

Gun Violence, Mental Illness and the Law:

Thinking Carefully about Policy Reforms

*(Balancing
risk, rights,
rhetoric, and
research)*

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Colliding public conversations about guns and mental health





Mass shootings and “ordinary” US gun violence

School rampage gun deaths:

- Average number of student deaths per year from rampage shootings in US schools or colleges (2002-2008):

8

“Ordinary” gun deaths:

- Total number of firearms-related deaths in the 2010 (including suicides, gang shootings, domestic violence...)

31,000

Mass shootings and “ordinary” US gun violence

School rampage gun deaths:

- Chance of a student in a US school or college dying in a rampage shooting: **1 in 10 million**

“Ordinary” gun deaths:

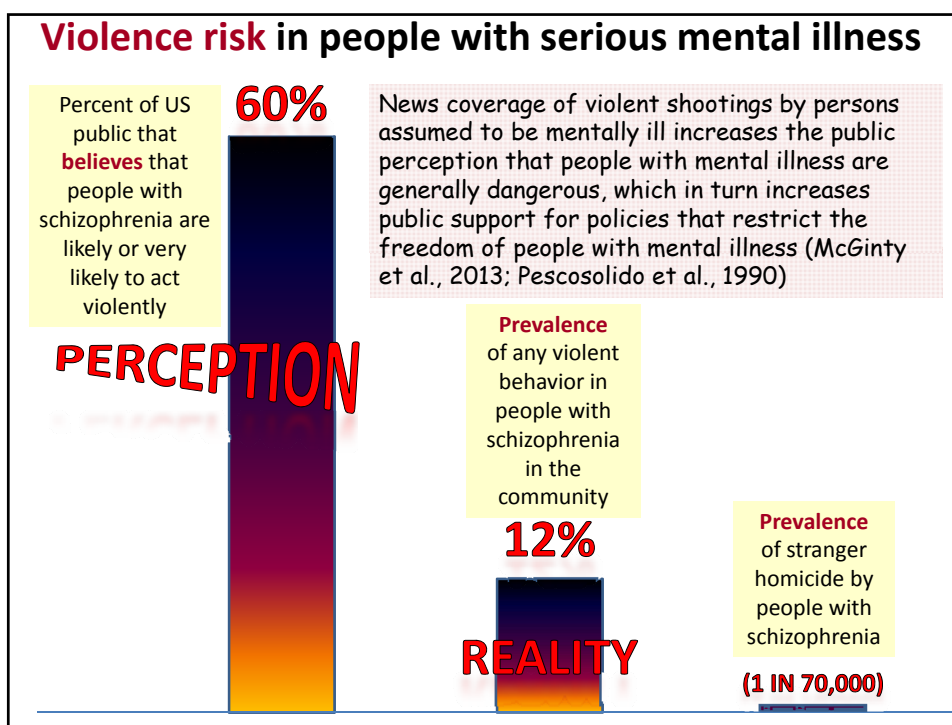
- Chance of any adult in US dying as the result of “ordinary” gunshot violence **1 in 10 thousand**

Mass shootings are statistically **rare events**; “ordinary” firearms-related deaths in the US, including suicides, gang shootings, and domestic violence, are far **less rare events**

Mass shootings: Statistical profile of N=34 subjects age 19 or younger who intentionally killed at least 3 people in single event, 1958-1999

Meloy et al. (2001) Offender and offense characteristics of a nonrandom sample of **adolescent mass murderers**.

All male	
Described as a “loner”	70.4%
Substance abuse	61.5%
Weapons preoccupation	48.0%
Violent fantasies	44.0%
Victim of bullying	43.5%
Documented psychiatric history	23.3%
Psychotic at time of incident	5.9%



National opinion poll data on public support for mental health system reforms after Newtown

“Do you favor or oppose increasing government spending on mental health screening and treatment as a strategy to reduce gun violence?”

	Percent in favor
Overall (N=2,703)	60.4%
Non-gun owners (N=914)	61.8%
NRA members (N=169)	57.2%

Barry CB, McGinty EM, Vernick JS, Webster DW (2013). After Newtown – Public Opinion on Gun Policy and Mental Illness. New England Journal of Medicine, 368: 1077-1081.

CRISIS-DRIVEN POLICY RESPONSE



New York SAFE ACT (2013)

- requires universal background checks
- increases penalties for people who use illegal guns
- bans assault weapons and high capacity ammo magazines
- requires mental health professionals to report persons at risk of harming self or others
- expands Assisted Outpatient Treatment (Kendra's Law)

Strange
bedfellows...

YES.



YES.

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- expands Assisted Outpatient Treatment (Kendra's Law)

NO!

(Stranger bedfellows...)

- Psychiatrists (APA, NYSPA)
- Social workers (NASW-NYS)
- Nurses (NYSNA)
- Mental health advocates (MHA, NYAPRS)



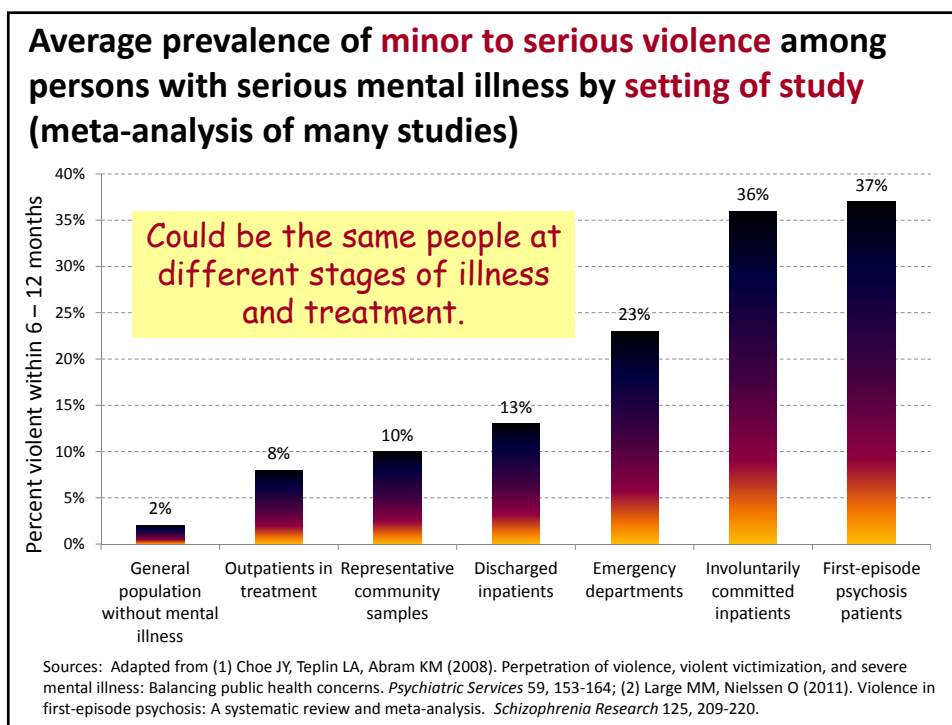
- NY Sheriff's Association
- NY State Rifle and Pistol Association
- National Rifle Association
- U.S. Department of Veterans Affairs

New York SAFE ACT (2013)

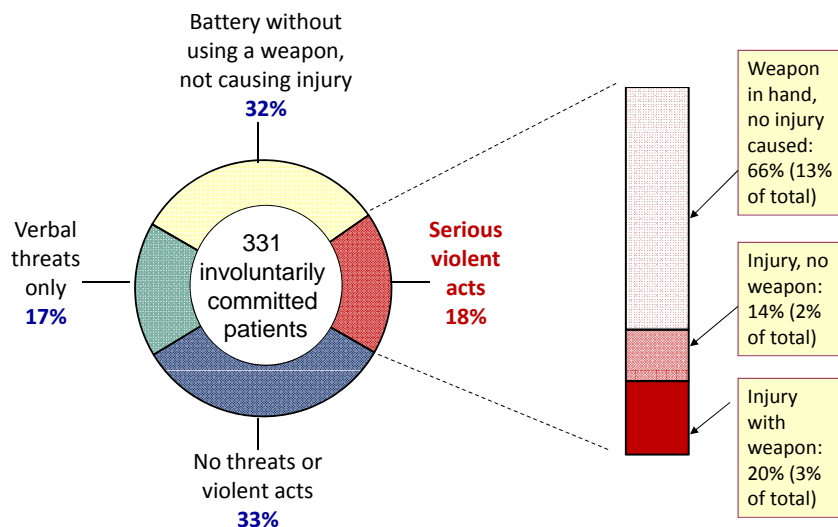
It criminalizes mental illness and will have a chilling effect on help-seeking!

It violates the 2nd amendment to the Constitution!

- bans assault weapons and high capacity ammo magazines
- exposes limited outpatient Treatment (Kendra's Law)



Violence risk varies among people with SMI who are involuntarily committed:
Characteristics of violent behavior in 4 months prior to
involuntary hospital admission (Duke Mental Health Study; N=331)



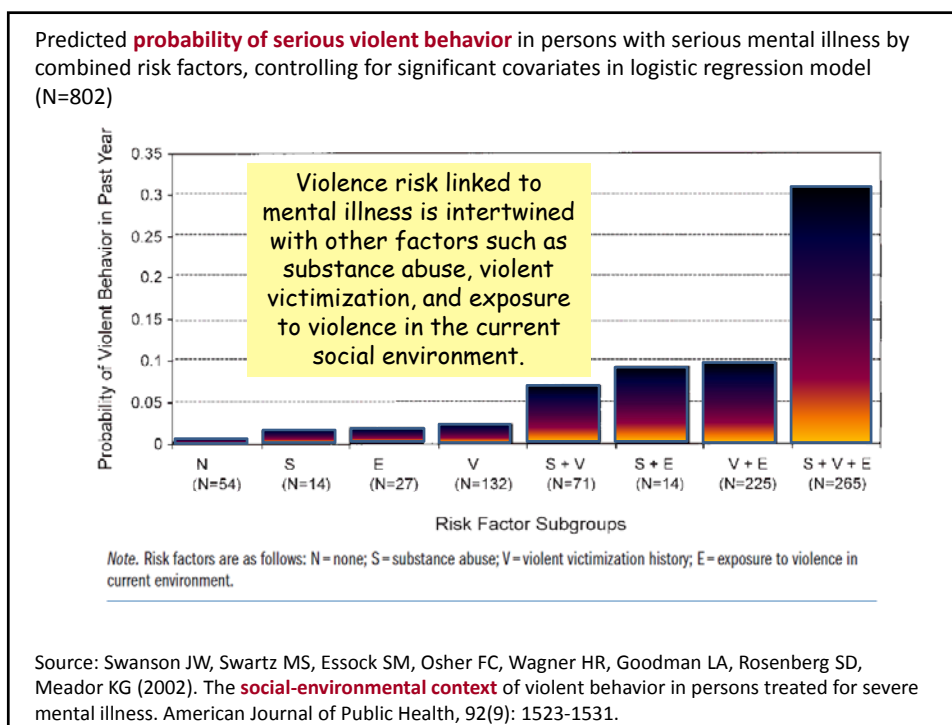
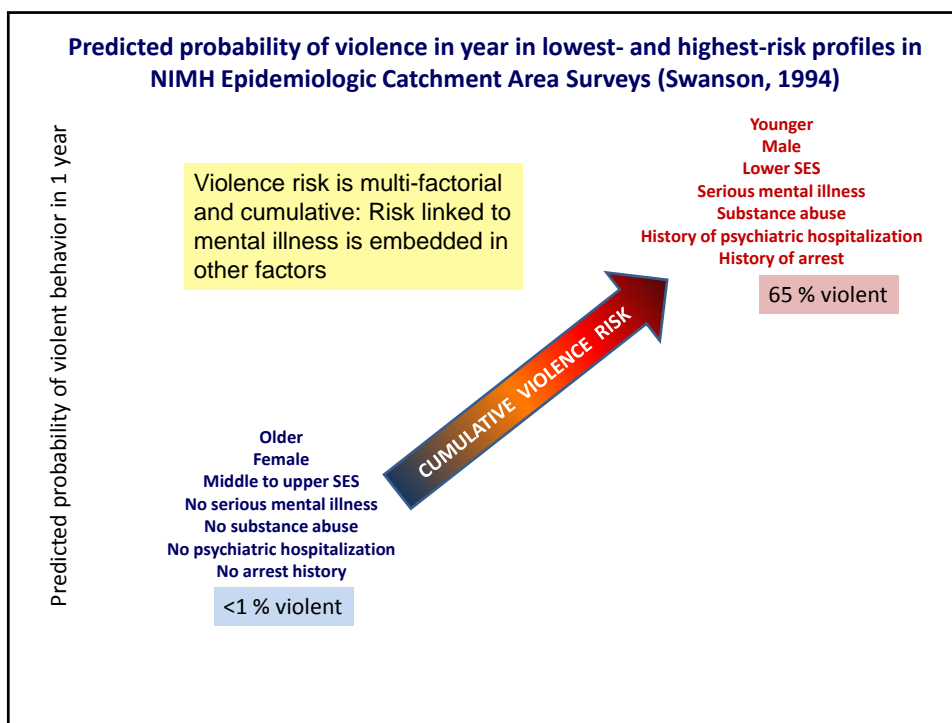
Source: Swanson J, Borum R, Swartz M, Hiday V (1999). Violent behavior preceding hospitalization among persons with severe mental illness. *Law & Human Behavior* 23 (2) 185-204.

Role of mental illness in violence towards others:
NIMH Epidemiologic Catchment Area study on
mental disorder and community violence

Risk Frame	People with serious mental illness alone
One year violence (minor or serious)	
Absolute risk	7.0%
Relative risk	3.2
Attributable risk	4.1%

Overall violence would decline by **4.1%** if people mental illness had the same risk of violence as those without mental illness.

Source: Swanson J. (1994). Mental disorder, substance abuse, and community violence: An epidemiological approach. In: Monahan J, Steadman H, eds. *Violence and Mental Disorder: Developments in Risk Assessment*. Chicago: University of Chicago Press



Accuracy of clinicians' **predictions of violence** using risk assessment instruments: meta-analysis of 73 studies involving 24,827 people

Positive predictive value: **0.41** (0.27-0.60)

Negative predictive value: **0.91** (0.81-0.95)

Structured risk assessment predictions of who is **not going to be violent** aren't bad. Predictions of who **is going to be violent** are a virtual "coin toss."

Source: Fazel S, Singh, J, Doll H (2012). Use of risk assessment instruments to predict violence and antisocial behaviour in 73 samples involving 24 827 people: systematic review and meta-analysis. *BMJ* 345:e4692 doi: 10.1136/bmj.e4692.

Hindsight bias in psychiatrists' risk assessments (LeBourgeois et al., 2007)

- N=235 general and forensic psychiatrists reviewed hypothetical cases in which patients with suicidal or homicidal ideation presented for psychiatric care.
- Experimental ("hindsight") group (n=114): informed that a suicide or homicide had occurred shortly after the patients were released from care.
- Control group (n=117) Outcome information withheld.
- Assessment task: Participants estimated the likelihood that suicide or violence would occur at the time of the patient's release and whether the standard of care had been met in each case.

Source: LeBourgeois HW, Pinals DA, Williams V, Appelbaum PS (2007). Hindsight bias among psychiatrists. *J Am Acad Psychiatry Law* 35:67-73.

Hindsight bias in psychiatrists' risk assessments (LeBourgeois et al., 2007)

KEY RESULT:
Hindsight group gave significantly higher ratings of risk of suicide and violence than control group ($p < 0.001$)



Source: LeBourgeois HW, Pinals DA, Williams V, Appelbaum PS (2007). Hindsight bias among psychiatrists. *J Am Acad Psychiatry Law* 35:67–73.

If you can't predict, describe:

After-the-fact statistical profile of stranger-homicide perpetrators with schizophrenia (Nielssen et al., 2009)

78 incidents

"Troubled young men"...

- 95% male
- Average age 32 years
- 79% unemployed
- 40% displayed repeated antisocial conduct as adults

not receiving the mental health treatment they need...

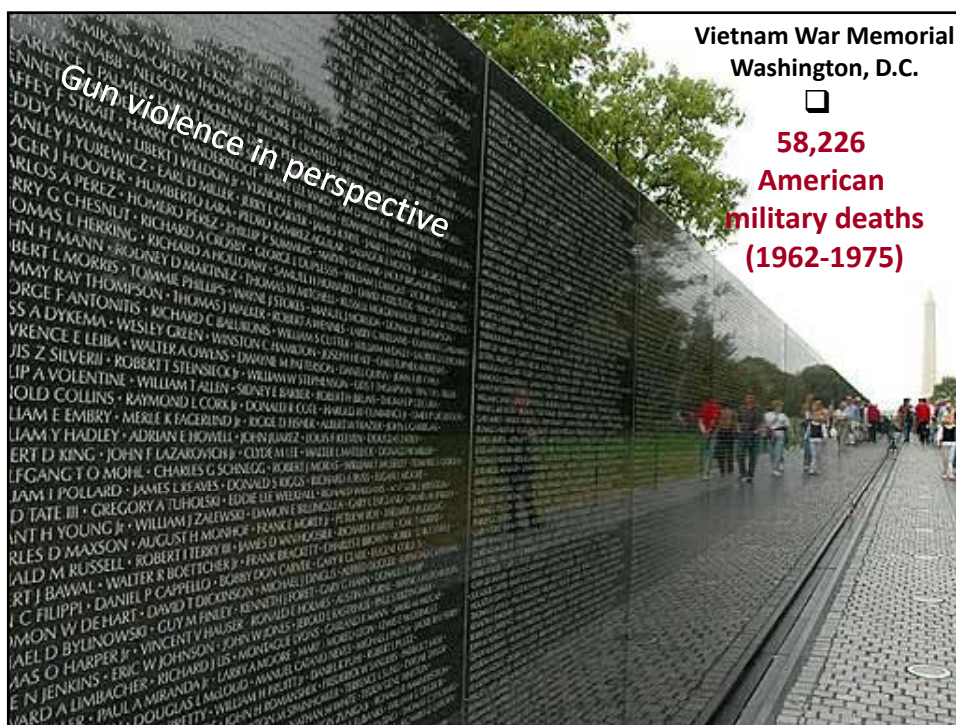
- 88% not taking antipsychotic medication at time of homicide
- 74% not in contact with any mental health services
- 62% never admitted to a psychiatric hospital

Source: Nielssen et al., 2009, Homicide of strangers by people with a psychotic illness. *Schizophrenia Bulletin*.

Needle in a haystack



1 in 70,000
schizophrenia patients
will kill a stranger.



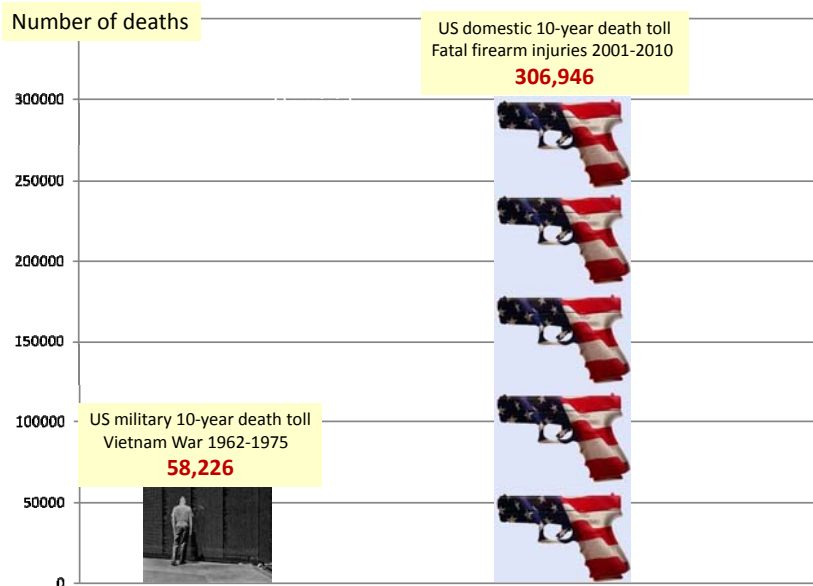
Vietnam War Memorial
Washington, D.C.



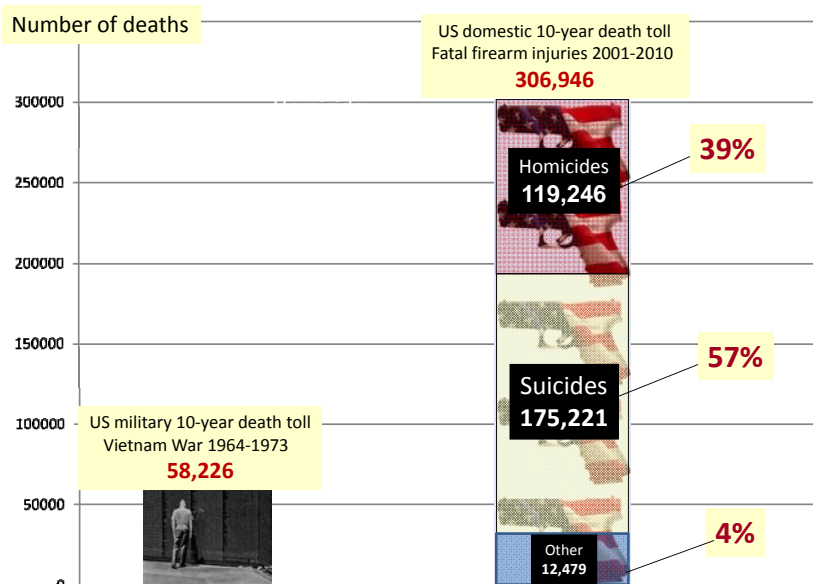
58,226
American
military deaths
(1962-1975)

Gun violence in perspective

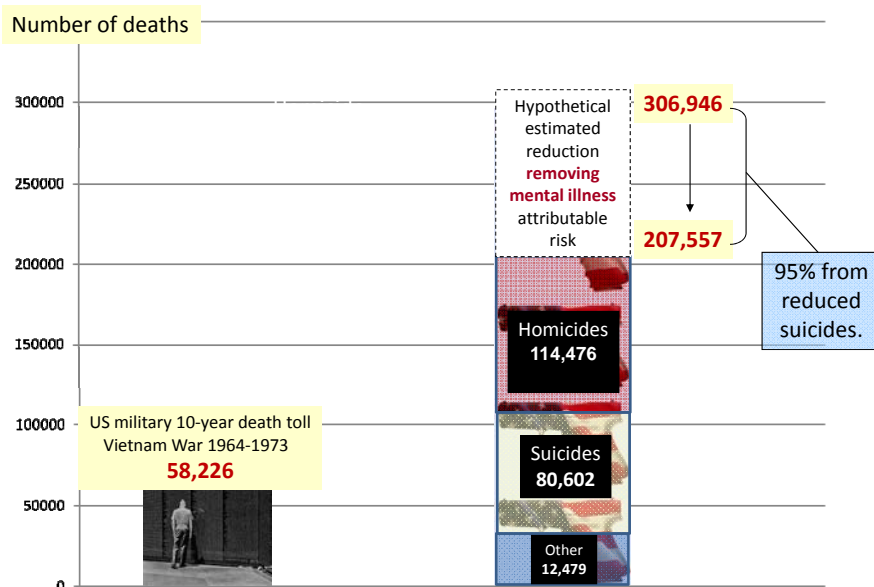
US gun violence in perspective



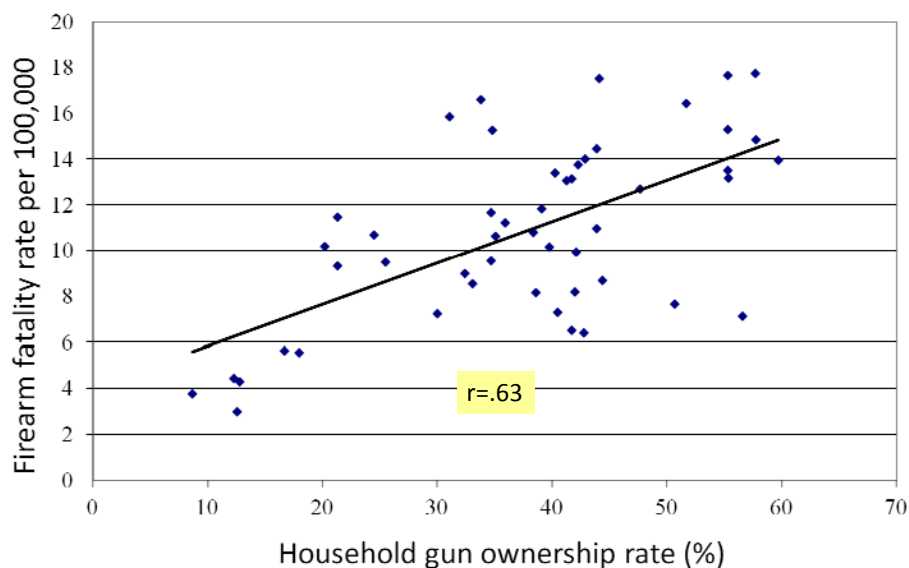
US gun violence in perspective



US gun violence in perspective



State firearm fatality rate by household gun ownership rate



Current starting point for firearms policy

– Constitutional right:

- Recent landmark US Supreme Court decisions striking down across-the-board handgun bans -- *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. Chicago*, 561 U.S. 3025 (2010) -- affirmed that the Constitution **confers an individual right to keep and bear arms, albeit “not an unlimited 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.**”

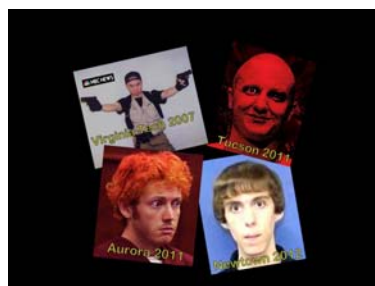
– Focus on “dangerous people,” not the guns

- 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.**

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?



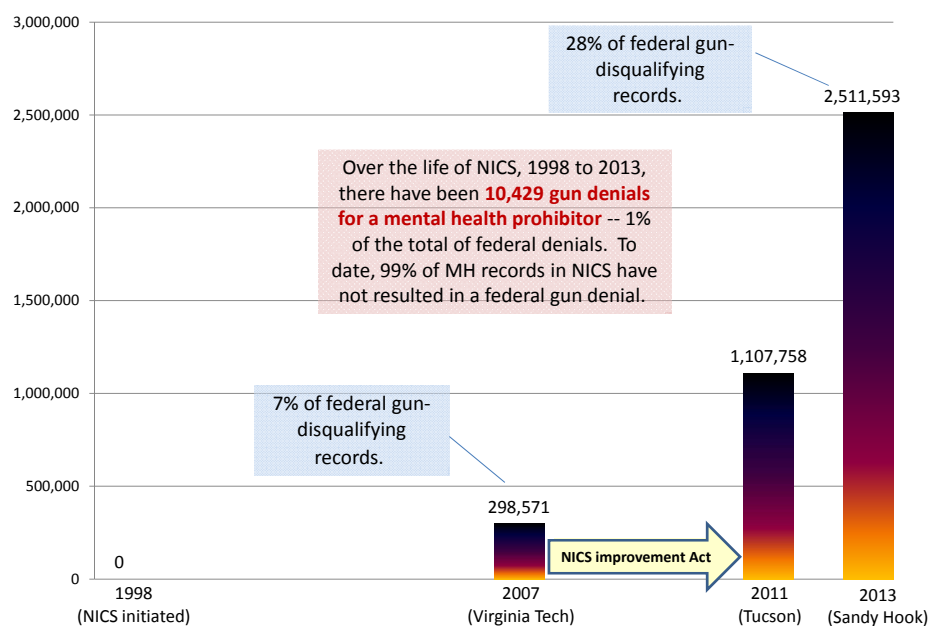
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...when people with mental illness actually look like this?

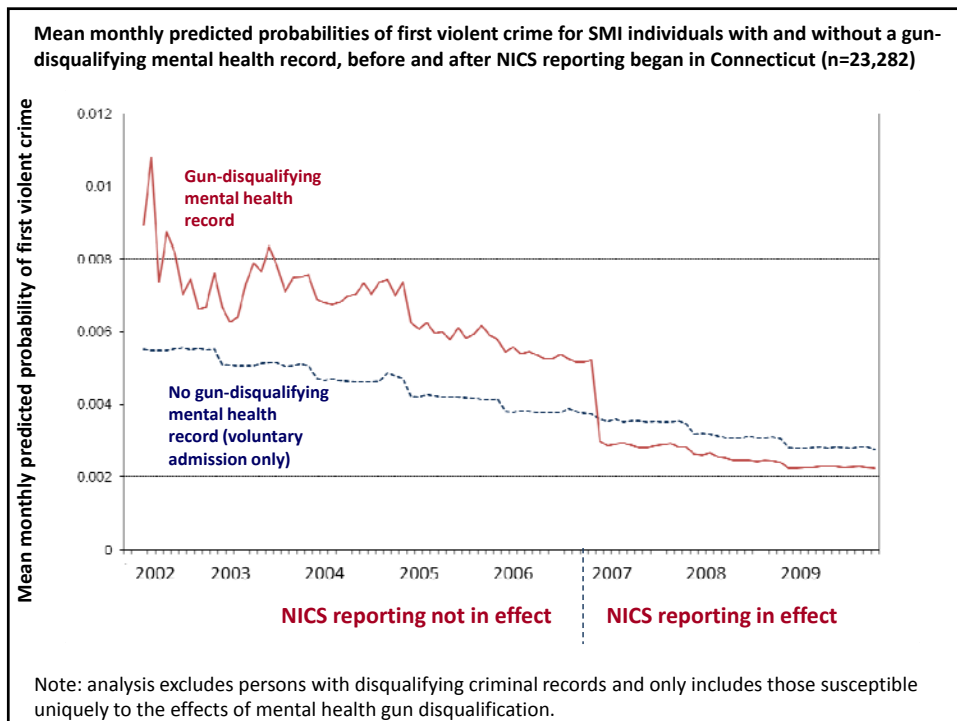


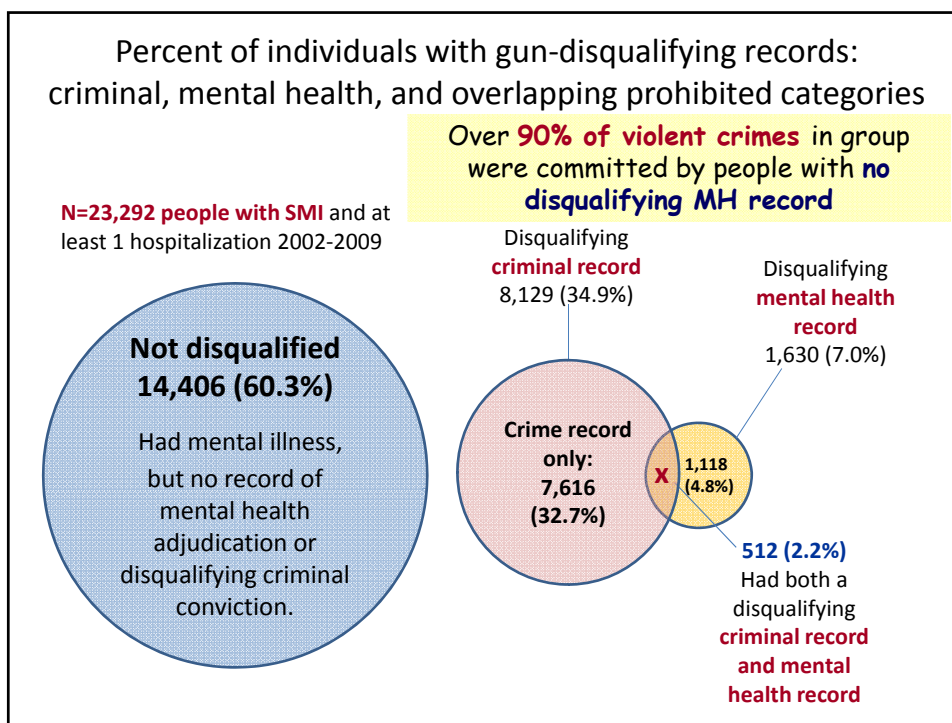
Accumulation of MH records in National Instant Check System



Using the NICS for mental health background checks in gun purchases: **5 reasons why it might not work as currently implemented**

1. Prohibiting criteria correlate poorly with risk (over- and under-inclusive)
2. Wide variability in commitment policy at the state level
3. Spotty reporting to NICS
4. Saturation of existing guns
5. Unregulated transfers





Key findings from multivariable analysis

Same risk factors for violent crime in people with mental illness as found in general population

Adjusted Odds Ratios (ORs) for violent crime:

- Age (OR = 0.98)
- Male gender (OR = 2.00)
- African American (OR=1.7)
- Hispanic (OR=1.2)
- Substance abuse (OR=2.93)

Proxy for social and economic disadvantage, which we did not measure.

Key findings from multivariable analysis

Criminal record disqualification

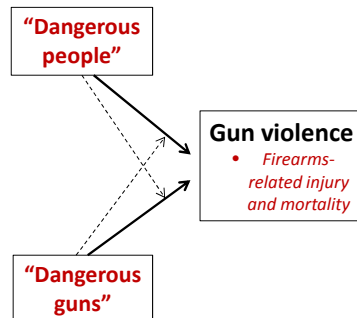
- People with a gun-disqualifying criminal record were **1.6 times more likely** to commit a future violent crime than people with no disqualifying criminal record ($p < 0.001$)

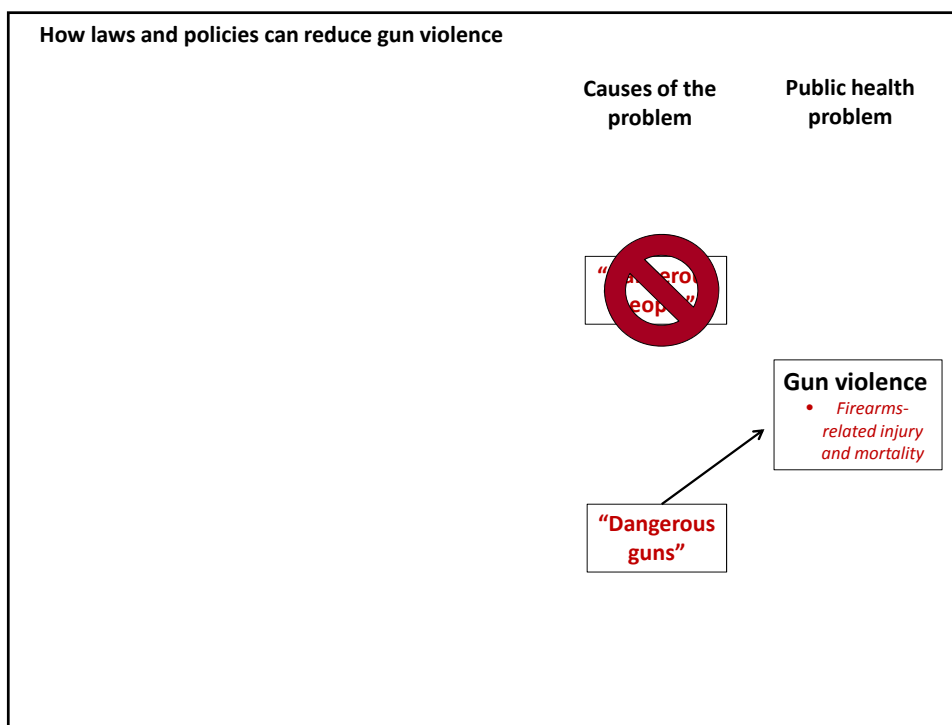
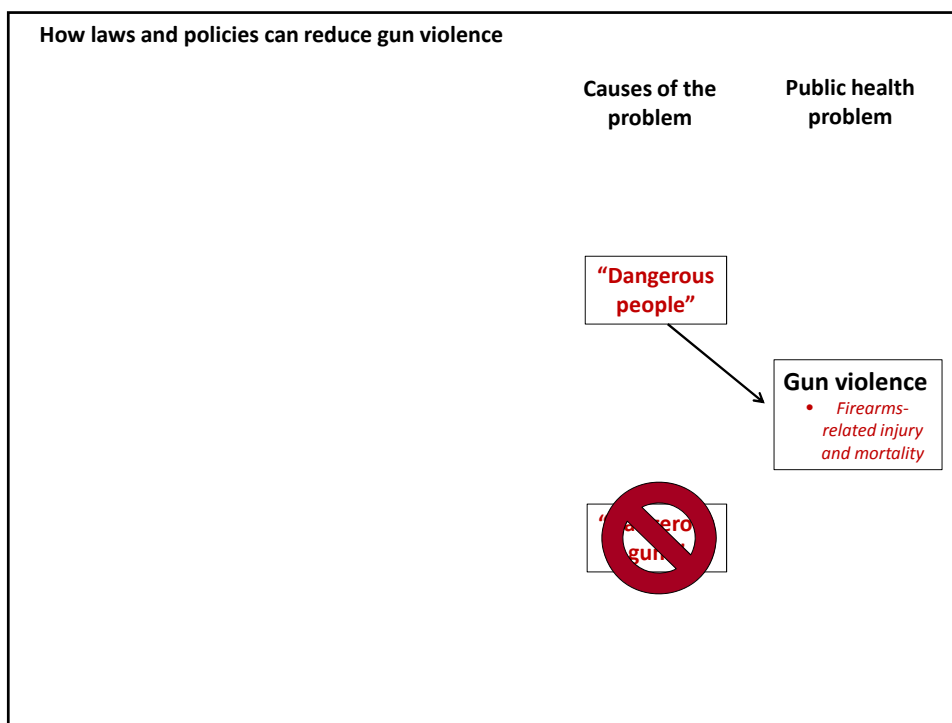
- **Marker for criminal recidivism**
- **Obtained guns on secondary market?**

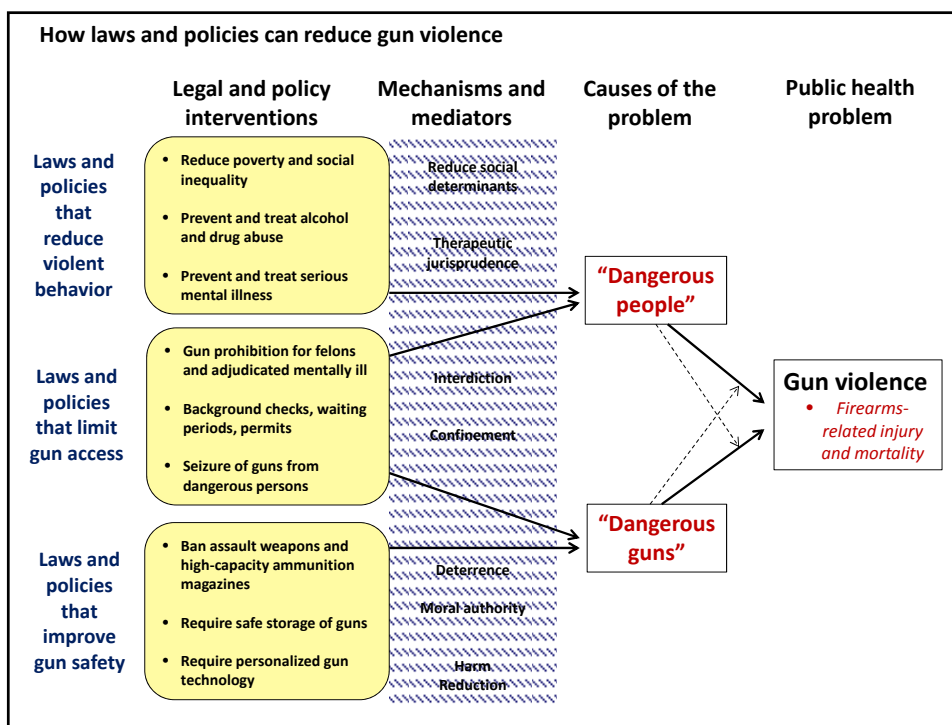
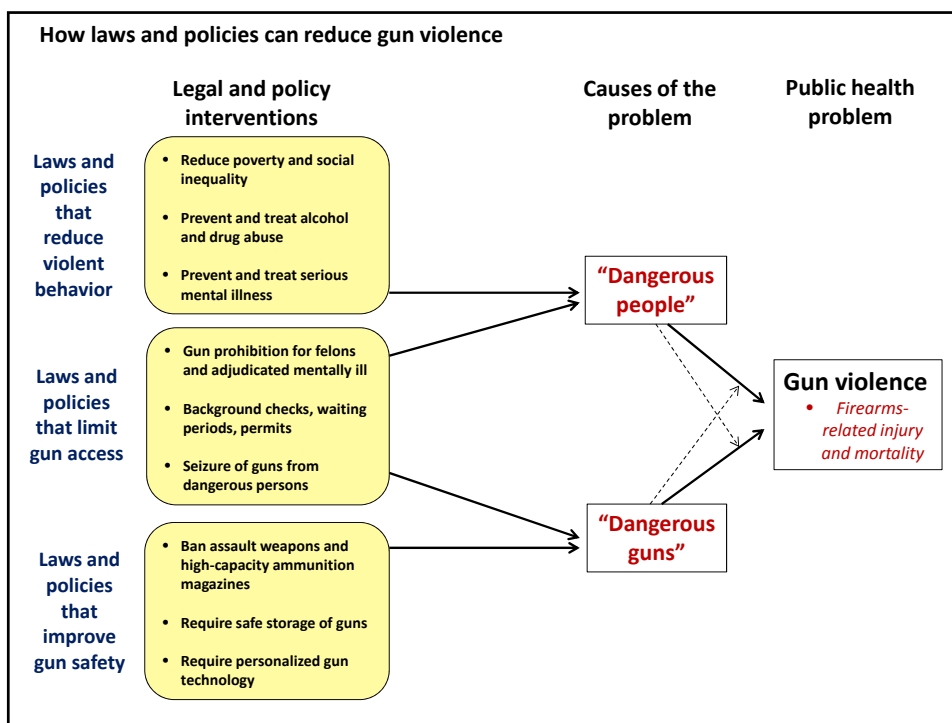
How laws and policies can reduce gun violence

Causes of the problem

Public health problem







Examples of policy approaches to reduce gun violence in people with mental disorders

- **Expanded mental health gun disqualification**
 - Emergency commitments (Pennsylvania)
 - Voluntary psychiatric hospitalizations (Connecticut)
- **Dangerous persons gun seizure**
 - Warrantless, pending judicial hearing (Indiana)
 - With warrant (Connecticut)
 - Short term (crisis-targeted) (California)
- **Screening, surveillance, reporting**
 - Mandated provider reporting (New York SAFE Act)
 - Threat Assessment Teams (mandated for colleges in Virginia)
- **Mandated outpatient treatment**
 - New York Expansion of “Kendra’s Law”
- **Public mental health and human service system investment**
 - “Prevent the unpredictable” (Federal and state policy reform)

How do we reduce gun violence in people with mental illness?

– Clinical-legal approach

- *assess, identify, confine, commit, and prohibit persons at risk*
 - risk assessment/prediction of violence
 - involuntary commitment of dangerous persons
 - categorical prohibition of firearms for committed persons; background checks

– Social-therapeutic approach

- *“prevent the unpredicted”*
 - address risk factors for poor mental health outcomes
 - address social and economic determinants of violence
 - provide access to effective, evidence based treatment

Principles to guide gun policy reforms related to mental illness

- **Prioritize** contemporaneous risk assessment, 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** due process, not just legal authority
- **Preserve** confidential therapeutic relationships
- **Prevent** the unpredictable by investing in better mental health systems, thus improving access and adherence to prescribed treatment

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