



PROJECT MUSE®

Reducing Gun Violence in America

Webster, Daniel W., Vernick, Jon S., Bloomberg, Michael R.

Published by Johns Hopkins University Press

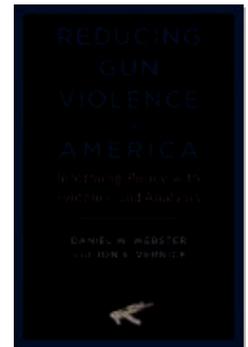
Webster, Daniel W., et al.

Reducing Gun Violence in America: Informing Policy with Evidence and Analysis.

Johns Hopkins University Press, 2013.

Project MUSE., <a href="

<https://muse.jhu.edu/>.



➔ For additional information about this book

<https://muse.jhu.edu/book/21475>

Access provided at 25 Jan 2020 13:57 GMT with no institutional affiliation



This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by-nc-nd/4.0/).

Broadening Denial Criteria for the Purchase and Possession of Firearms

Need, Feasibility, and Effectiveness

Garen J. Wintemute

This essay presents the findings of research relating to criminal activity among legal purchasers of firearms—those who have passed their background checks—and the evidence that extending the denial criteria to additional high risk populations is feasible and effective. Its primary subject is persons convicted of violent misdemeanor crimes, a group sometimes referred to as not-so-law-abiding gun owners. It will briefly consider persons who abuse alcohol, which is discussed more fully in the essay by Katherine A. Vittes (in this volume).

Background

Federal statute prohibits the purchase and possession of firearms by persons convicted of any felony or a misdemeanor domestic violence offense, anyone

Garen J. Wintemute, MD, MPH, is the Susan P. Baker–Stephen P. Teret Chair in Violence Prevention and a professor of emergency medicine in the University of California, Davis, School of Medicine.

who is “an unlawful user of or addicted to any controlled substance,” and others (U.S. Code). From the inception of the Brady Act in 1994 through 2009, the most recent year for which data are available, 107,845,000 background checks were performed; 1,925,000 (1.8%) firearm purchases were denied (Bowling et al. 2010). In 2009 alone, 10,764,000 background checks were performed, and 150,000 (1.4%) denials resulted. Well over 90% of denials result from the would-be purchaser’s prior criminal activity.

While recent Supreme Court decisions have affirmed that any individual right to possess firearms is subject to restriction (*District of Columbia v. Heller* 2008, *McDonald v. City of Chicago* 2010), there is no agreement on what those restrictions should be.

The existing federal denial criteria do not extend to all persons who are at increased risk for committing crimes. This problem of incomplete coverage has been noted at least since 1981, when Cook and Blose noted that a “considerable fraction of people who commit violent crimes are legally entitled to own guns” (Cook and Blose 1981). One notable gap concerns prior convictions for violent misdemeanors. While persons convicted of misdemeanor assault on their intimate partners are prohibited persons, those convicted of misdemeanor assault on anyone else, or of misdemeanor violence of other kinds, are not. Another important omission concerns persons who abuse alcohol. Alcohol is specifically excluded from the list of controlled substances referred to in statutes regulating firearm purchase and possession.

Two recent studies highlight the importance of such gaps in coverage. Among individuals arrested for homicide in Illinois in 2001, 42.6% had prior felony convictions. Many of the remaining 57.4% were likely not prohibited from purchasing firearms at the time of their arrests (Cook, Ludwig, and Braga 2005). The second study concerned inmates incarcerated for firearm-related felonies in 13 states where denial criteria reflected those in federal statutes. This study considered all denial criteria related to criminal activity. Of 253 inmates, 102 (40.3%) were prohibited persons at the time of their arrests (Vittes, Vernick, and Webster 2012).

This evidence suggests that most of those who commit firearm-related violent crimes are eligible to purchase firearms, under federal standards at least, at the time the crimes are committed. In fact, the narrow scope of the current federal denial criteria has been proposed as one of the reasons that the Brady Handgun Violence Prevention Act did not measurably reduce homicide rates (Ludwig and Cook 2000, Wintemute 2000).

Given the important gaps in federal regulation, many states have enacted additional prohibitions on firearm purchase and possession. Twenty-six states include at least some misdemeanor crimes, and 20 include persons with a history of alcohol abuse (Bureau of Justice Statistics 2006). The specifics vary from state to state.

Since 1991, California has denied firearm purchases to persons convicted of essentially all violent misdemeanors, including crimes such as assault and battery and brandishing a firearm, since 1991. The prohibition lasts for 10 years. Criminal convictions account for 80% to 90% of denials in California, and convictions for violent crimes account for 40% to 55% (Wintemute et al. 1999, Wright, Wintemute, and Claire 2005). Denials for felony convictions and violent misdemeanor convictions are about equal in number. Approximately 25% of denials for misdemeanor assault are for domestic violence offenses (Wright, Wintemute, and Claire 2005).

Such extensions can substantially expand the size of the population that is denied purchase and possession of firearms. Of the 253 felons in the 13-state study discussed, an additional 28.9% would have been prohibited persons under stricter criteria that are now in effect in other states (Vittes, Vernick, and Webster 2012).

Evidence

Two important empirical questions should be addressed when considering expansions of the denial criteria. First, are there subgroups of persons who purchase firearms legally, at least under federal statute, who are demonstrably at increased risk for committing violent crimes? Second, does denial *work*—does it decrease risk for firearm-related and violent crimes among the individuals who are directly affected? There is good evidence on both questions for persons convicted of violent misdemeanors, and on the first for alcohol abusers.

Misdemeanor Violence

The research on misdemeanor violence comes from California. The first study concerned 5,923 authorized purchasers of handguns ages 21 to 49 in 1977 (Wintemute et al. 1998). Of these handgun purchasers, 3,128 had at least one prior misdemeanor conviction (not necessarily for a violent offense), and 2,795 had no prior criminal history. Over 15 years of follow-up, 50.4% of purchasers with prior convictions, but only 9.8% of those with no prior criminal

history, were arrested for a new offense (Table 6.1). Approximately one in six purchasers with a prior misdemeanor conviction (15.4%) was arrested for a violent Crime Index offense: murder, rape, robbery, or aggravated assault.

There was a strong dose-response relationship among men; risk of arrest increased with the number of prior convictions (Table 6.1). There also appeared to be some specificity of association, in that prior convictions for offenses involv-

Table 6.1 Incidence of and relative risk for new criminal activity, by type of offense, among authorized purchasers of handguns in California

Type and number of prior conviction(s)	Nature of new offense			
Study group	Any offense <i>n</i> (%)	Nonviolent firearm offense <i>n</i> (%)	Violent offense <i>n</i> (%)	Violent Crime Index offense <i>n</i> (%)
Prior misdemeanor conviction (<i>n</i> =2,735)	1379 (50.4)	361 (13.2)	682 (24.9)	421 (15.4)
No prior criminal history (<i>n</i> =2,442)	239 (9.8)	50 (2.0)	108 (4.4)	60 (2.5)
Males ^a	RR (95% CI)	RR (95% CI)	RR (95% CI)	RR (95% CI)
Any conviction(s)				
1	5.9 (5.1–6.9)	5.0 (3.6–7.0)	5.0 (4.0–6.2)	5.1 (3.8–6.9)
≥2	8.4 (7.2–9.8)	7.7 (5.6–10.5)	7.3 (5.9–9.1)	7.6 (5.7–10.2)
Conviction(s), none involving firearms or violence				
1	5.9 (5.0–6.9)	4.8 (3.4–6.7)	4.8 (3.8–6.0)	5.0 (3.7–6.8)
≥2	7.8 (6.7–9.2)	6.5 (4.7–9.1)	6.8 (5.4–8.6)	6.4 (4.7–8.7)
Conviction(s) involving firearms, but none involving violence				
1	6.4 (4.9–8.2)	7.7 (4.8–12.3)	4.4 (3.0–6.6)	5.2 (3.1–8.5)
≥2	10.9 (6.0–20.0)	14.7 (5.8–36.9)	13.0 (6.3–26.7)	12.4 (5.0–31.0)
Conviction(s) involving violence				
1	9.3 (7.7–11.3)	8.7 (6.0–12.6)	8.9 (6.8–11.6)	9.4 (6.6–13.3)
≥2	11.3 (8.3–15.3)	11.7 (6.8–20.0)	10.4 (6.9–15.8)	15.1 (9.4–24.3)

Source: Wintemute GJ, Drake CM, Beaumont JJ, Wright MA, Parham CA. Prior Misdemeanor Convictions as a Risk Factor for Later Violent and Firearm-Related Criminal Activity among Authorized Purchasers of Handguns. *JAMA* 1998;280:2083–2087.

RR=relative risk; CI=confidence interval

^aComparison is to subjects with no prior criminal history. Results are adjusted for age and time elapsed since handgun purchase.

ing firearms or violence were associated with the greatest risk of subsequent arrests for violent or firearm-related offenses. Handgun purchasers with two or more prior convictions for violent crimes were at substantially increased risk of arrest for violent crimes generally (relative risk 10.4), and the violent Crime Index offenses (relative risk 15.1). But even purchasers with only a single prior misdemeanor conviction, and that for an offense involving neither firearms nor violence, were still approximately five times as likely as those with no prior criminal history to be arrested subsequently for firearm-related or violent crimes.

At the time these handgun purchases were made, California still relied on the criminal history criteria in federal statute, as many states do today. On that parameter, this study population is generally comparable to persons who purchase handguns now from licensed retailers across the United States.

More recent research measured the incidence of criminal activity serious enough to prohibit firearm ownership among people who had previously, and legally, purchased handguns (Wright and Wintemute 2010). This study was conducted after California began prohibiting violent misdemeanants from purchasing firearms, and such persons are not part of the study population. A cohort of 7,256 handgun purchasers in 1991, 2,761 with a non-prohibiting criminal history and 4,495 with no criminal record at the time of purchase, were followed for up to five years. During that time, 21.0% of purchasers with convictions for non-violent misdemeanors were arrested, and 4.5% were convicted of a crime that prohibited firearm ownership under federal law. The incidence of criminal activity among those with no criminal history was much lower; 3.7% were arrested for any reason, and 0.9% became prohibited persons. Prior conviction for a non-violent misdemeanor was associated with a five-fold increase in risk of conviction for a prohibiting offense (hazard ratio 5.1), as in the prior study.

Risk was related inversely to age and, as before, was related directly to the extent of the prior criminal history (Table 6.2). Compared to handgun purchasers with no criminal history, and after adjustment for age and sex, those with three or more prior convictions for nonviolent misdemeanors had a hazard ratio of 13.6 for conviction for any prohibiting offense and a hazard ratio of 11.0 for a conviction for a violent Crime Index offense (Table 6.2).

Age and prior criminal history acted synergistically as risk factors. As compared to purchasers aged 35 to 49 with no prior criminal history, those aged 21 to 24 with three or more prior misdemeanor convictions had arrest rates for all types of offenses that were increased by a factor of approximately 200.

Table 6.2 Risk of arrest and new prohibition among legal purchasers of handguns in California^a

Characteristic	Arrest for any crime	Conviction for prohibiting offense	Conviction for violent Crime Index crime ^b
Misdemeanor conviction(s)	HR (95% CI)	HR (95% CI)	HR (95% CI)
No criminal history	Referent	Referent	Referent
1	5.6 (4.5–6.9)	4.2 (2.5–6.8)	4.9 (2.2–11.1)
2	9.0 (6.7–12.2)	10.4 (5.7–18.8)	9.2 (3.1–26.8)
≥3	11.4 (8.3–15.7)	13.6 (7.2–25.6)	11.0 (3.4–35.6)
Sex			
Male	1.0 (0.7–1.3)	0.6 (0.3–1.1)	0.9 (0.3–3.1)
Female	Referent	Referent	Referent
Age, yr			
21–24	4.9 (3.7–6.4)	6.1 (3.5–10.8)	7.7 (2.8–20.9)
25–34	2.4 (1.9–3.1)	2.4 (1.4–4.1)	2.6 (1.0–6.9)
35–49	Referent	Referent	Referent

Adapted from Wright MA, Wintemute GJ. Felonious or Violent Criminal Activity That Prohibits Gun Ownership among Prior Purchasers of Handguns: Incidence and Risk Factors. *J Trauma* 2010;69:948–955.

HR=hazard ratio; CI=confidence interval.

^aAdjusted for all variables in the table.

^bMurder, forcible rape, robbery, aggravated assault.

Alcohol Abuse

Alcohol abuse is a major risk factor for firearm-related violence of all types (Kellermann et al. 1992, Kellermann et al. 1993, Rivara et al. 1997, Conner et al. 2001, Karch, Dahlberg, and Patel 2010). Moreover, several studies have identified an association between personal firearm ownership and heavy or abusive alcohol consumption (Diener and Kerber 1979, Schwaner et al. 1999, Miller, Hemenway, and Wechsler 1999, 2002, Nelson et al. 1996, Smith 2001, Casiano et al. 2008).

A recent study of data from the 1996 and 1997 Behavioral Risk Factor Surveillance System surveys examined this association more closely (Wintemute 2011). After adjustment for demographics and state of residence, firearm owners were more likely than persons who had no firearms at home to have five or

more drinks on one occasion (odds ratio 1.3), to drink and drive (odds ratio 1.8), and to have 60 or more drinks per month (odds ratio 1.5) (Table 6.3).

Of particular interest—and perhaps not surprisingly—firearm owners who engaged in risk behaviors with firearms were also more likely than other firearm owners to drink excessively. For example, as compared with persons who had no firearms at home, firearm owners who also drove or rode in a vehicle with a loaded firearm were at greatest risk for drinking and driving (odds ratio 4.3). Firearm owners who did not travel in a vehicle with a loaded firearm available, were still at increased risk for drinking and driving (odds ratio 2.1), but less so.

Table 6.3 Alcohol use and alcohol-related risk behaviors among firearm owners by presence or absence of specific firearms-related behavior^a

Characteristic or behavior	Any alcohol OR (95% CI)	≥5 Drinks/occasion OR (95% CI)	Drink and drive OR (95% CI)	≥60 Drinks/month OR (95% CI)
Exposure to firearms				
Firearm owner	1.3 (1.2–1.5)	1.3 (1.2–1.5)	1.8 (1.3–2.4)	1.5 (1.1–1.8)
Household	1.2 (1.1–1.3)	1.0 (0.9–1.3)	1.3 (0.8–1.9)	1.3 (0.8–2.0)
No firearms	Referent	Referent	Referent	Referent
Loaded unlocked firearm at home				
Firearm owner, 'yes'	1.4 (1.2–1.7)	1.8 (1.5–2.3)	3.5 (2.3–5.4)	2.3 (1.6–3.3)
Firearm owner, 'no'	1.3 (1.2–1.4)	1.2 (1.1–1.4)	1.5 (1.9–2.0)	1.3 (1.0–1.7)
No firearms	Referent	Referent	Referent	Referent
Drive/ride in vehicle with loaded firearm				
Firearm owner, 'yes'	1.5 (1.3–1.9)	1.7 (1.4–2.2)	3.0 (1.9–4.7)	2.2 (1.4–3.3)
Firearm owner, 'no'	1.3 (1.2–1.4)	1.2 (1.1–1.4)	1.6 (1.2–2.2)	1.3 (1.0–1.7)
No firearms	Referent	Referent	Referent	Referent
Carry firearm for protection against people				
Firearm owner, 'yes'	1.3 (0.9–1.8)	1.5 (1.0–2.1)	2.1 (1.0–4.6)	1.6 (0.8–3.1)
Firearm owner, 'no'	1.3 (1.2–1.5)	1.3 (1.1–1.5)	1.7 (1.3–2.3)	1.4 (1.1–1.8)
No firearms	Referent	Referent	Referent	Referent

Source: Wintemute GJ. Association between firearm ownership, firearm-related risk and risk reduction behaviors and alcohol-related risk behaviors. *Injury Prevention* 2011;17(6):422–427.

OR=odds ratio; CI=confidence interval

^aAdjusted for state of residence, age, sex, and race.

The limited data available suggest that firearm ownership itself is associated with an increased risk of arrest (Cook and Ludwig 1996, Diener and Kerber 1979) or, among college students, “trouble with the police” (Miller, Hemenway, and Wechsler 2002). Carrying a firearm in public has also been linked to arrest for a non-traffic offense (Cook and Ludwig 1996, Smith 2001) and aggressive or hostile driving behavior (Miller et al. 2002, Hemenway, Vrinotis, and Miller 2006). Given the findings just presented, it is plausible that alcohol abuse among firearm owners is partly responsible for the association between firearm ownership and involvement with the criminal justice system.

Does Denial Work?

If denying firearm purchases reduces risk for future criminal activity, it most likely does so through incapacitation. To the extent that denial deprives high-risk persons of access to firearms, it reduces their capacity for committing firearm-related and violent crimes.

Some argue that denial simply prevents ineligible persons from acquiring firearms from licensed retailers and note that firearms can easily be obtained from private parties. Jacobs and Potter, partly on this basis, have labeled background checks and denial as nothing more than “a sop to the widespread fear of crime” (Jacobs and Potter 1995). The evidence is, however, that criminal firearm markets do not function smoothly; firearms are not always easily obtained through them (Cook et al. 2005). We have no data on how frequently firearm acquisitions are merely redirected by purchase denials and not prevented.

Background check and recordkeeping requirements do divert prohibited persons away from licensed retailers. Observational research at gun shows, where licensed retailers and private party sellers operate side by side, has documented cases in which individuals who are unable to purchase firearms from licensees do so from private parties instead (Wintemute 2009). In the 1991 Survey of State Prison Inmates, half of those who purchased their most recent firearm from an illegal source said that they had not bought their weapon from a licensee because of concerns about the background check (Bureau of Justice Statistics 1994). Vittes and colleagues reported that just 3.9% of the prohibited persons in their inmate sample had gotten those weapons from a licensed retailer (Vittes, Vernick, and Webster 2012).

Comprehensive background check requirements, which subject private party sales to the same safeguards that are applied to sales by licensed retailers, interfere with the operations of criminal firearms markets (Webster,

Vernick, and Bulzacchelli 2009, Pierce et al. 2012, Mayors Against Illegal Guns 2010). These studies are reviewed in the essay by Webster (in this volume).

Most importantly, denial appears to reduce risk for new criminal activity among those persons who are denied. The strongest evidence for this comes from a quasi-experimental evaluation of California's decision to extend its prohibitions to persons convicted of violent misdemeanors (Wintemute et al. 2001). The prohibition lasts for 10 years following their convictions. Study subjects were aged 21 to 34; all had prior convictions for violent misdemeanors. The intervention group comprised 927 persons who sought to purchase handguns in 1991 and were denied under the terms of the new policy. The control group included 727 persons who sought to purchase handguns in 1989 or 1990, just before the policy changed, and whose purchases were approved. Subjects were followed for up to three years.

Overall, 33.0% of subjects were arrested during follow-up: 21.8% for a firearm-related or violent offense and 22.1% for offenses of other types (Table 6.4). Persons whose purchases were approved were more likely than those who were denied to be arrested for a firearm-related or violent offense (relative hazard 1.2) but not for other offenses (relative hazard 0.9). In both groups, as always, risk of arrest was strongly related to age and the number of prior misdemeanor convictions (Table 6.4).

Denial was associated with a significant decrease in risk of arrest, both overall and for subjects stratified by age or number of prior convictions. These findings persisted in multivariate analysis (Table 6.5). Purchasers were more likely than denied persons to be arrested for new firearm-related or violent crimes (relative hazard 1.3), but not for other crimes (relative hazard 1.0). Similar results were seen in subgroups stratified by age, number of prior convictions for any crime, and number of prior convictions for a firearm-related or violent crime. The only exception was for subjects with three or more prior convictions for firearm-related or violent crimes. In this group with an established pattern of such activity, denial of handgun purchase may have no effect.

The authors called attention to the fact that there was a decrease in arrest rates only for the types of crimes the new policy might be thought to affect. They interpreted this specificity of effect as consistent with the hypothesis that the observed effect was related to the new policy.

A second study with a similar design estimated the effectiveness of denial of purchase based on a prior felony conviction (Wright, Wintemute, and Rivara 1999). As this policy has been enforced for decades in California, no

Table 6.4 Incidence and relative hazard of first arrest for new crimes among violent misdemeanants who applied to purchase handguns

Characteristic	Subjects, <i>n</i>	Firearm-related and/or violent crime		Non-firearm, nonviolent crime	
		Persons arrested <i>n</i> (%)	RH (95% CI)	Persons arrested <i>n</i> (%)	RH (95% CI)
All subjects	1654	360 (21.8)		366 (22.1)	
Purchase status					
Denied	927	186 (20.1)	Referent	211 (22.8)	Referent
Approved	727	174 (23.9)	1.2 (1.0–1.5)	155 (21.3)	0.9 (0.8–1.1)
Sex					
Female	65	11 (16.9)	Referent	15 (23.1)	Referent
Male	1589	349 (22.0)	1.3 (0.7–2.5)	351 (22.1)	0.9 (0.6–1.6)
Age, yr					
21–24	377	108 (28.6)	Referent	117 (31.0)	Referent
25–29	719	152 (21.1)	0.7 (0.6–0.9)	152 (21.1)	0.7 (0.5–0.8)
30–34	558	100 (17.9)	0.6 (0.4–0.8)	97 (17.4)	0.5 (0.4–0.7)
Prior convictions					
Any crime					
1	815	144 (17.7)	Referent	126 (15.5)	Referent
2	429	90 (21.0)	1.2 (0.9–1.6)	104 (24.2)	1.7 (1.3–2.1)
3	200	57 (28.5)	1.7 (1.3–2.3)	58 (29.0)	2.0 (1.5–2.8)
≥4	198	63 (31.8)	2.0 (1.5–2.7)	73 (36.9)	2.8 (2.1–3.7)
Firearm-related and/or violent crime					
1	1217	230 (18.9)	Referent	241 (19.8)	Referent
2	302	86 (28.5)	1.6 (1.3–2.1)	81 (26.8)	1.4 (1.1–1.8)
≥3	115	37 (32.2)	1.8 (1.3–2.6)	36 (31.3)	1.7 (1.2–2.5)

Source: Wintemute GJ, Wright MA, Drake CM, Beaumont JJ. Subsequent Criminal Activity among Violent Misdemeanants Who Seek to Purchase Handguns. *JAMA* 2001;285(8):1019–1026.

RH=relative hazard; CI=confidence interval

non-intervention group was available. Instead, 177 individuals who sought to purchase handguns in 1977 but were denied as a result of a prior felony conviction were compared to 2,470 persons who purchased handguns in 1977 and at that time had records of felony arrests. (Members of this group might have been convicted of those offenses, but at the misdemeanor level.) Subjects

Table 6.5 Risk of arrest for new crimes for handgun purchasers compared with denied persons among violent misdemeanants who applied to purchase handguns^a

Characteristic	Firearm-related and/or violent crime	Non-firearm, nonviolent crime
	RH (95% CI)	RH (95% CI)
Age, yr		
21–24	1.4 (0.9–2.0)	1.0 (0.7–1.5)
25–29	1.1 (0.8–1.5)	0.9 (0.7–1.3)
30–34	1.6 (1.1–2.5)	1.0 (0.6–1.5)
Prior convictions		
Any crime		
1	1.3 (0.9–1.8)	1.0 (0.7–1.4)
2	1.2 (0.8–1.8)	0.9 (0.6–1.3)
3	1.1 (0.7–1.9)	1.3 (0.8–2.3)
≥4	1.8 (1.1–3.1)	0.9 (0.6–1.5)
Firearm-related and/or violent crime		
1	1.4 (1.1–1.8)	1.0 (0.7–1.3)
2	1.3 (0.8–2.0)	1.1 (0.7–1.8)
≥3	0.9 (0.5–1.8)	0.8 (0.4–1.7)

Source: Wintemute GJ, Wright MA, Drake CM, Beaumont JJ. Subsequent Criminal Activity among Violent Misdemeanants Who Seek to Purchase Handguns, Risk Factors and Effectiveness of Denying Handgun Purchase. *JAMA* 2001;285:1019–1026.

RH=relative hazard; CI=confidence interval

^aThe comparison is to persons whose handgun purchases were denied. Adjusted for sex and all variables in the table.

were followed for up to three years following their attempted or completed purchases. The small size of the study population precluded multivariate adjustment. In separate analyses adjusting for age and for the nature and extent of the prior criminal history, the felony arrestees whose purchases were approved had statistically significant increases in risk of arrest for offenses involving firearms or violence (relative risk of 1.1 to 1.3) as compared to the felons whose purchases were denied.

Studies evaluating prohibitions on firearm ownership at the population level have yielded mixed findings. State-level firearm prohibitions for persons subject to domestic violence restraining orders were associated with 7% to 20% declines in the female intimate partner homicide rate (Vigdor

and Mercy 2003, 2006, Zeoli and Webster 2010). The Brady Handgun Violence Prevention Act, however, was found to have no effect on rates of firearm homicide (Ludwig and Cook 2000). Specific reasons for this other than a lack of effect of denial on the persons directly affected have been proposed, including effects on interstate trafficking and the fact that private party transfers are not regulated by the Brady Act. These studies are discussed elsewhere.

Recommendations

Federal and state governments should broaden their criteria for denial of firearm purchase and possession to include persons convicted of violent misdemeanors. An unknown, but possibly substantial, proportion of such persons were arrested on felony charges but convicted at the misdemeanor level in plea bargain arrangements. Among those who purchase firearms, persons convicted of violent misdemeanors are at substantially increased risk for violent crime in the future. Denial of firearm purchase can reduce that risk by an amount that is of real-world importance. The list of offenses now in use in California provides a reasonable model. At the federal level, this could perhaps be accomplished by deleting the word “domestic” from the phrase “misdemeanor crime of domestic violence” in 18 USC §922(d) and reworking the definition of the phrase as appropriate.

Federal and state governments should also deny the purchase and possession of firearms to persons who abuse alcohol. Multiple definitions of alcohol abuse are in use, and it might be reasonable to consider the second instance of any alcohol-related offense (DUI, drunk and disorderly, etc.) as the criterion for denial. This can be explored further and refined as needed. We do not have specific evidence that denial is effective in such cases, but there is good evidence that alcohol abuse is a risk factor for crime, that its prevalence is increased among firearm owners, and that it and other behaviors that increase risk for violence co-occur among firearm owners.

The question of how long these prohibitions should last has not been definitively answered. Risk of recidivism following an index arrest declines over time. Among 18-year-olds arrested for violent or property crimes, risk of arrest returned to the level seen for the never-arrested after approximately 20 years (Blumstein and Nakamura 2009). Other studies, again of juveniles and young adults, have seen risk return to baseline after less than 10 years (Kurlychek,

Brame, and Bushway 2007, 2006). In the United Kingdom, the time required is between 10 and 15 years (Soothill and Francis 2009). There appears to be no parallel research on older offenders or firearm owners. California’s 10-year policy is consistent with the available evidence.

Background checks that extend to misdemeanor convictions and alcohol-related offenses will be more complex and take longer to complete. ATF encountered 3,166 cases in 2011 in which a firearm was acquired by a prohibited person because the three-day waiting period ended before the background check could be completed (Federal Bureau of Investigation 2012). In such cases, ATF agents must contact the purchasers and recover or arrange other dispositions for the firearms (Frandsen 2010). To avoid a massive increase in delayed denials, as such cases are known, the waiting period should be extended in individual cases until the background check is completed.

Support for Broadened Denial Criteria

Survey research in the late 1990s found high levels of support among the general population and firearm owners for denial criteria that included violent and firearm-related misdemeanors and alcohol abuse (Table 6.6) (Teret et al. 1998). Results for the general population were confirmed in the 2001 General Social Survey (Smith 2007).

In a 2012 survey of firearm owners, 75% of members of the National Rifle Association (NRA) felt that persons with a history of misdemeanor violence

Table 6.6 Support overall and among firearm owners for denial of firearm purchases by persons convicted of specific misdemeanor offenses

Offense	Overall %	Firearm owners %
Public display of a firearm in a threatening manner	95	91
Possession of equipment for illegal drug use	92	89
Domestic violence	89	80
Assault and battery without a lethal weapon or serious injury	85	75
Drunk and disorderly conduct	74	73
Carrying a concealed weapon without a permit	83	70
Driving under the influence of alcohol	71	59

Source: Teret SP, Webster DW, Vernick JS, et al. Support for new policies to regulate firearms. *N Engl J Med.* 1998;339:813–818.

should not receive concealed weapon permits. Many states provide such permits to anyone who is legally eligible to possess firearms. Therefore, a judgment that a class of persons should not receive concealed weapon permits suggests a judgment that they should not possess firearms (Luntz Global 2012).

Drawbacks and Costs

Background checks are useful only to the extent that the databases on which they are performed are accurate and complete. There will be costs, which may be substantial, to compile the data for background checks that include these offenses. There will also be costs associated with the increasing number of denials and, presumably, appeals of those denials. Personnel, facility, and other resource requirements will all increase. No estimates of cost, or of offsetting financial benefit in crimes and injuries prevented, have been developed.

Compiling additional data on violent misdemeanors and alcohol-related offenses will take some time. Estimates of how long, and exploration of ways to shorten the time to implementation, will be needed.

These hurdles notwithstanding, California's experience with misdemeanor denials shows that such policies can be implemented and sustained over time and that a robust firearms market can operate with such regulation in place. More than 601,000 firearms were sold in California in 2011 (California Department of Justice), and the industry describes the state's market as "lucrative" (Anonymous 2007).

REFERENCES

- Anonymous. "California Market Still Lucrative." 2007. *The New Firearms Business*, 15 March, 5.
- Blumstein, Alfred, and Kiminori Nakamura. 2009. "Redemption in the Presence of Widespread Criminal Background Checks." *Criminology*, no. 47: 327–359.
- Bowling, Michael, et al. 2010. *Background Checks for Firearms Transfers, 2009—Statistical Tables*. Washington, DC: Bureau of Justice Statistics.
- Bureau of Justice Statistics. 1994. *Firearms and Crimes of Violence*. Washington, DC: Department of Justice.
- Bureau of Justice Statistics. 2006. *Survey of State Procedures Related to Firearm Sales, 2005*. Washington, DC: Bureau of Justice Statistics.
- California Department of Justice. 2012. *Dealers Record of Sale Transactions*.
- Casiano, Hygiea, et al. 2008. "Mental Disorder and Threats Made by Noninstitutionalized People with Weapons in the National Comorbidity Survey Replication." *Journal of Nervous and Mental Disease*, no. 196: 437–445.

- Conner, Kenneth R, et al. 2001. "Violence, Alcohol, and Completed Suicide: A Case-Control Study." *American Journal of Psychiatry*, no. 158: 1701-1705.
- Cook, Philip J, et al. 2005. *Underground Gun Markets*. Cambridge, MA: National Bureau of Economic Research.
- Cook, Philip J, and J Blose. 1981. "State Programs for Screening Handgun Buyers." *The Annals of the American Academy of Political and Social Science*, no. 445: 80-91.
- Cook, Philip J, and Jens Ludwig. 1996. *Guns in America: Results of a Comprehensive National Survey on Firearms Ownership and Use*. Washington, DC: The Police Foundation.
- Cook, Philip J, Jens Ludwig, and Anthony A Braga. 2005. "Criminal Records of Homicide Offenders." *Journal of the American Medical Association*, no. 294: 598-601.
- Diener, Edward, and Kenneth W Kerber. 1979. "Personality Characteristics of American Gun-Owners." *Journal of Social Psychology*, no. 107: 227-238.
- District of Columbia v. Heller, 128 S.Ct. 2783 (2008).
- Federal Bureau of Investigation. 2012. *National Instant Criminal Background Check System (NICS) Operation 2011*. Washington, DC: Federal Bureau of Investigation.
- Frandsen, Ronald J. 2010. *Enforcement of the Brady Act, 2008: Federal and State Investigations and Prosecutions of Firearm Applicants Denied by a NICS Check in 2008. Final Report to the U.S. Department of Justice. Document Number: 231052.*
- Hemenway, David, M Vrinotis, and Matthew Miller. 2006. "Is an Armed Society a Polite Society?" *Accident Analysis and Prevention*, no. 38: 687-695.
- Jacobs, James B, and Kimberly A Potter. 1995. "Keeping Guns out of the 'Wrong' Hands: The Brady Law and the Limits of Regulation." *Journal of Criminal Law and Criminology*, no. 86: 93-120.
- Karch, Debra L, Linda L Dahlberg, and Nimesh Patel. 2010. "Surveillance for Violent Deaths - National Violent Death Reporting System, 16 States, 2007." *Morbidity and Mortality Weekly Report (MMWR)*, no. 59: 1-50.
- Kellermann, Arthur L, et al. 1992. "Suicide in the Home in Relation to Gun Ownership." *New England Journal of Medicine*, no. 327: 467-472.
- Kellermann, Arthur L, et al. 1993. "Gun Ownership as a Risk Factor for Homicide in the Home." *New England Journal of Medicine*, no. 329: 1084-1091.
- Kurlychek, Megan C, Robert Brame, and Shawn D Bushway. 2006. "Scarlet Letters and Recidivism: Does an Old Criminal Record Predict Future Offending?" *Criminology & Public Policy*, no. 5: 483-504.
- Kurlychek, Megan C, Robert Brame, and Shawn D Bushway. 2007. "Enduring Risk? Old Criminal Records and Predictions of Future Criminal Involvement." *Crime & Delinquency*, no. 53: 64-83.
- Ludwig, Jens A, and Philip J Cook. 2000. "Homicide and Suicide Rates Associated with Implementation of the Brady Handgun Violence Prevention Act." *Journal of the American Medical Association*, no. 284: 585-591.
- Luntz Global. 2012. *Gun Owners Poll*. New York, NY: Mayors Against Illegal Guns.
- Mayors Against Illegal Guns. 2010. "Trace the Guns: The Link between Gun Laws and Interstate Gun Trafficking," www.MayorsAgainstIllegalGuns.org, www.TraceTheGuns.org.
- McDonald v. City of Chicago, 130 S.Ct. 3020 (2010).
- Miller, Matthew, et al. 2002. "'Road Rage' in Arizona: Armed and Dangerous." *Accident Analysis and Prevention*, no. 34: 807-814.

- Miller, Matthew, David Hemenway, and Henry Wechsler. 1999. "Guns at College." *Journal of American College Health*, no. 48: 7–12.
- Miller, Matthew, David Hemenway, and Henry Wechsler. 2002. "Guns and Gun Threats at College." *Journal of American College Health*, no. 51: 57–65.
- Nelson, David E, et al. 1996. "Population Estimates of Household Firearm Storage Practices and Firearm Carrying in Oregon." *Journal of the American Medical Association*, no. 275: 1744–1748.
- Pierce, Glenn L, et al. 2012. *New Approaches to Understanding and Regulating Primary and Secondary Illegal Firearms*. Washington, DC: National Institute of Justice.
- Rivara, Frederick P, et al. 1997. "Alcohol and Illicit Drug Abuse and the Risk of Violent Death in the Home." *Journal of the American Medical Association*, no. 278: 569–575.
- Schwanner, Shawn L, et al. 1999. "Who Wants a Gun License?" *Journal of Criminal Justice*, no. 27: 1–10.
- Smith, Tom W. 2001. *National Gun Policy Survey of the National Opinion Research Center: Research Findings*. Chicago, IL: National Opinion Research Center, University of Chicago.
- Smith, Tom W. 2007. *Public Attitudes Towards the Regulation of Firearms*. Chicago, IL: National Opinion Research Center, University of Chicago.
- Soothill, Keith, and Brian Francis. 2009. "When Do Ex-Offenders Become Like Non-Offenders?" *The Howard Journal*, no. 48: 373–387.
- Teret, Stephen P, et al. 1998. "Support for New Policies to Regulate Firearms: Results of Two National Surveys." *New England Journal of Medicine*, no. 339: 813–818.
- Title 18, *U.S. Code*, Part 1, Chapter 44, Section 922(d).
- Vigdor, Elizabeth Richardson, and James A Mercy. 2003. "Disarming Batterers: The Impact of Domestic Violence Firearm Laws" In *Evaluating Gun Policy: Effects on Crime and Violence*, ed. Jens A Ludwig and Philip J Cook. Washington, DC: Brookings Institution Press, 157–213.
- Vigdor, Elizabeth Richardson, and James A Mercy. 2006. "Do Laws Restricting Access to Firearms by Domestic Violence Offenders Prevent Intimate Partner Homicide?" *Evaluation Review*, no. 30: 313–346.
- Vittes, Katherine A, Jon S Vernick, and Daniel W Webster. 2012. "Legal Status and Source of Offenders' Firearms in States with the Least Stringent Criteria for Gun Ownership." [Published Online Ahead of Print June 23, 2012] *Injury Prevention*, DOI: 10.1136/injuryprev-2011-040290.
- Webster, Daniel W, Jon S Vernick, and Maria T Bulzacchelli. 2009. "Effects of State-Level Firearm Seller Accountability Policies on Firearm Trafficking." *Journal of Urban Health*, no. 86: 525–537.
- Wintemute, Garen J. 2000. "Impact of the Brady Act on Homicide and Suicide Rates." (Letter) *Journal of the American Medical Association*, no. 284: 2719–2720.
- Wintemute, Garen J. 2009. *Inside Gun Shows: What Goes on When Everybody Thinks Nobody's Watching*. Sacramento, CA: Violence Prevention Research Program.
- Wintemute, Garen J. 2011. "Association between Firearm Ownership, Firearm-Related Risk and Risk Reduction Behaviours and Alcohol-Related Risk Behaviours." *Injury Prevention*, no. 17: 422–427.
- Wintemute, Garen J, et al. 1998. "Prior Misdemeanor Convictions as a Risk Factor for Later Violent and Firearm-Related Criminal Activity among Authorized

- Purchasers of Handguns.” *Journal of the American Medical Association*, no. 280: 2083–2087.
- Wintemute, Garen J, et al. 1999. “Denial of Handgun Purchase: A Description of the Affected Population and a Controlled Study of Their Handgun Preferences.” *Journal of Criminal Justice*, no. 27: 21–31.
- Wintemute, Garen J, et al. 2001. “Subsequent Criminal Activity among Violent Misdemeanants Who Seek to Purchase Handguns: Risk Factors and Effectiveness of Denying Handgun Purchase.” *Journal of the American Medical Association*, no. 285: 1019–1026.
- Wright, Mona A, and Garen J Wintemute. 2010. “Felony or Violent Criminal Activity That Prohibits Gun Ownership among Prior Purchasers of Handguns: Incidence and Risk Factors.” *Journal of Trauma*, no. 69: 948–955.
- Wright, Mona A, Garen J Wintemute, and Barbara E Claire. 2005. “People and Guns Involved in Denied and Completed Handgun Sales.” *Injury Prevention*, no. 11: 247–250.
- Wright, Mona A, Garen J Wintemute, and Frederick A Rivara. 1999. “Effectiveness of Denial of Handgun Purchase to Persons Believed to Be at High Risk for Firearm Violence.” *American Journal of Public Health*, no. 89: 88–90.
- Zeoli, April M, and Daniel W Webster. 2010. “Effects of Domestic Violence Policies, Alcohol Taxes and Police Staffing Levels on Intimate Partner Homicide in Large Us Cities.” *Injury Prevention*, no. 16: 90–95.

This page intentionally left blank