000,000 privately owned firearms in the US
(Congressional Research Report)

40 million more guns than people. (M&R Glasgow/Flickr)
**Homicide** in 15 industrialized countries:
Rate per 100,000 per year (2012)

On average, assaults in the US are **3 times more likely** to involve guns than in these other countries.

* Source: OECD
Gun ownership per capita in 15 industrialized countries: Number civilian-owned guns per 100 population

Average in other these countries: 17 guns/100 people

97 guns/100 people
Do individuals have a legal right to possess a handgun for their personal protection?

Gun ownership per capita in 15 industrialized countries: Number civilian-owned guns per 100 population

- Japan
- Poland
- Netherlands
- UK
- Portugal
- Spain
- Denmark
- Australia
- Belgium
- Finland
- Canada
- France
- Sweden
- Switzerland
- USA

No, No, No, No, No, No, No, No, No, No, No, No, No, No, Yes
Why do Americans own guns?
(Harvard/Northeastern University national survey)

- Primarily for self-protection
- Hunting, recreation, collecting

1994:
- 52%
- 48%

2015:
- 76%
- 24%

- More guns overall
- More women gun owners
- “Super-owners” with many guns

Hunting, recreation, collecting
Household gun ownership rate by state (examples): CDC BRFSS 2001

- **Connecticut, Massachusetts, New York, Illinois, California** (9-29%; n=12)
- **Washington, Oregon, Ohio, Pennsylvania, Michigan** (30-39%; n=13)
- **Minnesota, Missouri, Kansas, Iowa, Oklahoma** (40-49%; n=15)
- **Wyoming, Alaska, Mississippi, South Dakota, West Virginia** (50-60%; n=10)
2016 national Pew Survey: “Is it more important to protect the right of Americans to own guns, or control gun ownership?”

- **Police Officers**: 74% favor protecting the right of Americans to own guns, 25% favor controlling gun ownership.
- **US public**: 53% favor protecting the right of Americans to own guns, 46% favor controlling gun ownership.

(N=7,917 officers, 54 departments)
Current starting point for firearms policy

– Constitutional right

– Not an unlimited right
  • Court added, “…the right is not unlimited” and explicitly preserved gun restrictions for people with:
    – Felony convictions
    – Mental health adjudications
    – Involuntary civil commitment
      » Incompetent to manage own affairs (e.g., guardianship)
      » Incompetent to stand trial in a criminal matter
      » Not guilty by reason of insanity

– Focus on “dangerous people” more than guns
  • We cannot solve our gun violence problem by broadly limiting the public’s legal access to firearms. Instead, we must focus more narrowly on how best to identify and limit “dangerous people” 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

Question: Can these laws keep guns out of the hands of people like this?
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...when people with mental illness actually look like this?
Serious mental illness *contributes very little* to overall violence towards others

Population attributable risk (PAR) of minor or serious violent behavior towards others

- Young, male
- Poverty
- Childhood abuse
- Exposure to violence

Other factors that cause violence 96%

Serious mental Illness 4%

Absolute risk: 7%
Relative risk: 3.5
Victimization: 25%

Serious mental illness contributes very little to overall violence towards others

Population attributable risk (PAR) of minor or serious violent behavior towards others

- Young, male
- Poverty
- Childhood abuse
- Exposure to violence
- Drugs and alcohol

Serious mental Illness 4%

Substance abuse 34%

Other factors that cause violence 62%

Percent of arrests that involve persons with serious mental illness:
2 large Florida counties, 2002-2011

HOMICIDES

No firearm involved

12.6% SMI

Firearm involved

2.7% SMI

NON-LETHAL VIOLENT CRIMES

No firearm involved

4.7% SMI

Firearm involved

2.1% SMI
People with mental illness are at increased risk of violence when identified in certain settings, in certain periods.

Percent violent within 6 – 12 months

- General population without mental illness: 2%
- Outpatients in treatment: 8%
- Emergency departments: 23%
- Involuntarily committed inpatients: 36%
- First-episode psychosis patients: 37%

Risk profiles: Predicted probability of violence in subgroups

LOWEST
- Older
- Female
- Middle to upper SES
- No serious mental illness
- No substance abuse
- No psychiatric hospitalization
- No arrest history

<= 1% violent

HIGHEST
- Younger
- Male
- Lower SES
- Serious mental illness
- Substance abuse
- History of psychiatric hospitalization
- History of arrest

65% violent

Violence risk is multi-causal, cumulative, and interactive

Risk linked to mental illness is embedded in other factors

Source: NIMH Epidemiologic Catchment Area Surveys (Swanson, 1994)
Can psychiatrists accurately “predict” rare acts of serious violence such as mass shootings?
THE AMAZING
RETROSPECT-O-SCOPE!
Mass Shooter
Mass Shooter

- angry
- alienated
- isolated
- emotionally unstable
- young man
Gun restrictions based (mainly) on involuntary commitment
Categorical gun restrictions are too broad... and too narrow.

This is what 100,000 people looks like.

1,488 are carrying guns. 8,865 have impulsive anger behavior problems... and have access to firearms. Many have personality and substance use disorders... Under 10 percent have been hospitalized for these problems.

Categorical gun restrictions are **too broad**... and **too narrow**

50 gun suicides: gun prohibited status at death

- **Prohibited:** 28%
- **Not prohibited:** 72%
- **Short-term involuntary hold:** 54%

Mental illness and suicide: a complex connection

- Psychiatric disorders are common in the population
  - About 10 million adults in the US suffer from a serious mental illness in a year

- Suicide is rare in the population
  - About 44 thousand people die from suicide in a year

- Relative risk of suicide is much higher in people with psychiatric disorders
  - About 26 to 32 times greater suicide risk in people with affective disorders (depression, bipolar) than people without mental illnesses

- Mental illness is a significant, but nonspecific risk factor for suicide
  - About 17 percent of people with serious mental illnesses die from suicide or other unnatural causes; the large majority die from natural causes

- Suicide is caused by many other complex factors that may interact in complex ways

Role of mental illness and mental health treatment in 12,790 persons who died from suicide in 2014
(National Violent Death Reporting System data)

All suicide deaths with known circumstances (N=12,790)

- No known mental illness: 52%
- No treatment: 12%
- Past treatment: 8%
- Current treatment: 29%

Total with known mental illness: 48%
Role of mental illness and mental health treatment in 12,790 persons who died from suicide in 2014 (National Violent Death Reporting System data)

OTHER CIRCUMSTANCES

- Crisis in past 2 weeks: 34%
- Intimate partner problem: 28%
- Physical health problem: 22%
- Alcohol dependence: 18%
- Other substance problem: 16%
- Job problem: 11%
- Financial problem: 10%
- Recent criminal legal problem: 9%
- Death of friend or family: 8%
- Eviction or loss of home: 4%
- School problem: 2%
Suicide rates per 100,000 population, males and females by age groups, 2015
Suicide deaths:
44,193\(^1\) in 2015

10% die

90% survive

Data Source
\(^1\) CDC Fatal Injury Data, National Vital Statistic System
Suicide deaths: 44,193 in 2015

Despair

Depression

Seriously considered suicide: 9.4 million

10% die

90% survive

Hospitalizations for suicidal behavior: 111,000

Intentional self-harm injuries treated in hospital ERs: 376,000

Attempted suicide: 1.1 million

Data Source

1 CDC Fatal Injury Data, National Vital Statistic System
2 Agency for Healthcare Research and Quality’s Healthcare Cost and Utilization Project - Nationwide Inpatient Sample (HCUP-NIS)
3 CDC’s National Electronic Injury Surveillance System-All Injury Program
4, 5 SAMHSA National Survey on Drug Use and Health
The upside-down iceberg

Gun suicide deaths
90% die

Gun suicide attempts
10% survive

Each year, 9.4 million Americans seriously consider suicide. 1.1 million attempt suicide, 0.5 million seriously injured, 44 thousand die. 38% of the risk of suicidal ideation is attributable to mental disorder (Bruffaerts et al., 2015). 48% of the risk of suicide attempts is attributable to mental disorder (Bruffaerts et al., 2015). 20% of the risk of suicide death attributable to mental disorder. Sources: Li, et al., 2011 systematic review; SAMHSA: https://www.samhsa.gov/suicide-prevention/at-risk-populations;
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.
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.
Risk-based firearm removal laws

Common elements

1. Civil court order for gun removal (non-criminalizing)
2. Authorizes police to search for and remove firearms
   - Initial warrant based on probable cause of imminent harm
   - Subsequent court hearing (e.g., within 2 weeks) requires state to show clear and convincing evidence of ongoing risk
3. Applied to persons at high risk of harming others or themselves, even with no past criminal record or mental health adjudication
4. Gun removal is time-limited, typically 12 months

- Risk warrant law
- Gun violence restraining order
- Gun violence protective order
- Extreme risk protective order
- Lethal violence protective order
- Security temporary order of protection
Civil court action

Public safety purpose
Connecticut Statute § 29-38c (1999)
States with risk-based gun removal laws in 2016

- **CA CODE § 18100 GVRO (2014)**
- **WA BI 1491 ERPO (2016)**
- **IN CODE 35-47-14 DPGS (2006)**
- **CT CODE 29-38c RW (1999)**
16 additional states with proposed risk-based gun removal bills in 2017

- WA BL 1491 ERPO (2016)
- OR SB 868
- NV SB 387
- AZ HB 2149
- CA CODE § 18100 GVRO (2014)
- HI S 434
- HI S 898
- TX H 866
- NY A 3661 S 4824
- PA FRO
- MA HB 3081
- CT CODE 29-38c RW (2016)
- NJ A 2390 (C) S 370 (C)
- IN CODE 35-47-14 DPGS (2016)
- MI HBS 4942-3
- WI VPTRO
- MO H 365
- TN H 961
- VA H 1758
Characteristics of gun removal cases: (N=762)

- **Average number of guns removed per case: 7 guns**
- Gender: 92% male
- Age: mean 47 years
- Marital status: 81% married or cohabiting
- Mental health or substance use treatment record: 46%
- Arrest leading to conviction in year before or after: 12%
- Risk of harm to self: 61%
- Calls to police come from family/acquaintance: 49% of cases
- Transported to ED/hospital: 55%

Is there public support for risk-based temporary gun removal?

Lawyer in Connecticut:
“\[I believe that is what the public wants us to do. They want us to take affirmative steps, \[but let people\] have their day in court. No one’s saying . . . . we’re taking your property and you’re never going to get it back. That’s not fair. That’s not reasonable. [We are saying] you’ll have a day in court when you’re no longer in crisis. When you’re receiving treatment, you may get those weapons back.\]”

Is there due process for risk-based temporary gun removal?

Lawyer in Connecticut:
“[It] gives them a certain amount of reassurance that they’re not just counting on the police to make this determination. You have three sets of eyes [that] have looked at this. You have the police who are on the scene, the State’s Attorney who is going to . . . read a report and see if [evidence of risk] is there, and then a third set [of eyes], the judge, who is now going to look at it, and again—separate from being on the scene and being there—reading over just a report within those four corners, making a determination as to whether you can do something which is rather large, in that you are going to remove a person’s Constitutional rights. So, having three sets of eyes I think is probably important.”

Proportion in treatment in public behavioral healthcare system

year before and year after gun removal event

12 percent in treatment (Year before gun removal)

29 percent in treatment (Year after gun removal)
Gun removal cases: 762
Population suicide rate: 12/100,000
40 times the population risk
Suicide means in gun removal cases

- Firearm: N = 6 (29%)
- Hanging: N = 10 (48%)
- Other: N = 15 (71%)
- Drug OD: N = 2 (9%)
- Stab/cut: N = 1 (5%)
- Gas: N = 2 (9%)
Measure the tip

Estimate the iceberg
Estimated number of averted suicides: 

72

For every 10 risk-based gun seizures... 

1 suicide prevented
Estimated number of averted suicides: 38

For every 20 risk-based gun seizures... 1 suicide prevented
10 - 20 gun removals

1 prevented suicide
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