Thinking differently about

GUNS, MENTAL ILLNESS, AND THE LAW

Jeffrey Swanson, PhD
Duke University School of Medicine

Toward more effective, equitable, and evidence-based policies.

Albuquerque, NM
March 10, 2015
US gun violence in perspective

Number of deaths

US domestic 10-year death toll
Fatal firearm injuries 2001-2010
306,946


US military 10-year death toll
Vietnam War 1962-1975
58,226

0 50000 100000 150000 200000 250000 300000

100000

200000

250000

300000

US gun violence in perspective

- **US military 10-year death toll**
  - Vietnam War 1962-1975
  - 58,226

- **US domestic 10-year death toll**
  - Fatal firearm injuries 2001-2010
  - 306,946
  - Homicides: 119,246 (39%)
  - Suicides: 175,221 (57%)
  - Other: 12,479 (4%)
IT’S YOUR CONSTITUTIONAL RIGHT.

Number of privately-owned firearms in US: 310,000,000
Newtown, Connecticut
December, 2012

Guns?

Violent culture?

Mental illness?
Linking gun violence to mental illness: mass shootings by disturbed young men

“...There was Elliot Rodger in Santa Barbara, Jared Loughner in Tucson, James Holmes in Aurora, Colorado, and Aaron Alexis at the Washington Navy Yard. How many more must die before we finally deal with our broken mental health system?”

-- Congressman Tim Murphy (R-PA), December 18, 2014
“I’m worried about what happens if the Congress passes...background checks. It doesn’t address the most significant piece of the problem: the mental health issue.”

Joe Klein, TIME magazine
April 5, 2013
3.5 million people with serious mental illness go without treatment in the US each year.

Gun violence in America

1 year
33,563 dead
1.396 injured

Firearm-related injury and mortality: A national epidemic

MENTAL ILLNESS

$318 billion

FIREARM INJURY

$174 billion
3.5 million people with serious mental illness go without treatment in the US each year.
Serious mental illness **contributes very little** to overall violence towards others.

Population attributable risk of minor or serious violent behavior towards others

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

Predicted **probability of serious violent behavior** in persons with serious mental illness by combined risk factors, controlling for significant covariates in logistic regression model (5 site N=802)

Survey of public behavioral health system psychiatric outpatient with serious mental illness in 5 USA sites (CT, MD, NH, NC, and NC VAMC)

What about mass shootings? 5 factors common to school rampage shooters (Newman et al, 2004)

1. the shooter’s perceptions of himself as extremely marginal in the social worlds that matter to him;
2. psychosocial problems—including mental illness—that magnify his perceptions of social exclusion;
3. ‘cultural scripts’—prescriptions for behavior—that point the way toward an armed attack as a model for problem solving, particularly for altering the shooter’s reputation from that of a loser to that of a notorious antihero;
4. the failure of the surveillance system intended to identify troubled teens, leaving the shooter to fly ‘below the radar’ even as he is emitting signals of trouble to come; and
5. the availability of guns
What about mass shootings? 5 factors common to school rampage shooters (Newman et al, 2004)

1. The shooter’s perceptions of himself as extremely marginal in the social worlds that matter to him;

2. Psychosocial problems—including mental illness—that magnify his perceptions of social exclusion;

3. ‘Cultural scripts’—prescriptions for behavior—that point the way toward an armed attack as a model for problem solving, particularly for altering the shooter’s reputation from that of a loser to that of a notorious antihero;

4. The failure of the surveillance system intended to identify troubled teens, leaving the shooter to fly ‘below the radar’ even as he is emitting signals of trouble to come; and

5. The availability of guns

Newman: “...necessary but not sufficient conditions.” (Are mass shootings “predictable”?)
Does mental illness cause violence?

If mental illness then violence = uncertainty

multiple precursors, co-determinants, mediators, moderators, interactions = uncertainty
Fazel S, Singh, J, Doll H, Grann M. Use of risk assessment instruments to predict violence and antisocial behaviour in 73 samples involving 24,827 people: systematic review and meta-analysis. BMJ. 2012; 345:e4692
Current starting point for firearms policy

– Constitutional right:

– There’s a “however”:
  • 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.”

– Focus on “dangerous people,” not 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 and limit “dangerous people” who should not have access to guns.
State gun laws vary substantially:
Brady Scorecard (100 pts. = most restrictive)

- **Firearm trafficking (38 pts.)**

- **Background checks (27 pts.)**

- **Child safety (20 pts.)**

- **Assault weapons (10 pts.)**

- **Guns in public places (8 pts.)**
Scatterplot of state firearm fatality rate by household gun ownership rate

Household gun ownership rate (%)

Firearm fatality rate per 100,000

New Mexico

$\text{r} = .63$
Scatterplot of state firearm fatality rate by gun law restrictiveness

New Mexico

$r = -0.56$
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?
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

...when people with mental illness actually look like this?
Accumulation of MH records in National Instant Check System

Mental health records accounted for 7% of federal gun-disqualifying records in 2007.

To date, 99% of mental health records in NICS have not resulted in a federal gun denial.

Mental health records accounted for 28% of federal gun-disqualifying records 2013.

(NICS initiated)  1998  X

(Virginia Tech shooting)  2007  X

(Sandy Hook shooting)  2012  X  2013

NICS improvement Act
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=23,282)

- 7% disqualified due to mental health adjudication
- 96% of violent crimes among people with serious illness were committed by those not affected by the gun disqualification and reporting policy
- Factors most associated with violence: being young, male, disadvantaged, misusing drugs and alcohol

Note: analysis excludes persons with disqualifying criminal records and only includes those susceptible uniquely to the effects of mental health gun disqualification.
People with mental illness are at increased risk of violence when identified in certain settings, in certain periods.

### Percent violent within 6 – 12 months

<table>
<thead>
<tr>
<th>Setting</th>
<th>Percent Violent</th>
</tr>
</thead>
<tbody>
<tr>
<td>General population without mental illness</td>
<td>2%</td>
</tr>
<tr>
<td>Outpatients in treatment</td>
<td>8%</td>
</tr>
<tr>
<td>Emergency departments</td>
<td>23%</td>
</tr>
<tr>
<td>Involuntarily committed inpatients</td>
<td>36%</td>
</tr>
<tr>
<td>First-episode psychosis patients</td>
<td>37%</td>
</tr>
</tbody>
</table>

**Why not focus firearms restrictions on specific times and behavioral indicators of risk?**

Serious mental illness contributes a great deal to suicide

Population attributable risk of suicide associated with serious mental illness and other factors

Gun restrictions based (mainly) on involuntary commitment
Estimated number per 100,000 population with impulsive angry behavior combined with access to guns

- Guns in the home and has impulsive angry behavior: Total = 8,865
- Carries gun and has impulsive angry behavior: Total = 1,488

Estimated number per 100,000 population with impulsive angry behavior combined with access to guns

What about restrictions based on criminal records of misdemeanor violence, DUIs, temporary domestic violence restraining orders, or a "dangerous person" gun removal law?

Rate per 100,000

- **Guns in the home and has impulsive angry behavior**
  - Total = 8,865
  - Percent of risk groups ever hospitalized for a mental health
  - 8.3%
  - 9.8%

Consortium for Risk-Based Firearms Policy: state and federal policy recommendations premised on 3 evidence-based ideas

1. gun violence could be reduced by time-limited restrictions on gun access to persons based on evidence of their individual risk of harming themselves or others;
2. that a history of any kind of violence—particularly with criminal justice involvement—is a better predictor of future gun violence than is the broad category of persons diagnosed with serious mental illnesses; and
3. that expanding gun disqualification based on evidence of risk must achieve balance with policies that offer a timely opportunity for a clinically-informed restoration of rights (CRBFP, 2013a; 2013b).
Recommendations for state gun policy reforms

- Prohibit firearms, on a temporary basis, from persons with 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:
  - violent misdemeanor convictions
  - temporary domestic violence restraining orders
  - two or more DUI’s or DWI’s in 5 years
  - two or more illicit drug offense convictions in 5 years
  - mental health: short-term involuntarily hospitalization in a psychiatric emergency not subject to formal civil commitment in an adjudicative procedure.

- Enact “dangerous persons” gun removal laws with a judicial proceeding to restore firearms based on evidence of risk; “Gun Violence Restraining Order”

- 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.
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
Predicting mass shootings: “needle in a haystack”
Learning from mass shootings: “the haystack in the needle”

mass shooter

PREVENTING THE UNPREDICTED