

Alcohol and Drug Abuse as Risk Factors for Subsequent Criminal Activity Among Legal Handgun Purchasers

PI: Garen Wintemute, M.D., M.P.H.

This project will address whether and to what extent a history of alcohol and drug abuse is associated with risk for future violent and firearm-related criminal activity, and criminal activity of other types, among authorized purchasers of handguns.

One of the most widely-accepted measures to prevent firearm violence is to prohibit purchase and possession of firearms by persons believed to be at high risk for committing that violence. Federal law prohibits possession by felons, persons convicted of domestic violence misdemeanors or subject to final domestic violence restraining orders, anyone who is “an unlawful user of or addicted to any controlled substance,” has been “adjudicated as a mental defective” or “committed to any mental institution,” and others.¹⁸ Recent Supreme Court decisions have affirmed that any individual right to purchase and possess firearms is subject to restriction,^{19,20} but there is no agreement on what those restrictions should be.

Current federal policy is seriously flawed, however. Its denial criteria do not include some large high-risk groups. Persons convicted of violent misdemeanors are the best-studied example. Our group has shown that, among individuals who purchase handguns legally, those with prior convictions for misdemeanor violence are at least seven times as likely as those with no prior criminal history to be arrested later for violent or firearm-related crimes, including homicide, rape, robbery, and aggravated assault.²¹

A second missing criterion is a history of alcohol abuse and dependence (hereafter, alcohol abuse). Alcohol is specifically excluded from the list of controlled substances referred to above. Only three states have firearm prohibitions relating to alcohol abuse that are specific enough to be enforceable, and none of them have been evaluated.²² In 2013 the California Legislature passed a 10-year firearm prohibition for persons convicted of two or more alcohol-related crimes (such as driving under the influence, DUI) in a 5-year period. Governor Brown vetoed the bill, stating that he was “not persuaded that it is necessary to prohibit gun ownership on the basis of crimes that are non-felonies, non-violent and do not involve misuse of a firearm.”²³

Alcohol abuse is a well-established direct risk factor for interpersonal violence and suicide. Nationwide surveys of state prison inmates by the Bureau of Justice Statistics (BJS) in 1993 and 2004 found that 37% of those convicted of violent crimes were under the influence of alcohol at the time the crime was committed, according to the inmates’ own reports.^{24,25} In 2009, according to the National Violent Death Reporting System (NVDRS),²⁶ 34.2% of homicide victims and 33.3% of suicide victims had toxicology studies that were positive for alcohol. The National Epidemiologic Survey on Alcohol and Related Conditions found that a prior history of alcohol abuse increased risk of subsequent violence against others by a factor of 4.4.²⁷ A multi-city study sponsored by the Centers for Disease Control and Prevention reported that persons who died from homicide were 2.2 times as likely as others to consume alcohol, 17.9 times as likely to have had trouble at work related to drinking, and 10.0 times as likely to have been hospitalized for complications of alcohol use.²⁸ That same study found that persons who died from suicide were 1.8 times as likely as others to consume alcohol, 6.1 times as likely to have had trouble at work related to drinking, and 10.2 times as likely to have been hospitalized for complications of alcohol use.²⁹

Of particular importance for this study, minor alcohol-related crimes such as DUI are strongly associated with risk for violence in the future. A United States Army study provided unusual detail on criminal activity by comparing soldiers with repeat DUI arrests to those with a single DUI arrest or no arrests and using military police records to identify arrests. Among repeat DUI offenders, 16% had been arrested for a violent crime; 5% of the 1-time offenders and none of the non-offenders had such arrests. In addition, 7% of repeat offenders had been arrested for carrying a concealed weapon and 11% for possession of controlled substances; none of the others had arrests for weapons offenses, and only 1% of those with no DUI arrests had been arrested for controlled substance possession.³⁰ Similarly, a new study of DUI offenders in Pennsylvania found that repeat offenders were more likely than first-time offenders

Alcohol and Drug Abuse as Risk Factors for Subsequent Criminal Activity Among Legal Handgun Purchasers

to report prior misdemeanor arrests (30% v 10%), arrests for a “crime against persons” (10% v 0%), and having “criminal associates” (43% v 10%).³¹

The statutory criterion for drug abuse is so vague as to be nearly impossible to enforce. An amplification in the Code of Federal Regulations has not solved this problem.³² Reporting of persons prohibited under this provision is very poor, at least in part due to the ambiguity of the scope of the prohibition. As of December 31, 2013, there were only 33,909 individuals listed in the NICS Index—the database used to conduct background checks of potential firearms purchasers on this criterion—as unlawful users of or addicts to controlled substances.³³

Yet drug abuse is also an important risk factor for both interpersonal and self-directed violence. In the 2004 BJS inmate survey, approximately one fourth of those incarcerated for violent crimes (24% of federal inmates and 27.7% of state inmates) reported committing those crimes while under the influence of one or more controlled substances.³⁴ A systematic review of forensic toxicology studies of homicide offenders found rates of controlled substance use or intoxication of 33% to 38%.²⁸ Half of the violent offenders in the BJS survey (49.1% of those in federal prisons and 49.6% of those in state prisons) reported controlled substance abuse use in the month preceding the offense.³⁴ National Epidemiologic Survey on Alcohol and Related Conditions found that a prior history of drug abuse increased risk of subsequent violence against others by a factor of 2.9.²⁷ Data from that survey also showed that a history of controlled substance abuse increased the risk of committing intimate partner violence by large factors: for “sedatives/tranquilizers,” 6.6 for men and 3.0 for women; for cocaine, 8.5 for men and 7.5 for women.³⁵ In the 2009 NVDRS data cited previously, opiates, marijuana, and cocaine were identified in 20.8%, 9.3%, and 5.2% of suicide victims tested for these substances.²⁶ The multi-city CDC-sponsored study cited earlier reported that persons who died from homicide were 5.2 times, and those who died from suicide were 7.1 times, as likely as others to have used drugs.²⁹ In a systematic review, drug use disorders were linked to a 3-fold increase in risk for subsequent suicide attempts.³⁶

The statutory criterion for serious mental illness reflects a dated and incorrect understanding of the relationship between mental illness and violence. Three large and recent general population studies have helped to clarify the basic relationships. The strongest association was found when substance abuse, psychiatric disorder, and a prior history of violence were considered together. For subjects with all three of these traits, as compared to others with none of them, risk for future violence was increased by a factor of 10.³⁸ Finally, the National Comorbidity Survey also found that an association between violent behavior and psychiatric disorder was much attenuated when demographics were accounted for and greatly increased when co-morbid substance abuse was present. Risk for violence was particularly increased among those whose psychiatric diagnosis had recently been made.³⁹

In other words, much of the risk for future violence that is popularly linked to mental illness itself is in fact attributable to co-existent alcohol abuse, drug abuse, or a past history of violence. Addressing these three factors would do much to lessen violence that is also associated with serious mental illness.

The practical effect of these three flaws and others in policies prohibiting access to firearms by high-risk persons is clear; studies in Illinois and in 13 states nationwide have found that approximately 60% of persons charged with firearm-related felonies are not prohibited persons under federal law at the time those felonies are committed.^{10,40}

And the argument that closing such gaps would be of benefit is based on good evidence. Two studies by our group, one focused on felons⁴¹ and the second on violent misdemeanants,⁴² have shown that denial of purchases by prohibited persons reduces their subsequent risk of violent and firearm-related crime by at least 25%. (Both studies were conducted in California, where violent misdemeanor convictions are grounds for a firearm prohibition under state law.) A Connecticut study of denial for serious mental illness with specific risk for violence found similar benefits.⁴³