

Guns and Mental Illness:
Presentation to the Sandy Hook Advisory
Commission

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Overview

- Review of federal restrictions on gun access by people with mental illness
- Recent state initiatives, with special consideration of the NY SAFE Act
- Brief look at alternative approaches to protecting the public from dangerous people
- Final reflections on the impact of Newtown and similar events on public policy

Federal Law

- Early efforts
- National Instant Background Check System (NICS)
- NICS Improvement Act

1968 Omnibus Crime Control and Safe Streets Act

- Initial restrictions in 1968 relied on purchasers to complete a form indicating whether they were in a restricted class
- Statute: Transfer or possession of a firearm is restricted for “a person adjudicated as a mental defective or committed to a mental institution” (Title 18, U.S.C. Sec. 922)

Just One Problem...

- No database existed of people who were excluded from purchase or possession
- Enforcement depended on self-disclosure by the purchaser
- No routine monitoring of whether the restrictions were being enforced

1993 Brady Handgun Violence Prevention Act

- Required creation of a national database (NICS) of excluded purchasers
- Mandated database checks by federally licensed firearms dealers prior to sale
- Regulations issued in 1997 to clarify definitions of “adjudicated mentally defective” and “committed to a mental institution”

Adjudicated a Mental Defective

27 CFR §178.11

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

(b) 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 pursuant to articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.

Commitment to a Mental Institution

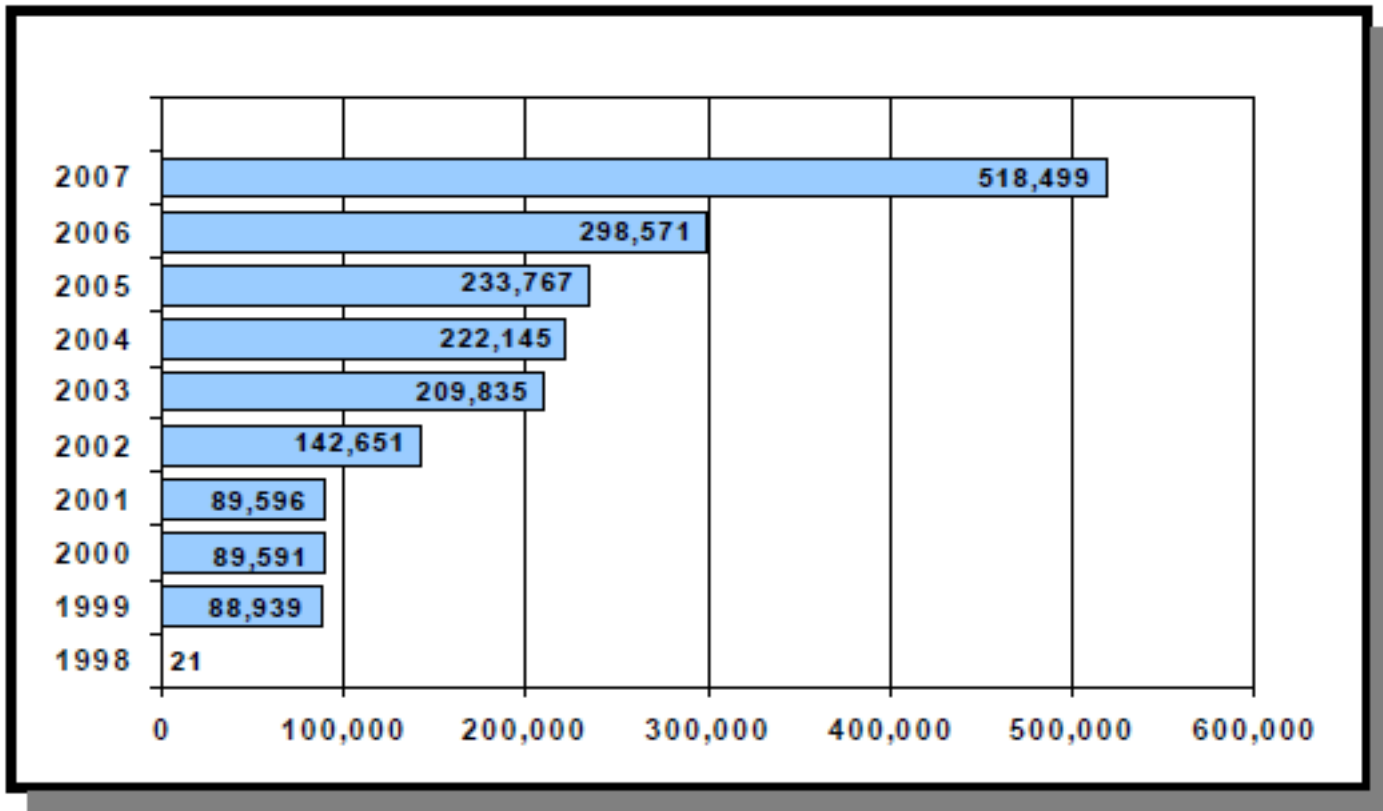
27 CFR §178.11

- Formal commitment of a person to a mental institution by a court, board, commission, or other lawful Authority, for mental defectiveness or mental illness.
- It also includes commitments for other reasons, such as drug use. The term does not include a person in a mental institution for observation (i.e., emergency commitments or voluntary admissions to a mental institution).

Categories of People Excluded from Firearm Access by the Brady Bill

- Convicted of crime punishable by imprisonment for >1 year;
- Fugitive from justice;
- Unlawful user of or addicted to controlled substance;
- Adjudicated as a mental defective or committed to a mental institution;
- Alien unlawfully in the United States;
- Dishonorable discharge from the Armed Forces;
- Citizen of the U.S. who has renounced U.S. citizenship;
- Subject to a court order restraining person from harassing, stalking, or threatening intimate partner;
- Convicted of misdemeanor crime of domestic violence.

Again, Though, There Was a Problem

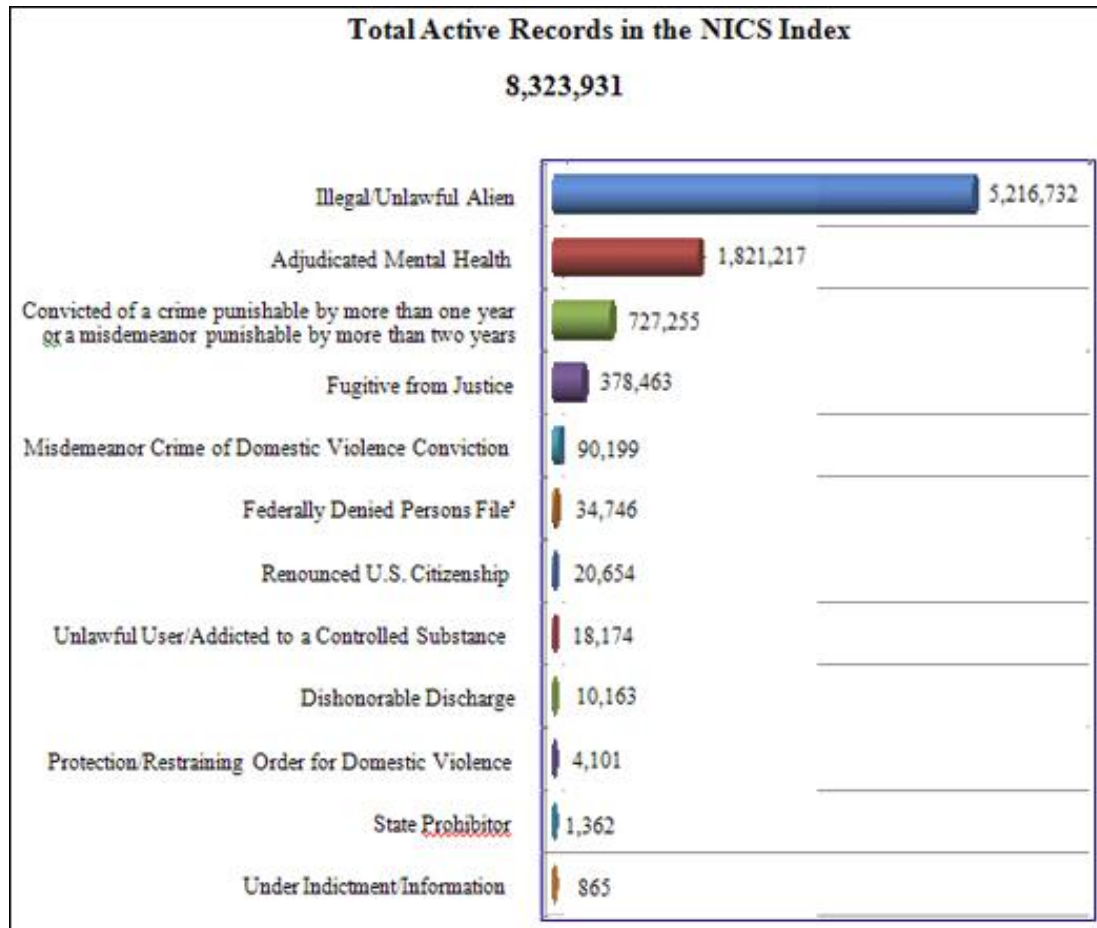


Of an estimated 2.6 million eligible mental health commitment records, by the end of 2006, only about 10% had been added to the NICS.

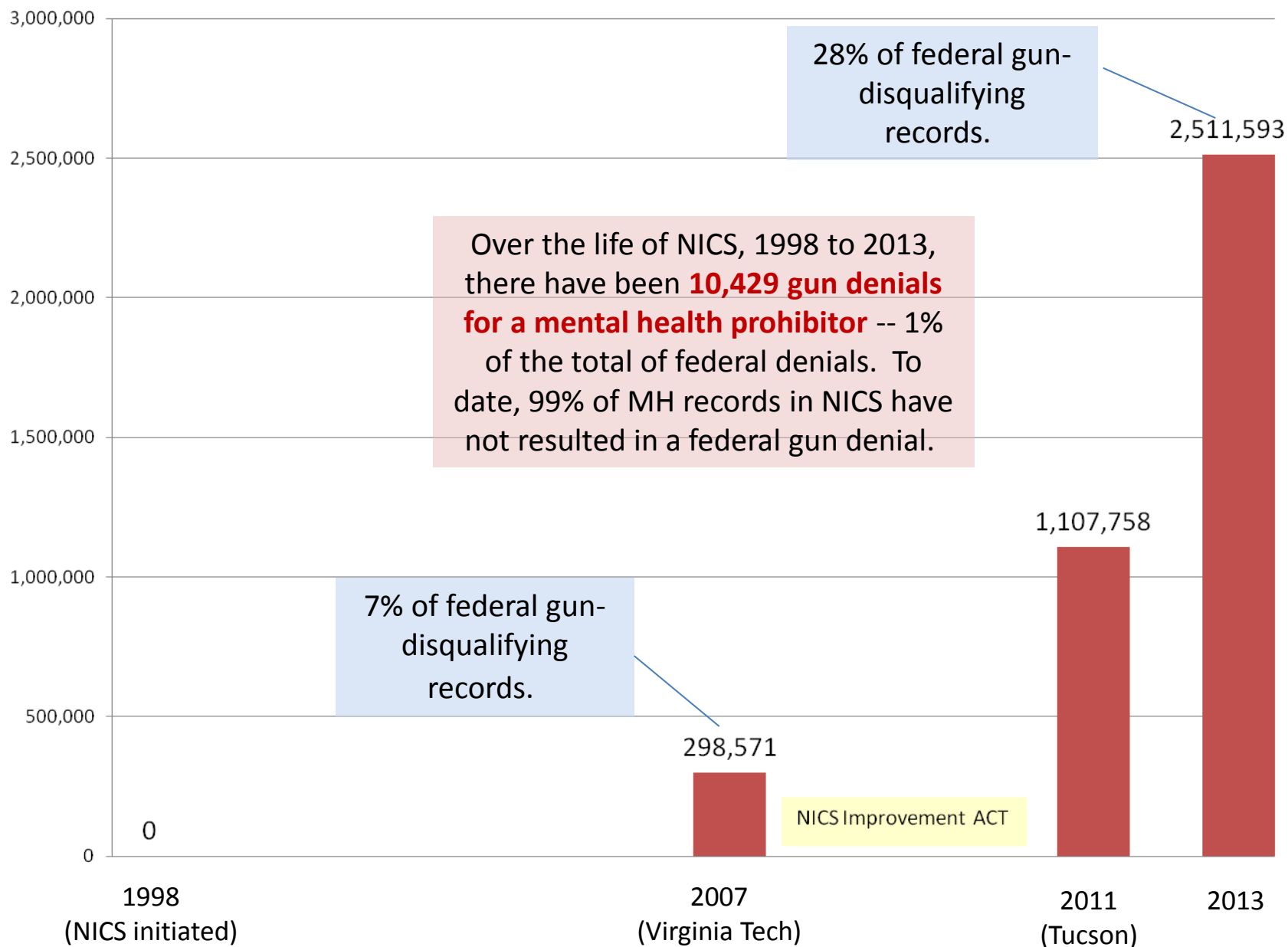
2007 NICS Improvement Act

- NICS Improvement Act of 2007, precipitated by the Virginia Tech killings, responded to poor state reporting by providing incentives to the states for complete reporting
- Also required states to implement procedures for restoration of gun rights
- Even without the incentives, many states improved reporting after Virginia Tech

NICS Data as of Dec. 31, 2012



But how often do gun-disqualifying mental health records in NICS make a difference? (Data as of 3/31/13)



Some States Have Implemented Their Own Restrictions

- Virginia law expands the restricted categories to include:
 - Involuntarily admitted to a facility;
 - Ordered to mandatory outpatient treatment; or
 - Subject to a temporary detention order (i.e., emergency commitment) and subsequently agreed to voluntary admission

How Effective Are These Restrictions? Few Data Exist

- Study covering 1985-97 showed no significant effects on homicide or on suicide for most groups
 - Only positive finding: reduction in suicides of men 55 years and older (Ludwig & Cook, JAMA, 2000)
- But period studied was pre-NICS, so not a test of background check system
- There are reasons to wonder about effectiveness of the NICS

Categories of Excluded Persons are Problematic

- Criteria are underinclusive
 - Many dangerous persons are never treated for mental illness or may never have been involuntarily hospitalized, e.g., Loughner
- Criteria are overinclusive
 - Many people who have been involuntarily hospitalized have never been dangerous (despite dangerousness-based criteria) or no longer are

State Reporting Continues to Be Incomplete

- Some states (e.g., VT) will not report to NICS because of privacy concerns, despite federal incentives
- Other states (e.g., NY, WV) lack access to complete data themselves
 - In NY, OMH only aware of and reports commitments to state facilities
 - In WV, data exist only at the county level

Data Now Becoming Available on Effectiveness of NICS Reporting

- Major study being conducted by Jeff Swanson (Duke) and colleagues
- Funded by National Science Foundation and Program on Public Health and Law of the Robert Wood Johnson Foundation
- First state from which data are available: Connecticut

Swanson et al. Research Study Goals

“Interrogate” assumptions underlying federal firearm prohibitions on people with mental illness:

- There is a strong association between serious mental illness and gun violence (i.e., much higher rate of violence in SMI than general public.)
- Extant gun-disqualifying criteria can accurately identify the subgroup of mentally ill individuals at risk.
- Implementation and enforcement policy, i.e., having states report gun-disqualifying records to the NICS, can be effective in reducing firearms-related violence and suicide.

Study Design and Data

- Samples of 25,000 to 85,000 adults with serious mental illness who received services in the public mental health systems in each of three states—including CT—over period from 2000 to 2012
 - Diagnosis of schizophrenia, bipolar disorder, or major depression
 - At least one psychiatric hospital admission in study period
- Match and merge longitudinal administrative datasets
 - Psychiatric hospital admission records
 - Court records of gun-disqualifying mental health adjudications and felony criminal records
 - Arrest records for gun crimes and violent crimes
 - Health department vital records of suicide deaths
- Quasi-experimental analysis: compare trends in gun-related crime and suicide among people with and without gun-disqualifying mental health records, before and the state began reporting these records to the National Instant Check System; data covers 2002 – 2013

Demographic and Diagnostic Characteristics of CT Sample (N=23,292)

	Mean	(St. Dev.)
Age	36 years	(10.2)

	(Percent)
Female	(37.5)
Male	(62.5)

Non-hispanic white	(62.7)
African American	(18.4)
Hispanic	(16.6)
Other race/ethnicity	(2.3)

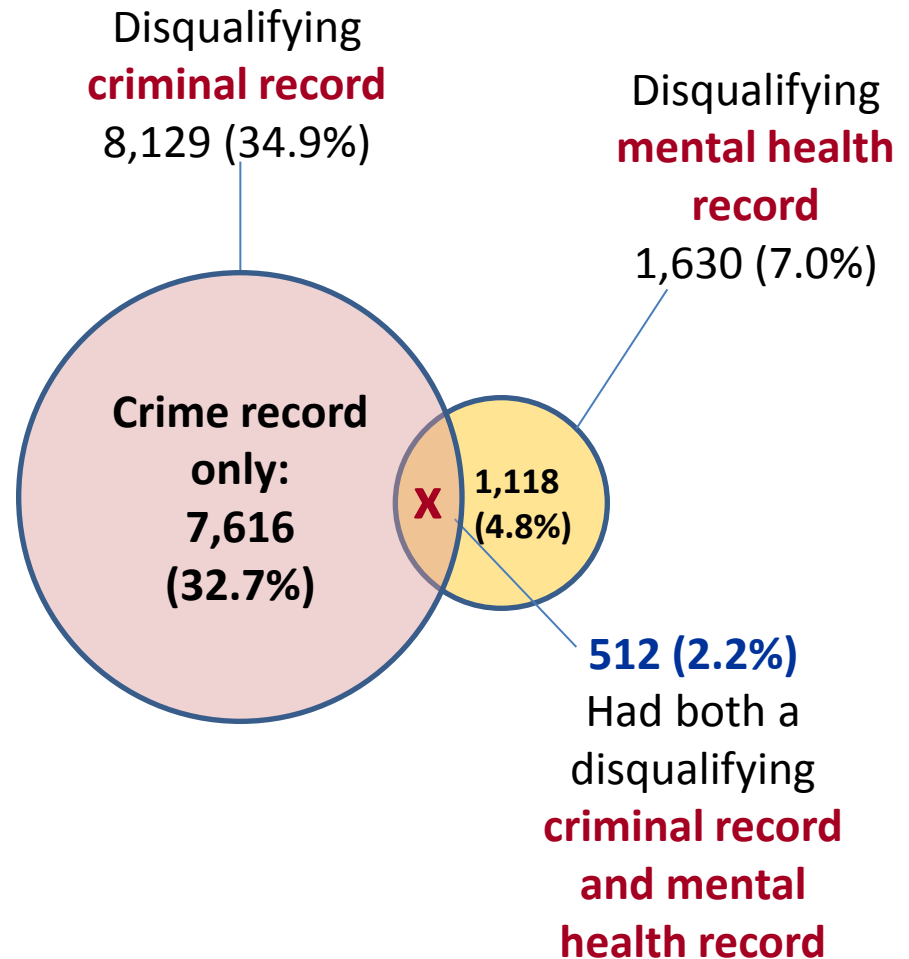
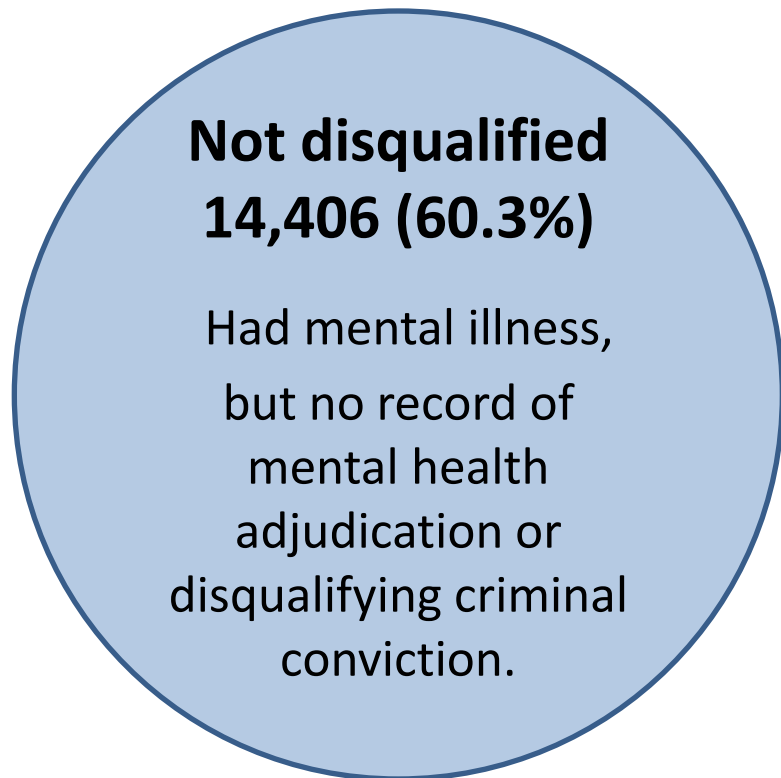
Schizophrenia	(28.1)
Bipolar disorder	(30.6)
Major depression	(41.2)

*64% are under
age 40*

Percent of individuals with gun-disqualifying records: criminal, mental health, and overlapping prohibited categories

Over **90% of violent crimes** in group were committed by people with **no disqualifying MH record**

N=23,292 people with SMI and at least 1 hospitalization 2002-2009



Test of law and policy effectiveness in one state: Average adjusted annual risk of **violent crime** in persons with serious mental illness, by **gun disqualification** and **background-check reporting policy** in Connecticut (N=15,224), years 2002-2009

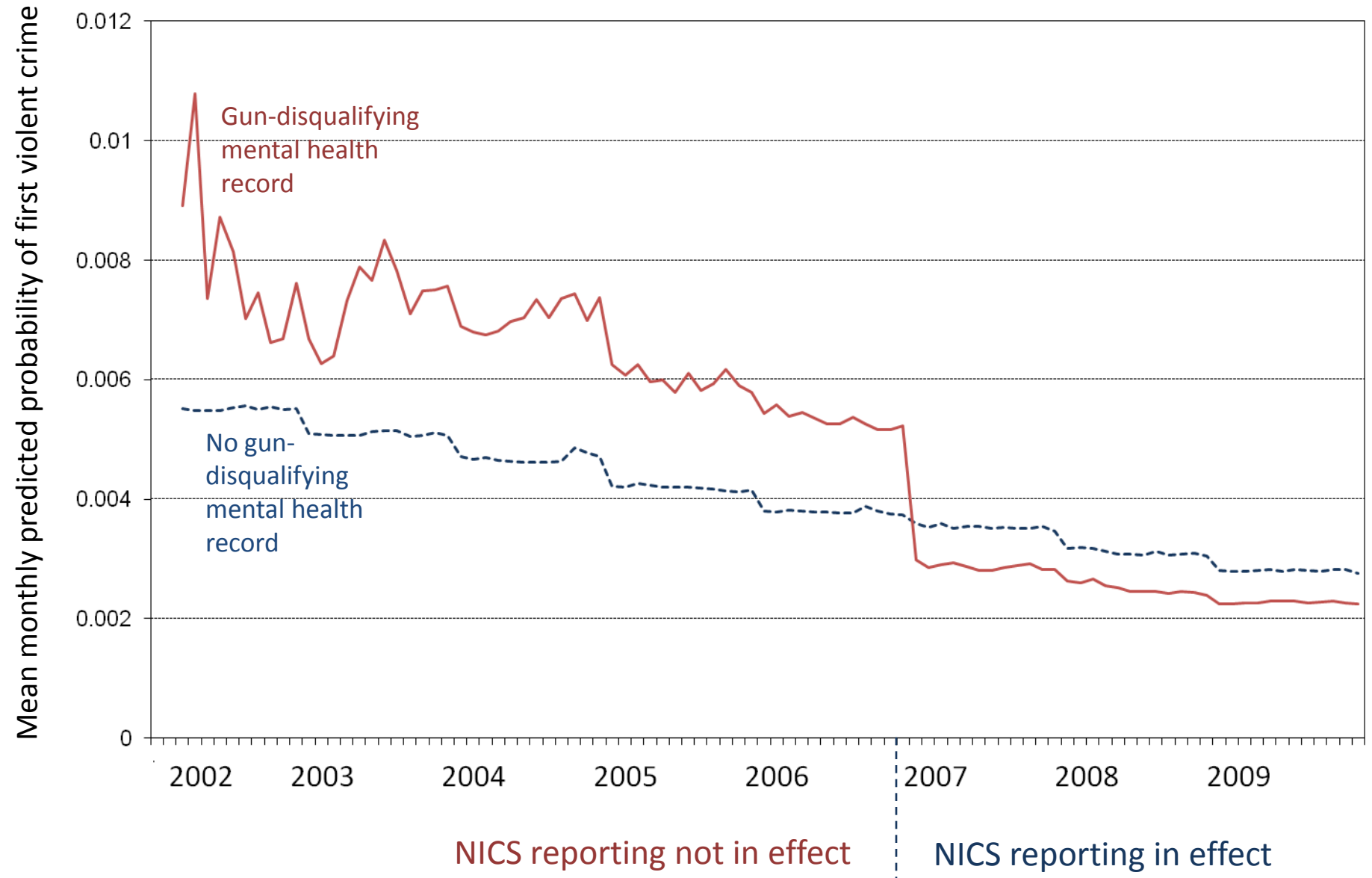
Probability of violent crime			
	Years before NICS	Years after NICS	
Gun-disqualifying mental health record (N=1,118)	6.7%	3.2%	(53% decline in rate)
No gun- disqualifying record (N=14,406)	5.9%	3.9%	(34% decline in rate)

} **Statistically significant difference in trends: "It works."**

- **How many crimes were prevented?** NICS reporting **prevented an estimated 14 violent crimes per year** among the 1,118 people with a mental health disqualification.
- **Perspective:** Since only a small fraction (about 7%) of the study population was affected by the disqualifying policy, the **overall impact on violent crime was very small** – less than ½ of 1% reduction (attributable risk): 598 crimes instead of 612 expected crimes among 15,524 people with mental illness.

Source: Swanson et al. (2013) in Webster & Vernick (Eds.) Results displayed are adjusted predicted probabilities produced by lagged multivariable time-series regression analysis.

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



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?**
- Their rate of violent crime **did not** decline after NICS reporting
 - **Obtained guns on secondary market?**

Bottom Line from CT Data

- Improving NICS reporting of persons involuntarily committed can reduce violent crime, BUT the impact is VERY SMALL
- Persons with felony records and involuntary commitments show no change in rates of violent crime
- Cannot infer from these data that expanding the restricted categories would add incremental effect

States Have Been Looking for Other Options to Address the Problem

- Expanded reporting requirements (e.g., NY)
- Broader categories of persons excluded from firearms purchase and possession (e.g., CT)
- Statutes requiring NICS reporting (e.g., MD)

NY SAFE Act

- Requires reporting of people who are receiving treatment services and “likely to engage in conduct that would result in serious harm to self or others”
 - Reports go to county Director of Community Services, and then to Division of Criminal Justice Services
 - Checked against gun license database
 - If there’s a match, local police notified
 - Retained for 5 years

A Flawed Process...

- Drafted without consultation
- Considered without hearings
- Adopted within 24 hours of introduction
 - Governor had to declare legislative emergency to waive usual 3-day rule

...A Problematic Law...

- Effectiveness in reducing gun violence questionable
 - Only addresses handguns/assault weapons, not rifles or shotguns
 - Local discretion as to whether guns are removed
 - Addresses only small part of violence problem

...and Bad Policy for NY

- Likely to be counterproductive
 - Those people most in need of treatment for suicidal or violent impulses are likely to be deterred from treatment
- Massive infringement of privacy of people in treatment
 - Exacerbated by defensive reactions of institutions, e.g., reporting all voluntary admissions
- Further strengthens association in the public mind between mental disorders and violence

Dozens of Bills Introduced in Other States

- HI: Prohibit any person who is a danger to self or danger to others from possessing, receiving, etc. any firearm. Would create a reporting system for persons who make a serious threat to a mental health professional. Would require the Department of Public Safety to create a database and list of persons.
- MN: When a firearms licensing applicant has a history indicating violence or a mental health problem, the licensing authority may require the applicant to obtain a letter from a primary care physician or mental health professional indicating that the person is not dangerous. Licensing authority not required to consider the letter determinative.

Additional Examples of Proposed Legislation

- NJ: Require mental health evaluation and list of household members with mental illness to purchase firearm.
- MD: Someone making a petition for emergency mental evaluation must state in the petition whether he/she knows if the individual possesses firearms. Court could order the evaluatee to surrender any firearms in his possession.

Final Example of Proposed Legislation

- TN: Require mental health professionals to report any patient who makes an actual threat of bodily harm against a reasonably identifiable victim or victims to local law enforcement, who shall report such patient to NICS for purposes of prohibiting the purchase of a firearm when a background check is conducted.

Are There Alternatives that Do Not Focus Exclusively on People with Mental Illness?

- Indiana statute allows police to seize firearms without a warrant if they believe a person is dangerous—whether mentally ill or not
- Court hearing required within 14 days, with burden of proof for retention of firearms on the state
- Recovery possible when no longer dangerous
- CT only other state—requires warrant

Data on Indiana Approach

Characteristics of firearms seizure cases in Indianapolis, 2006 and 2007

Variable	2006 (N=55)		2007 (N=78)		p ^a
	N	%	N	%	
Reason for confiscation ^b					
Risk of suicide	31	56	55	71	.07
Risk of violence	12	22	10	13	.13
Domestic disturbance	13	24	6	8	.01
Substance abuse	16	29	21	27	.47
Active psychosis	6	11	7	9	.47
Other	4	7	6	8	.66

Final Reflections - 1

- Given the very small share of violence attributable to mental disorder (3-5%), policies aimed exclusively at people with mental disorders are unlikely to lead to significant increases in public safety.
- There may be some benefit from improved NICS reporting, but the gain is likely to be marginal.

Final Reflections - 2

- Ill-thought-out policies adopted in haste can wreak havoc on the mental health system and lead to counterproductive consequences.
- Tying the need for increased funding for mental health services to public safety will lead to further demonization of people with mental disorders, as well as a backlash when more clinics or inpatient beds fail to have a major effect on the prevalence of violence.

Final Reflections - 3

- The mental health system should be funded for the right reasons, i.e., it provides an essential service that reduces the enormous social burden of mental disorders.
- If we are really serious about substantially reducing the risk of gun violence, the answer almost certainly lies elsewhere.