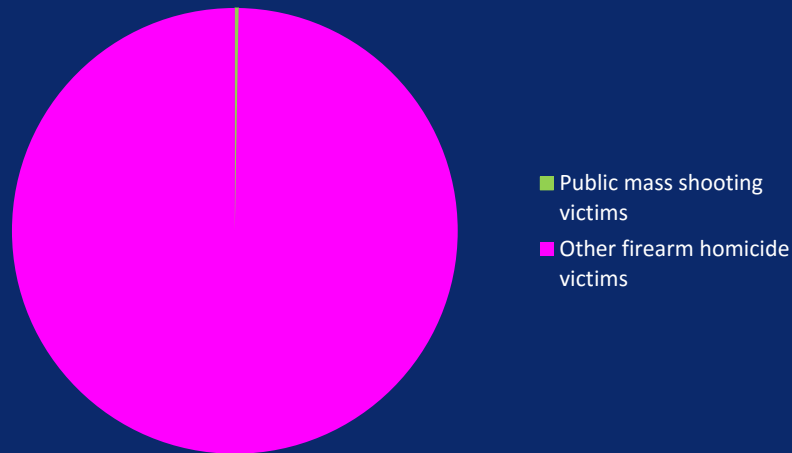


Mass Shootings and the Mental Health System

Amy Barnhorst, MD
University of California, Davis
Department of Psychiatry

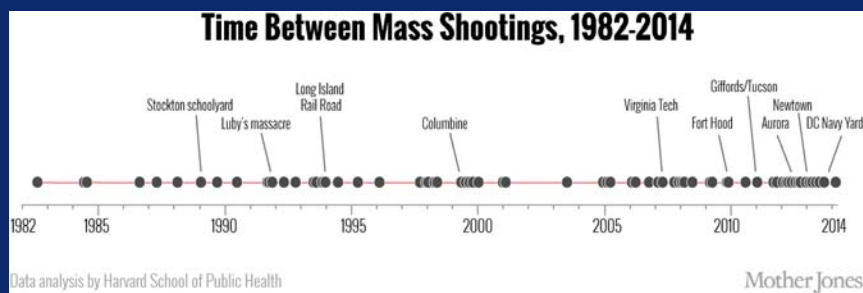
- Epidemiology of mass shootings
- Relationship between violence and mental illness
- Firearm law as it pertains to mental illness
- Cases of mass shooters and how they got guns
- What can be done in the future

2013 Firearm Homicides



<http://www.usatoday.com/story/news/nation/2013/12/15/mass-killings-main/3821897/>
CDC Fast Stats 2013

Time Between Mass Shootings



Cohen, Azrael, Miller (2014) Rate of Mass Shootings Has Tripled Since 2011 Mother Jones.

<http://www.motherjones.com/politics/2014/10/mass-shootings-increasing-harvard-research>

Mass Shootings in U.S. vs. Other Countries

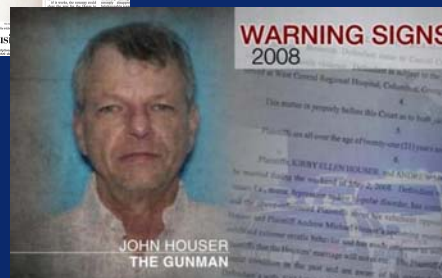
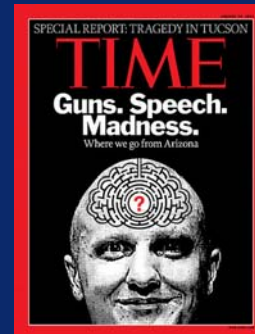
Taking Measure

Researchers counted 166 mass shootings in the U.S. and 13 other countries between 2000-14. The U.S. had the most with 133.

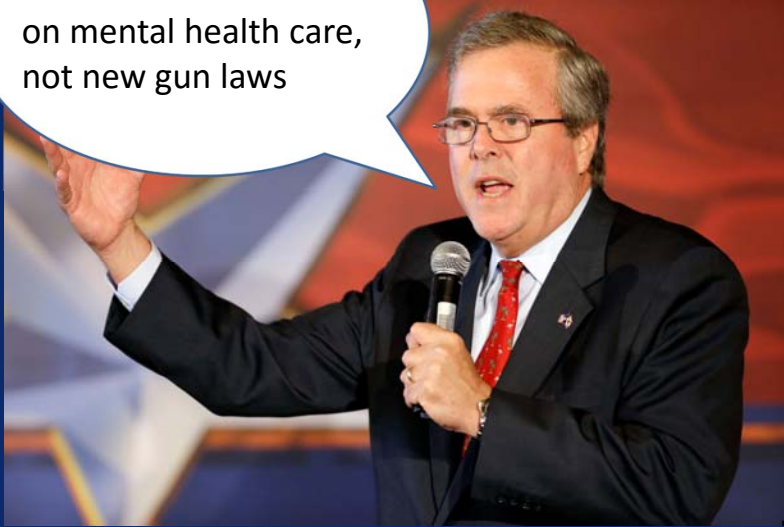
Country	Fatality rate per 100,000, 2000-14	Mass shootings
Norway	1.30	1
Finland	0.34	2
Switzerland	0.17	1
United States	0.15	133
Israel	0.13	2
Germany	0.05	6
South Africa	0.05	3
Argentina	0.03	2
England	0.02	1
Russia	0.01	4
Canada	0.01	3
Mexico	0.01	2
Australia	0.01	2
China	0	4

Source: Jaclyn Schildkraut of the State University of New York in Oswego and H. Jaymi Elsass of Texas State University

THE WALL STREET JOURNAL.



America should focus
on mental health care,
not new gun laws





Are people with mental illness at increased risk for violence?



Are people with mental illness at increased risk for violence?

- Not really.....
- More likely to be victims of crime than perpetrators

Choe, et al. (2008) Perpetration of violence, violent victimization and severe mental illness: balancing public health concerns. Psych Services.

....except under certain circumstances

- Beginning of psychotic illness
- Period surrounding psychiatric hospitalization

McNeil et al (2007). Base rates of firearm possession by hospitalized psychiatric patients. Psych Services.

Choe, et al. (2008) Perpetration of violence, violent victimization and severe mental illness: balancing public health concerns. Psych Services.

What is the increased risk of violence?

- Increased risk of violence with any major mental disorder

OR 2.44

Swanson JW. Mental disorder, substance abuse, and community violence: an epidemiological approach. In: Monahan J, Steadman H, editors. Violence and mental disorder. Chicago: University of Chicago Press; 1994. pp. 101-136.

How does substance abuse factor in?



How does substance abuse factor in?

- Independent risk factor for violence
- Association between violence and mental illness seen largely attributable to increased substance abuse

Elbogen, et al. (2009). The Intricate Link Between Violence and Mental Disorder Results From the National Epidemiologic Survey on Alcohol and Related Conditions. *Archives of General Psychiatry*.

How does substance abuse factor in?

- Increased risk of violence with substance abuse (and no mental illness)

OR 6.8

Swanson JW. Mental disorder, substance abuse, and community violence: an epidemiological approach. In: Monahan J, Steadman H, editors. Violence and mental disorder. Chicago: University of Chicago Press; 1994. pp. 101-136.

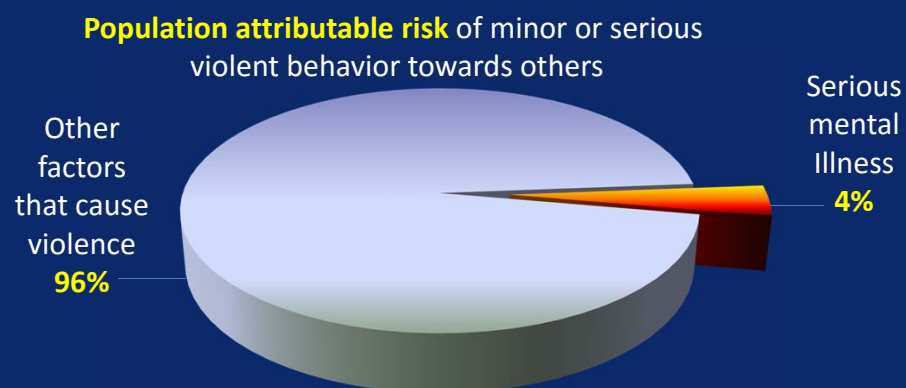
How does substance abuse factor in?

- Increased risk of violence with substance abuse AND mental illness

OR 9.78

Swanson JW. Mental disorder, substance abuse, and community violence: an epidemiological approach. In: Monahan J, Steadman H, editors. Violence and mental disorder. Chicago: University of Chicago Press; 1994. pp. 101-136.

Serious mental illness contributes very little to overall violence towards others.....



Swanson JW. Mental disorder, substance abuse, and community violence: an epidemiological approach. In: Monahan J, Steadman H, editors. Violence and mental disorder. Chicago: University of Chicago Press; 1994. pp. 101-136.

What firearm laws target people with mental illness?



A Brief History of Federal Firearm Law



Common Law Origins



Second Amendment to the Constitution

"A well regulated Militia being necessary to the security of a free State, the Right of the People to keep and bear Arms shall not be infringed."







The Gun Control Act of 1968



The Gun Control Act of 1968

- Regulates firearm industry and owners
 - Requires federal licensure of firearm retailers (FFL)
 - Prohibits interstate trafficking of firearms
 - Prohibits ownership by minors
 - Prohibits ownership by “prohibited persons”

The Gun Control Act of 1968

- Regulates firearm industry and owners
 - Requires federal licensure of firearm retailers (FFL)
 - Prohibits interstate trafficking of firearms
 - Prohibits ownership by minors
 - Prohibits ownership by “prohibited persons”

The Gun Control Act of 1968

Prohibited Persons

- 1) felons
- 2) fugitives from justice
- 3) unlawful users of or people addicted to controlled substances

The Gun Control Act of 1968

Prohibited Persons cont.

- 4) anyone “adjudicated as a mental defective” or who has been “committed to any mental institution”
- 5) illegal aliens
- 6) dishonorable discharges from military
- 7) respondents to DV restraining orders

The Gun Control Act of 1968

Prohibited Persons cont.

- 4) anyone “adjudicated as a mental defective” or who has been “committed to any mental institution”
- 5) illegal aliens
- 6) dishonorable discharges from military
- 7) respondents to DV restraining orders

“Adjudicated as a mental defective”

A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

- (1) Is a danger to himself or to others; or
- (2) Lacks the mental capacity to contract or manage his own affairs....

“Adjudicated as a mental defective”

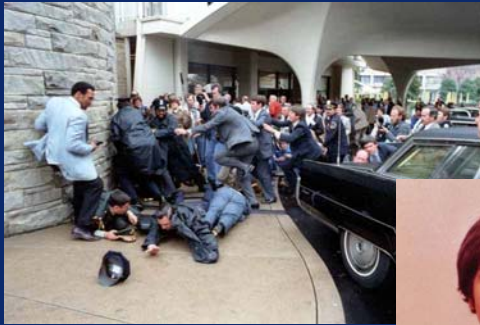
....The term shall include

- (1) A finding of insanity by a court in a criminal case; and
- (2) Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility

Case Law and “Committed to a Mental Institution”

- *U.S. v. Hansel*: **observational hospitalization** does NOT qualify as “commitment”
- *U.S. v. Giardina*: **lengthy hospitalization prior to formal judicial proceedings** does NOT qualify as “commitment”
- *U.S. v. Rehlander*: **emergency hospitalization** does NOT qualify as “commitment”

The Brady Act of 1993 and the NICS System



The Brady Act of 1993 and the NICS System

- Established national background check system for all FFLs: National Instant Check System (NICS)

State Reporting to Federal NICS Database



Virginia Tech and the NICS Improvement Act



“Adjudicated as a mental defective”

A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

- (1) Is a danger to himself or to others; or
- (2) Lacks the mental capacity to contract or manage his own affairs....

NICS Improvement Act of 2007

- Provided financial support and incentive for states to report to NICS
- Implemented “relief from disability” mechanism for people disqualified to petition to get their guns back
- Reporting to NICS by states still voluntary

State Reporting to Federal NICS Database

- 2012: 30 states reported no mental health records to NICS
- Reasons: technology, inability to de-aggregate data, and HIPAA

What about in California?



California Firearms Law



5150 Involuntary Hold

State of California - Health and Human Services Agency California Department of Health Care Services

APPLICATION FOR ASSESSMENT,
EVALUATION AND CRISIS INTERVENTION
OR PLACEMENT FOR EVALUATION AND
TREATMENT

REFERENCES AND DEFINITIONS

"Gravely Disabled" means a condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing and shelter. SECTION 50000.1 W&M Code

"Gravely Disabled Minor" means a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others, intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior (B, not by themselves), constitutes a mental disorder. SECTION 50001.1 W&M Code

"Peace officer" means a full-time peace officer as that term is defined in Chapter 4.5 (commencing with Section 8300) of Title 2 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any peace officer or probation officer specified in Section 500.2 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility. SECTION 50000 W&M Code

Section 5150.1 W&M Code

The professional person in charge of the facility providing 72-hour evaluation and treatment, or his or her designee, shall notify the county mental health director or the director's designee and the peace officer who makes the written application pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, when the person has been released after 72-hour detention, when the person is not detained, or when the person is released before the full period of admission 72-hour detention if all of the conditions apply:

(a) The peace officer requests such notification at the time he or she makes the application and the peace officer certifies at that time in writing that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.

(b) The notice is limited to the person's name, address, date of admission for 72-hour evaluation and treatment, and date of release.

If a peace officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information contained pursuant to the notification requirements of this section, that officer, agency, or designee shall destroy that record upon receipt of notification.

Section 5150.2 W&M Code

Each law enforcement agency within a county shall arrange with the county mental health director a method for giving prompt notification to peace officer pursuant to Section 5150.1 W&M Code.

Section 5005.50 W&M Code

The facility shall make every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained. Section 5005.50 W&M Code

A minor under the jurisdiction of the Juvenile Court under Section 5005 W&M Code is due to abuse, neglect, or exploitation.

A minor under the jurisdiction of the Juvenile Court under Section 601 W&M Code is due to being adjudged a ward of the court as a result of being out of parental control.

A minor under the jurisdiction of the Juvenile Court under Section 602 W&M Code is due to being adjudged a ward of the court because of crimes committed.

Section 5102 W&M Code (SECTION 5102.1) (Added)

1. If a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 5102 or 5103, is found to own, have in his or her possession or under his or her control, any firearm, unloaded, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall make copies of the receipt and deliver the receipt to the person.

"Deadly weapon," as used in this section, has the meaning prescribed by Section 5103.

(1) If a peace officer or law enforcement agency, or designee of the law enforcement agency, possesses any record of information contained pursuant to the notification requirements of this section, that officer, agency, or designee shall destroy that record upon receipt of notification.

(2) If the person is released, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated.

(3) The receipt of any firearm or other deadly weapon which has been confiscated.

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DHCS 1801 (02/2019) Page 2 of 2

5150 Involuntary Hold

- Allows for temporary removal of gun *in a person's possession* when they are detained for an emergency psychiatric evaluation
- Does not trigger a purchase or ownership prohibition at the state or federal level

Admission for Dangerousness



State-level disqualification for 5 years if:

- *Admitted* to a mental institution for Danger to Self or Danger to Others
- *Committed* to a mental institution for Grave Disability (same as federal)

Tarasoff and Duty to Protect Statutes



Tarasoff and Duty to Protect

- Applies “*where the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim*”

Tarasoff and Duty to Protect

- Applies “*where the patient has communicated to the **psychotherapist** a serious threat of physical violence against a **reasonably identifiable victim***”
- Prohibition recently increased from 6 months to 5 years

Laura's Law and Involuntary Outpatient Treatment



Laura's Law and Involuntary Outpatient Treatment

- Initially firearm prohibition not specifically included
- 2013 resolution specified state-level firearm prohibition for duration of outpatient commitment
- 2013 Executive Order “clarified” that outpatient commitment had intended to be covered under “adjudicated as a mental defective” for federal prohibition

How do mass shooters still get guns?



Columbine High School, 1999



KSLTV Station Shooting, 1999



Virginia Tech, 2007



“Adjudicated as a mental defective”

A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

- (1) Is a danger to himself or to others; or
- (2) Lacks the mental capacity to contract or manage his own affairs....

VA Statute

“involuntarily committed” or ruled mentally
“incapacitated.”

Virginia Tech, 2007



Gabrielle Giffords Constituents Meeting Shooting, 2011



Navy Yard Shooting, 2013



Sandy Hook Elementary, 2012



Isla Vista, 2014



Tarasoff and Duty to Protect

- Applies “where the patient has communicated to the *psychotherapist* a serious threat of physical violence against a *reasonably identifiable victim*”

Isla Vista, 2014



Charleston Church, 2015



The Gun Control Act of 1968

Prohibited Persons

- 1) felons
- 2) fugitives from justice
- 3) unlawful users of or people addicted to controlled substances

Charleston Church, 2015



If it's not mental illness....what is it?



Pseudocommando / Narcissist

- Narcissism and entitlement
- Grandiosity
- Rage and grudge-holding
- History of bullying or social isolation
- Revenge and “personal agenda of payback”

Dietz P (1986) Mass serial and sensational homicides. Bull NY Acad Med.

Knoll J (2012) Mass Murder: Causes, classification and prevention. Psychiatr Clin N Am

Bath School Disaster, 1927



Pseudocommando / Narcissist

- Actions planned for long time (not impulsive)
- Act committed in daylight in public place
- Perpetrators arrive dressed in some type of warrior gear, armed with arsenal of weapons
- Personalized message broadcast through public media
- No escape plan

Dietz P (1986) Mass serial and sensational homicides. Bull NY Acad Med.

Knoll J (2012) Mass Murder: Causes, classification and prevention. Psychiatr Clin N Am

What can we do in the future?

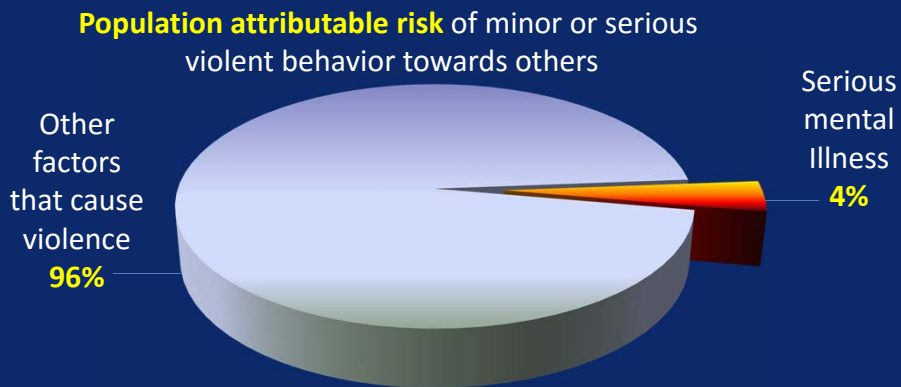


CT Firearm Disqualifications

- After being disqualified, risk of committing violent crime if disqualification was for:
 - Mental illness only
53% lower
 - Mental illness AND criminal history
17% lower

Swanson JW et al. Preventing Gun violence Involving People with Serious Mental Illness. In: Webster D and Vernick J, editors. Reducing Gun Violence in America: Informing Policy with Evidence and Analysis. Baltimore: Johns Hopkins University Press; 2013.

Serious mental illness contributes very little to overall violence towards others.....



Swanson JW. Mental disorder, substance abuse, and community violence: an epidemiological approach. In: Monahan J, Steadman H, editors. Violence and mental disorder. Chicago: University of Chicago Press; 1994. pp. 101-136.

Violent Misdemeanants



Violent Misdemeanants

- Became prohibited persons in CA in 1990
- Prohibition from owning a firearm reduced violent crime in this group by 30%

Wintemute, et al. (2001) Subsequent Criminal Activity Among Violent Misdemeanants Who Seek to Purchase Handguns: Risk Factors and Effectiveness of Denying Handgun Purchase. *JAMA*.

APPS Program

- 20,000 people in California who own weapons illegally
- 39,000 handguns
- 1,670 assault weapons

APPS Program



Firearm Restraining Order



Firearm Restraining Order

- Allows family members or police to petition to have a person's guns removed based on a concern for violence in the near future
- Modelled closely after DVRO
- Signed by Governor September, 2014; went into effect January, 2016

Substance Abusers



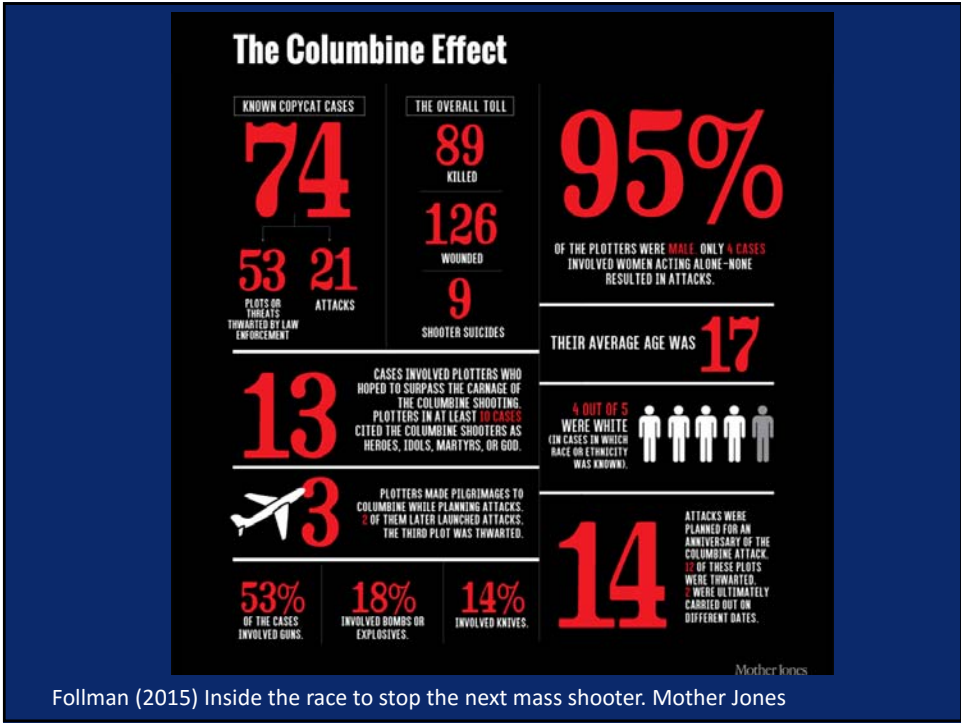
Substance Abusers

SB 755

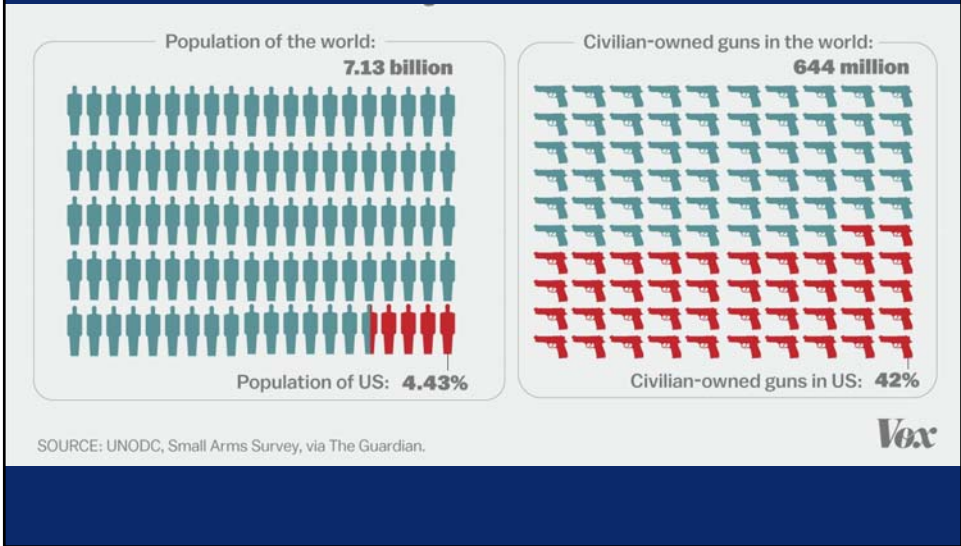
- Would have added people with two or more alcohol or drug-related offenses to list of prohibited persons
- Passed in Assembly and Senate, vetoed by Governor in 2013

Media Portrayal / Focus

- Concern for copycats
- Shift media focus from perpetrators to victims



Address general availability of firearms



Take Home Points

- Mass shootings represent tiny fraction of firearm deaths in this country, but firearm deaths are a significant public health problem.
- To balance individual rights with community risk, firearm prohibitions must be both sensitive and specific.
- Targeting people with mental illness may not represent the most effective prohibition strategy.

THE END

Resources

- National Medical Council on Gun Violence
<http://nmcgv.org/>
- The Trace
<http://www.thetrace.org/>
- Behavioral Sciences and the Law Special Edition on Guns, Mental Illness and the Law
- Consortium for Risk Based Firearm Policy recs
<http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/GPHMI-State.pdf>