

Firearm Prohibition for Persons Convicted of Violent Crimes

A Potential Non-Legislative Approach

Individuals convicted of violent misdemeanor crimes are at greatly increased risk for subsequent violence, but may purchase firearms under federal law. Felons may not. This 2013 study re-analyzed data collected in 1999 for 787 violent misdemeanants who purchased handguns in California in 1989 or 1990. Nearly 40% had violent misdemeanor convictions resulting from felony charges and would have been prohibited persons if convicted on those charges. Over 3 years of follow-up, 23.8% of subjects had new arrests for firearm-related or violent crimes. As firearm prohibitions reduce violent crime risk, the consequences of misdemeanor convictions following felony charges deserve further exploration.

Introduction

An estimated 30,867 firearm homicides or suicides and 467,321 firearm-related violent crimes occurred in the U.S. in 2011.^{1,2} One prevention strategy is to prohibit acquisition and possession of firearms by persons at increased risk for committing intentional violence. Firearm prohibitions reduce risk of committing violent crimes by at least 25%.^{3,4}

Existing prohibitions do not include all high-risk groups; most perpetrators of firearm-related violent crimes were not prohibited persons.^{5,6} Handgun purchasers who have been convicted of violent misdemeanors—assault and battery, for example—are at greatly increased risk but may purchase firearms under federal and most state laws.⁷

This study briefly considers a violence prevention measure based on the fact that persons convicted of violent misdemeanors are often initially charged with violent felonies.⁸ Had they been convicted of these felonies, they would have become unable to acquire firearms legally and, as evidence suggests, less likely to commit subsequent violence.^{3,4}

The study addresses these questions: Among violent misdemeanants who legally purchase firearms, (1) What proportion are originally charged with felonies? (2) What proportion commit violent or firearm-related crimes later? and (3) Are those charged with felonies more likely to commit such crimes?

Methods

The overall methodology has been described.³ Subjects were 787 violent misdemeanants, age < 35 years, who purchased handguns in California in 1989–1990 (California prohibited such purchases

in 1991). Data were collected in 1999. For this 2013 analysis, we re-reviewed criminal records, linking violent misdemeanor convictions with their original criminal charges. Differences in interpretation were resolved by discussion. The outcome measure was a California arrest ≤ 3 years after the first day that subjects could have acquired their handguns. Logistic regression was used to determine AORs and 95% CIs. The University of California, Davis IRB approved the study.

Results

Men accounted for 96.2% of subjects ($n=757$); further results are for men. Age distribution was as follows: 21–24 years, 21.8% ($n=165$); 25–29 years, 45.4% ($n=344$); and 30–34 years, 32.8% ($n=248$). Violent misdemeanor convictions resulting from felony charges were identified for 39.9% of subjects ($n=302$). A plurality of subjects (47.8%, $n=362$) had only one prior conviction of any type; 25.1% ($n=190$) had two; and 27.1% ($n=205$) had three or more.

Follow-up was available for 92.3% of subjects ($n=699$), of whom 34.5% were arrested—23.8% for violent or firearm-related crimes (Table 1). Age, prior convictions, and time since the most recent conviction were associated with arrest risk. Violent misdemeanor convictions resulting from felony charges were not.

Subjects were charged with 834 new crimes, 49.2% ($n=410$) involving firearms or violence. Subjects with violent misdemeanor convictions following felony charges accounted for 37.6% of charges for firearm-related or violent crimes (154/410) and 36.4% (64/176) of those for Violent Crime Index crimes (homicide, rape, robbery, and aggravated assault).

Discussion

Handgun purchasers with violent misdemeanor convictions are 9–15 times as likely as those with no criminal history to be arrested subsequently for violent crimes.⁷ Nearly 25% of this study's subjects were charged with a new firearm-related or violent crime soon after purchasing handguns.

Given their effectiveness,³ firearm prohibitions for violent misdemeanants merit consideration. Majorities of the general public, firearm owners, National Rifle Association members, and firearm retailers support such measures.^{9,10}

In this population, nearly 40% of violent misdemeanants who purchased handguns would have been prohibited from doing so by convictions for their charged felonies. Such convictions would be appropriate only if justified by the facts in individual cases.

Convictions following felony charges rarely involve trials; the defendant pleads guilty, commonly to a reduced

Table 1. Risk of arrest during follow-up, for men

Characteristic	Any crime			Firearm or violent crime			Non-firearm, nonviolent crime		
	<i>n</i> (% ^a) arrested	AOR (95% CI)	<i>p</i> -value	<i>n</i> (% ^a) arrested	AOR (95% CI)	<i>p</i> -value	<i>n</i> (% ^a) arrested	AOR (95% CI)	<i>p</i> -value
All subjects	241 (34.5)			166 (23.8)			151 (21.6)		
Age (years)			0.044			0.08			0.017
21–24	70 (46.1)	1.74 (1.09, 2.77)		50 (32.9)	1.57 (0.95, 2.59)		49 (32.2)	2.12 (1.25, 3.61)	
25–29	101 (31.6)	1.09 (0.74, 1.60)		66 (20.6)	0.95 (0.62, 1.46)		63 (19.7)	1.27 (0.80, 2.01)	
30–34	70 (30.8)	1.00 (ref)		50 (22.0)	1.00 (ref)		39 (17.2)	1.00 (ref)	
Violent misdemeanor conviction from:			0.293			0.277			0.313
Felony arrest	90 (32.7)	0.83 (0.60, 1.17)		60 (21.8)	0.81 (0.56, 1.18)		55 (20.0)	0.82 (0.55, 1.21)	
Non-felony arrest	151 (35.6)	1.00 (ref)		106 (25.0)	1.00 (ref)		96 (22.6)	1.00 (ref)	
Prior convictions			0.0001			0.003			0.0001
≥ 3	87 (46.8)	2.30 (1.56, 3.41)		61 (32.8)	2.01 (1.32, 3.07)		59 (31.7)	2.64 (1.69, 4.14)	
2	62 (34.4)	1.17 (0.78, 1.75)		41 (22.8)	1.06 (0.67, 1.68)		41 (22.8)	1.36 (0.85, 2.19)	
1	92 (27.6)	1.00 (ref)		64 (19.2)	1.00 (ref)		51 (15.3)	1.00 (ref)	
Time from most recent conviction of any type, years			< 0.0001			0.002			0.0001
≤ 1	66 (52.8)	3.27 (2.04, 5.24)		42 (33.6)	2.48 (1.47, 4.17)		45 (36.0)	3.19 (1.86, 5.46)	
2–4	113 (37.1)	1.72 (1.17, 2.53)		83 (27.2)	1.84 (1.19, 2.85)		72 (23.6)	1.78 (1.12, 2.84)	
≥ 5	62 (23.1)	1.00 (ref)		41 (15.2)	1.00 (ref)		34 (12.6)	1.00 (ref)	

Note: Boldface indicates statistical significance. ORs are adjusted for all variables in the table.

^aPercentage is of subjects for whom follow-up was available.

offense. In large urban counties in 2009, 95% of convictions for crimes charged as violent felonies resulted from pleas.⁸ Approximately 29% of convictions for crimes charged as felony assault were for misdemeanors, as were 16% for those charged as rape and 15% for robberies. Reductions to misdemeanors might be more common among defendants who, like our subjects, were not felons already.

Given this study's findings, perhaps felony charges should be reduced less often. Many questions arise. How often do the facts of individual cases justify efforts to secure a felony conviction? Could cases be handled expediently if pleas to reduced charges were less available? How many future violent crimes might be prevented? Larger studies with more recent data would help provide answers.

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