

PREVENTING GUN VIOLENCE AND SUICIDE AT THE INTERSECTION WITH MENTAL HEALTH: A PUBLIC HEALTH LAW PERSPECTIVE

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CIT ECHO

Tuesday, March 6, 2018



Mr. G.

- age 29
- client of New York state mental health system
- diagnosis: schizophrenia
- 13 psychiatric hospitalizations in 2 years;
- extensive history of assaults, many against hospital staff
- intermittently homeless; repeatedly seeks long-term hospitalization; wait-listed
- stopped taking antipsychotic medications



Mr. T.

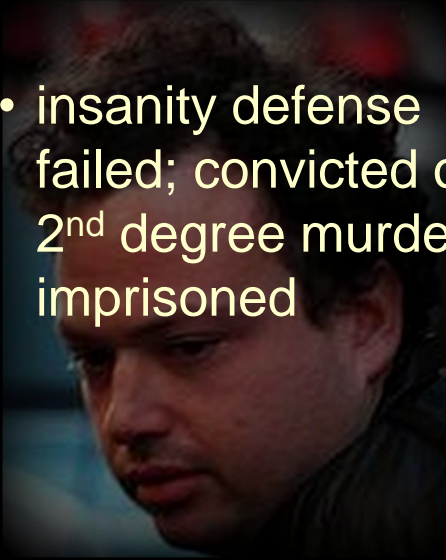
- age 41
- client of Nevada County, CA, behavioral health department
- diagnoses: depression, anxiety, agoraphobia, paranoid symptoms
- regular use of marijuana and prescription pain medications
- lives alone; frequents gun shows, possesses firearms
- arrested for drunk driving
- anger directed at MH clinic; seeking additional help



Mr. W.

- age 40
- client of Kalamazoo County, MI, community mental health program
- diagnosis: schizophrenia
- 20-year history of multiple psychiatric hospitalizations and arrests for minor offenses
- living in a group home
- stopped taking prescribed medications
- arrested brandishing a knife; released, not committed

- insanity defense failed; convicted of 2nd degree murder; imprisoned



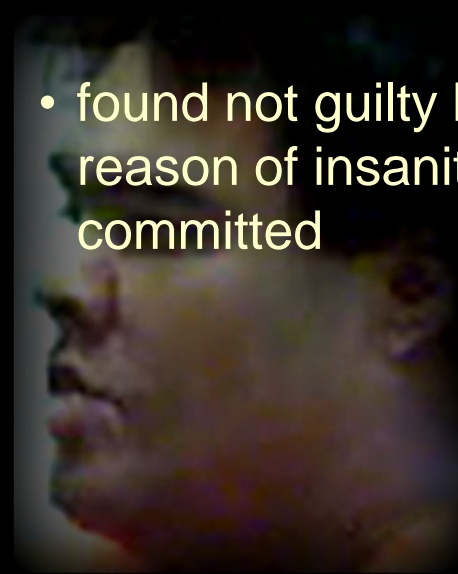
Andrew Goldstein

- found incompetent to stand trial; committed



Scott Harlan Thorpe

- found not guilty by reason of insanity; committed



Brian Williams



Kendra Webdale
(1966 - 1999)
("Kendra's Law" - NY)



Laura Wilcox
(1982 - 2001)
("Laura's Law" - CA)



Kevin Heisinger
(1976 - 2000)
("Kevin's Law" - MI)

- insanity defense failed; convicted of 2nd degree murder; imprisoned

- found incompetent to stand trial; committed

- found not guilty by reason of insanity; committed

Would Kendra' Law, Laura's Law, and Kevin's Law have saved Kendra, Laura, and Kevin?

Andrew Goldstein

Scott Harlan Thorpe

Brian Williams

If so, how?

If not, what might have?

Serious mental illness in USA -- by the numbers

- Adults with SMI: 9.8 million
- Co-occurring SUD: 2.5 million
- No insurance: 1.9 million
- No treatment: 3.1 million
- Homeless: 100,000
- Jail/prison: 1 million



3.1 million people with serious mental illness go without treatment in the US each year.

\$318 billion

**MENTAL
ILLNESS**

Source: Substance Abuse and Mental Health Services Administration. <http://www.samhsa.gov/>



3.1 million people with serious mental illness go without treatment in the US each year.

Gun violence in America

1 year

36,000 dead

81,000 injured



Firearm-related injury and mortality:
A national epidemic

\$318 billion

MENTAL ILLNESS

FIREARMS INJURY

\$174 billion

ILLNESS INJURY



3.1 million people with serious mental illness go without treatment in the US each year.



Gun violence in America

1 year

6,000
killed



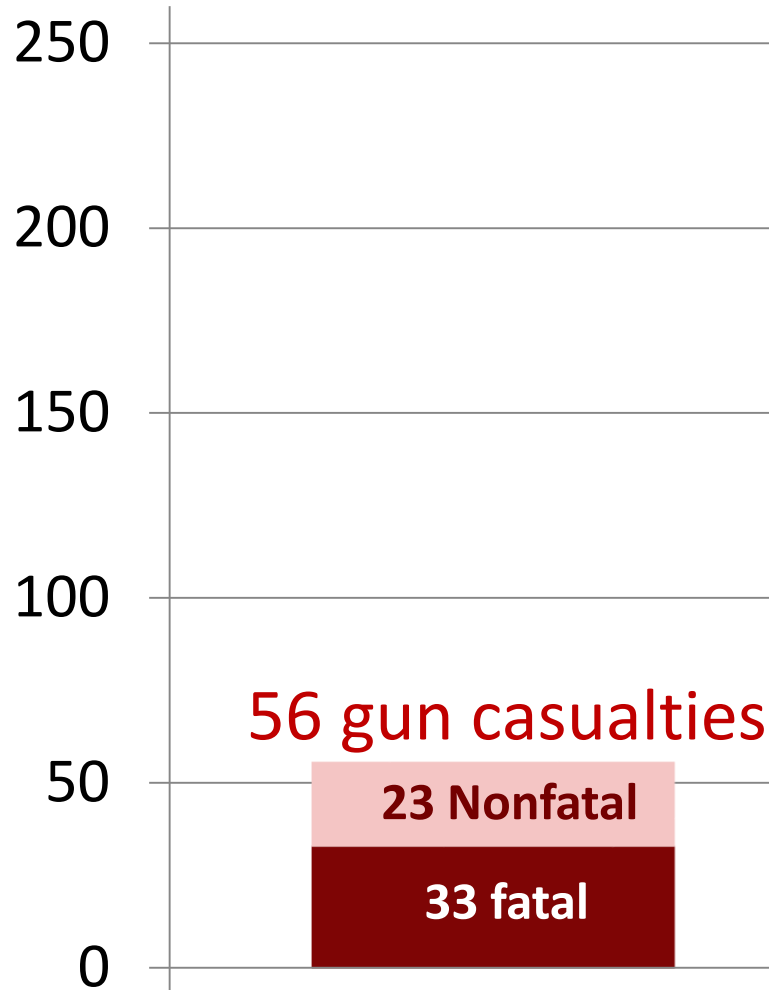
Firearm-related injury and mortality:
A national epidemic

\$3
billion

\$174
billion

AGGRESSIVE
INNOVATION

April 16, 2007: a day of gun violence

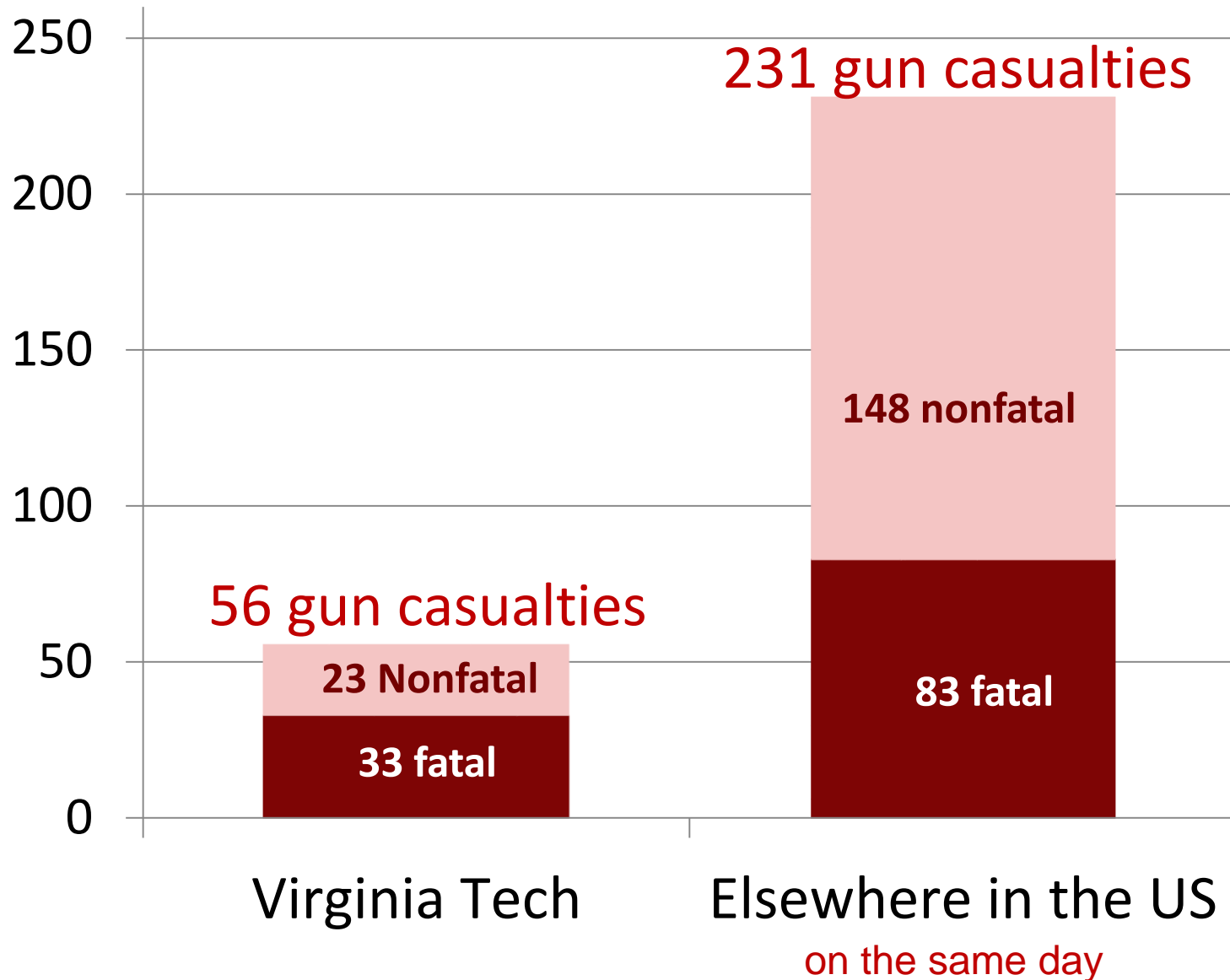


Virginia Tech

Massacre by a
mentally disturbed
young man



April 16, 2007: a day of gun violence

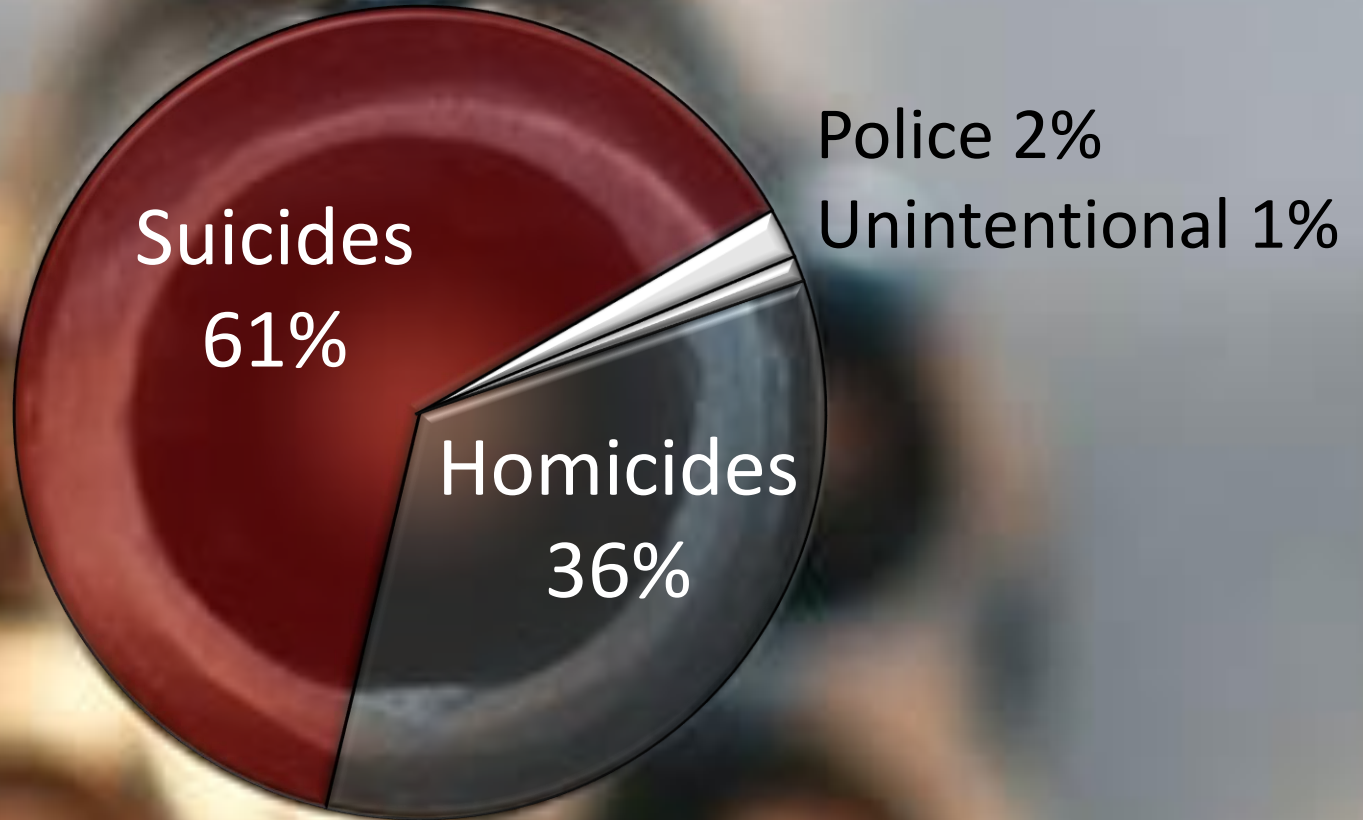


US total



36,252
gun deaths
in 2015

US total



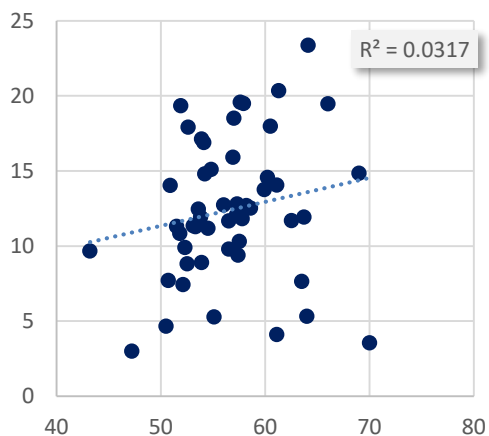


November, 2017:
26 people shot to death
in a church in Texas

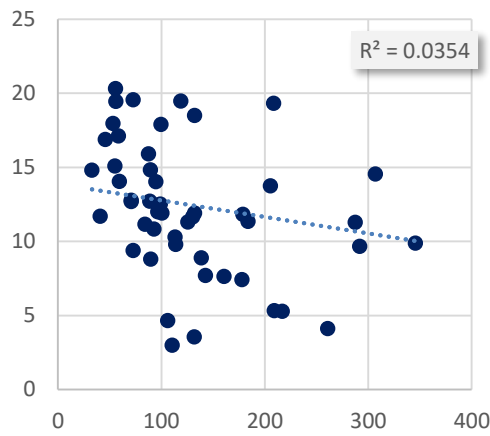
“I think that mental health is your problem here.... This isn't a guns situation.”

-- President Donald Trump, responding to Texas mass shooting.

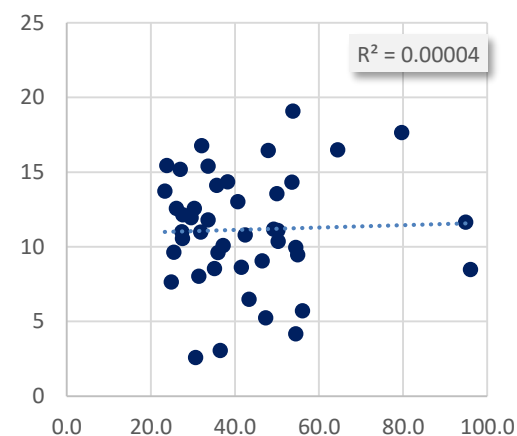
Annual rate of firearm-related fatalities in each state, by mental health and firearm-related characteristics of each state in 2015*



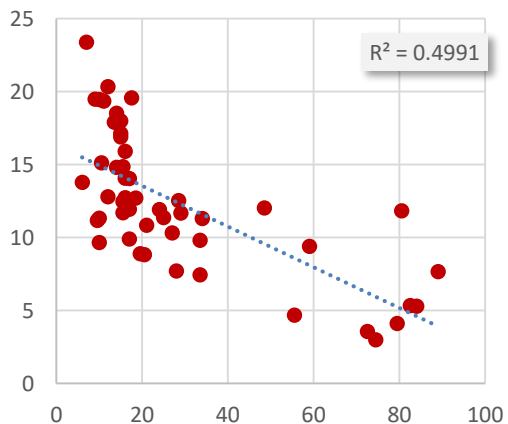
Percent of mental illness untreated



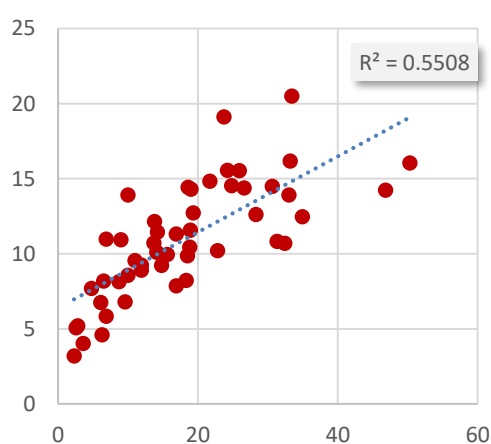
Mental health spending per capita



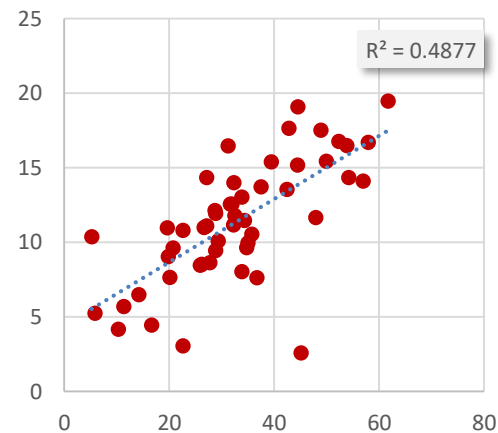
Inpatient psychiatric beds per 10,000



State gun law restrictiveness (Brady Score)



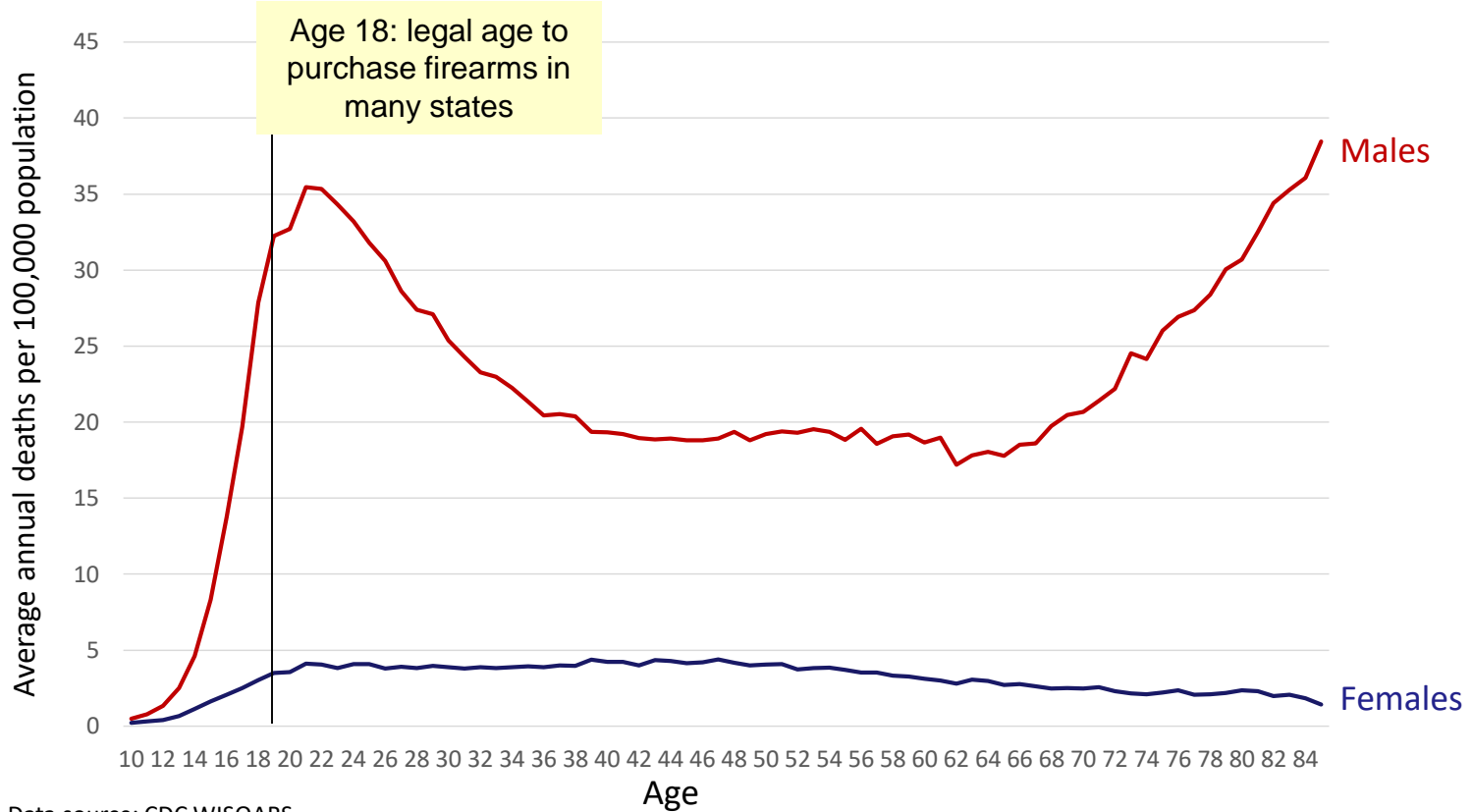
Crime gun export rate



Percent of population owning firearms

*Data sources: Centers for Disease Control; National Survey of Drug Use and Health; NASMHPD Research Institute; Kaiser Family Foundation; and Brady Campaign Scorecard. Year of data displayed varies between 2013 and 2015, depending on source reporting.

U.S. firearm deaths per 100,000 population, by age and sex: annual rates average 1999-2015



Data source: CDC WISQARS

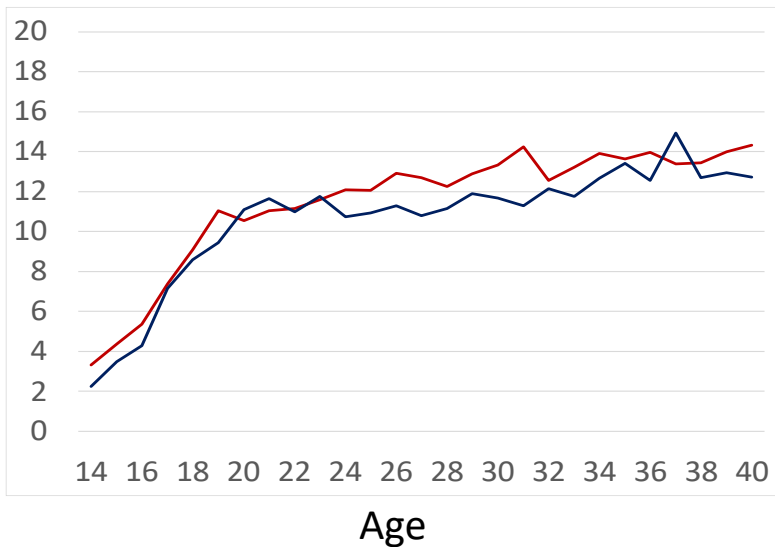
Suicide rates for males, by age and firearm involvement, in states that allow handgun possession and purchase from private seller age 18 compared to age 21

KEY: State's minimum age for purchasing a handgun.

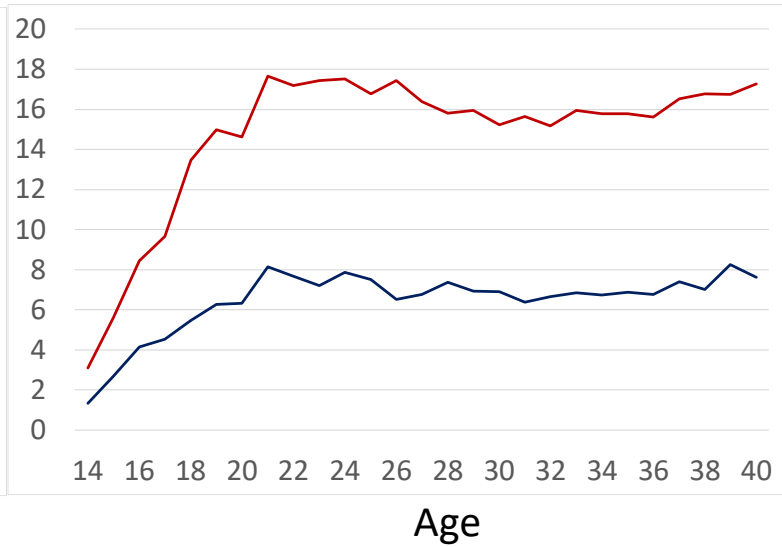
— Age 21

— Age 18

NON-FIREARM SUICIDE RATES (average 2000-2014)



FIREARM SUICIDE RATES (average 2000-2014)





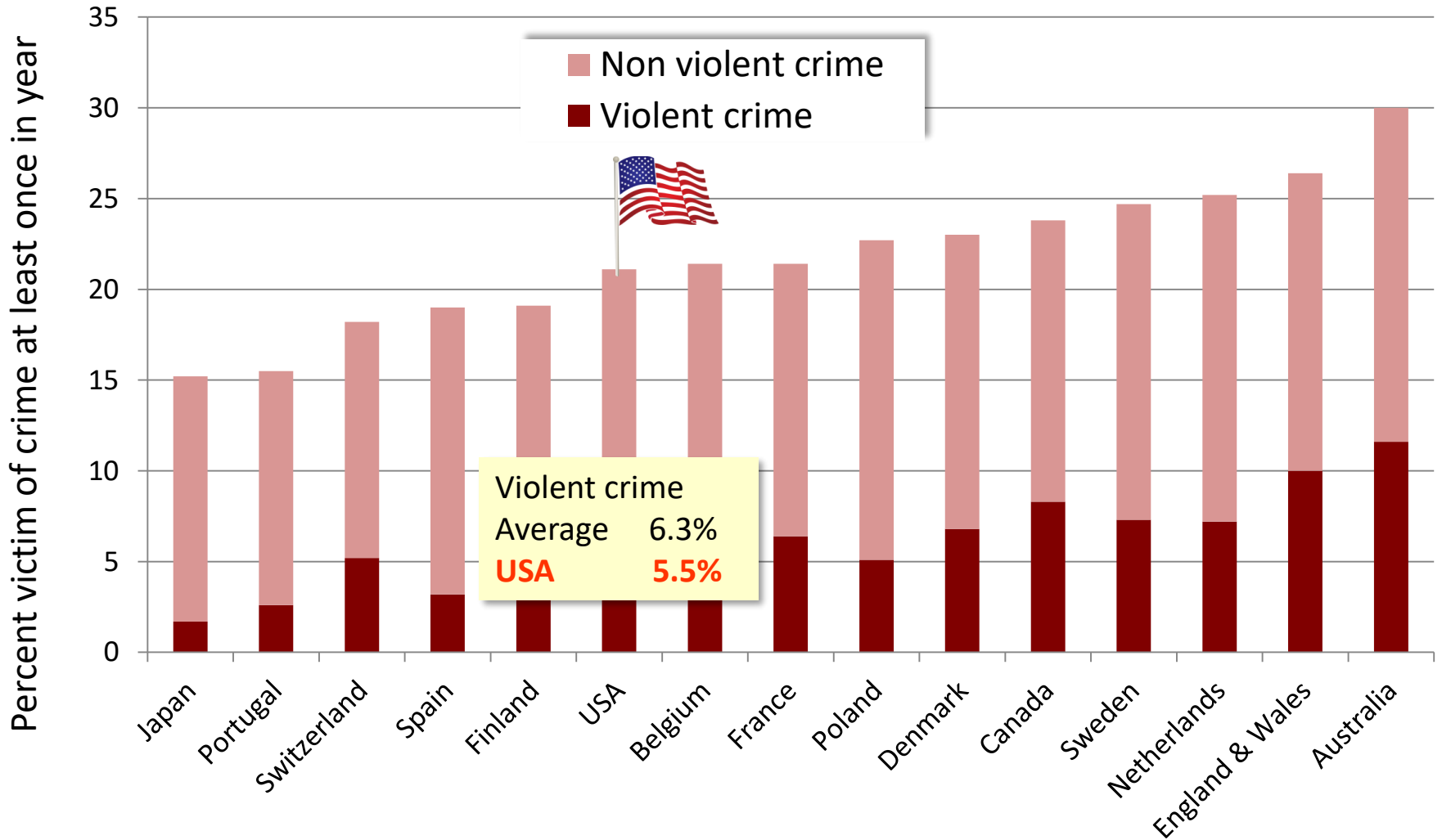
There are now more guns than people in the United States

By Christopher Ingraham October 5, 2015



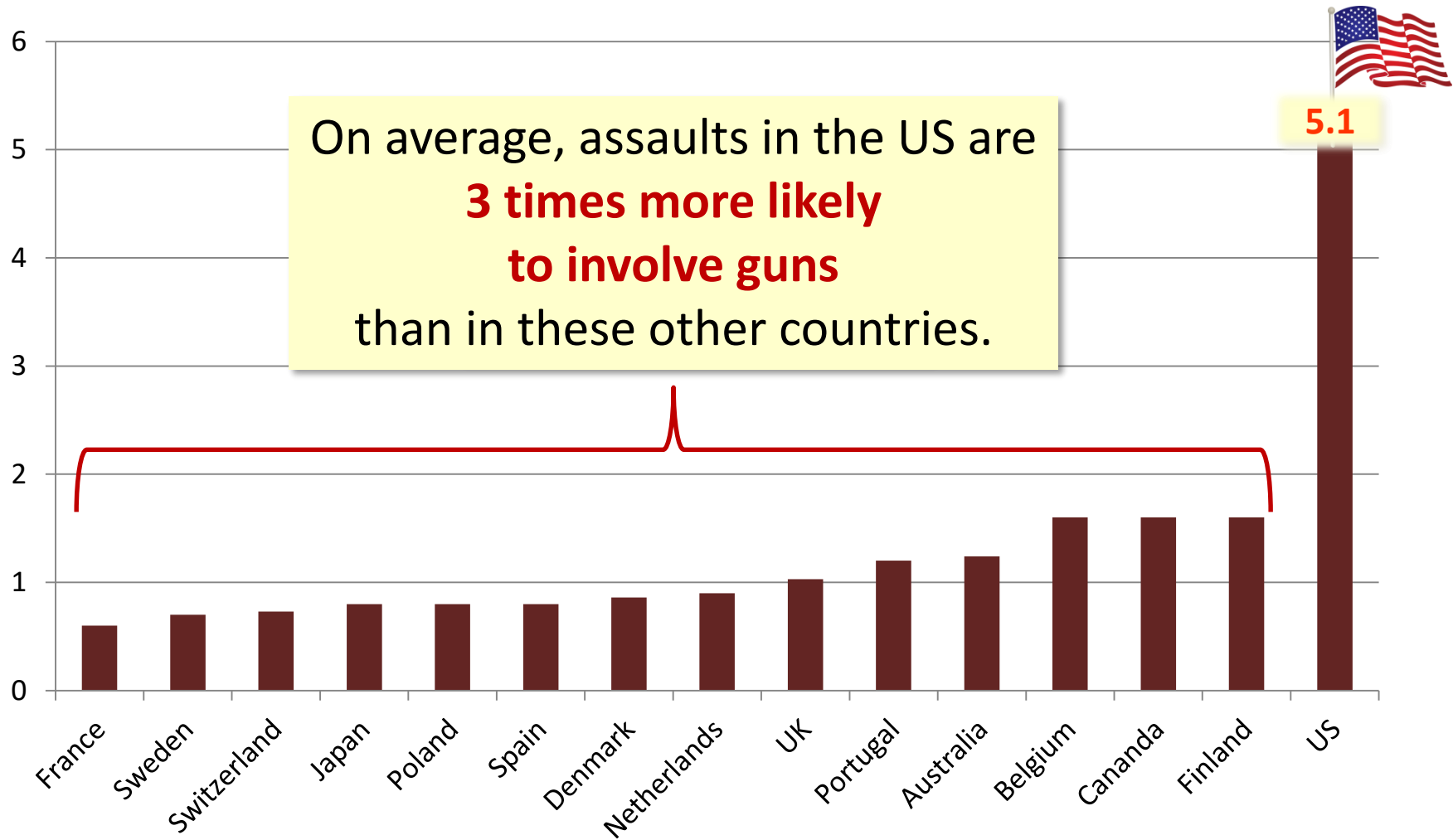
40 million more guns than people. (M&R Glasgow/Flickr)

Crime in 15 industrialized countries: 12-month prevalence rates for 11 index crimes



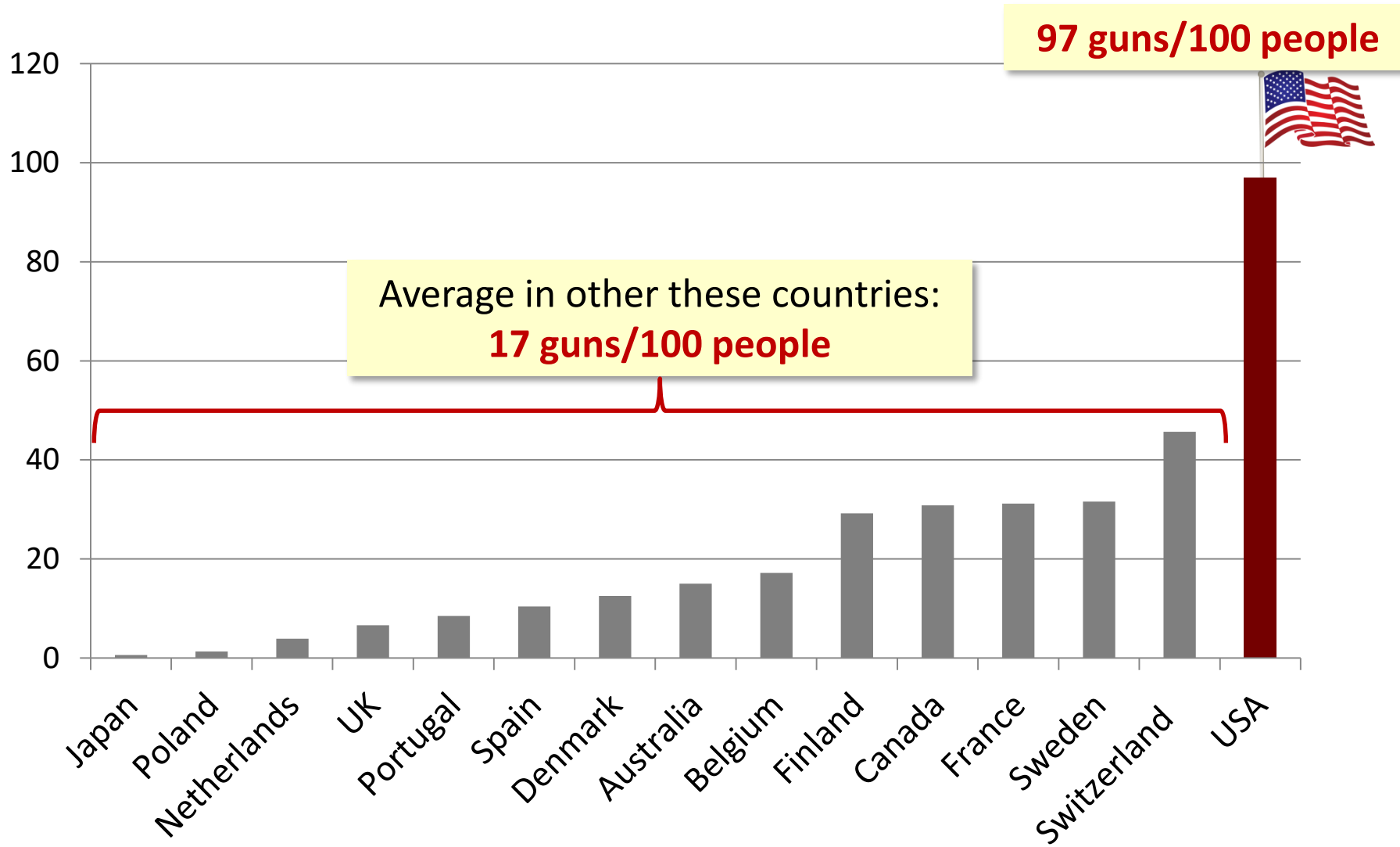
* Source: International Crime Victims Survey. Gallup Europe, 2000.

Homicide in 15 industrialized countries: Rate per 100,000

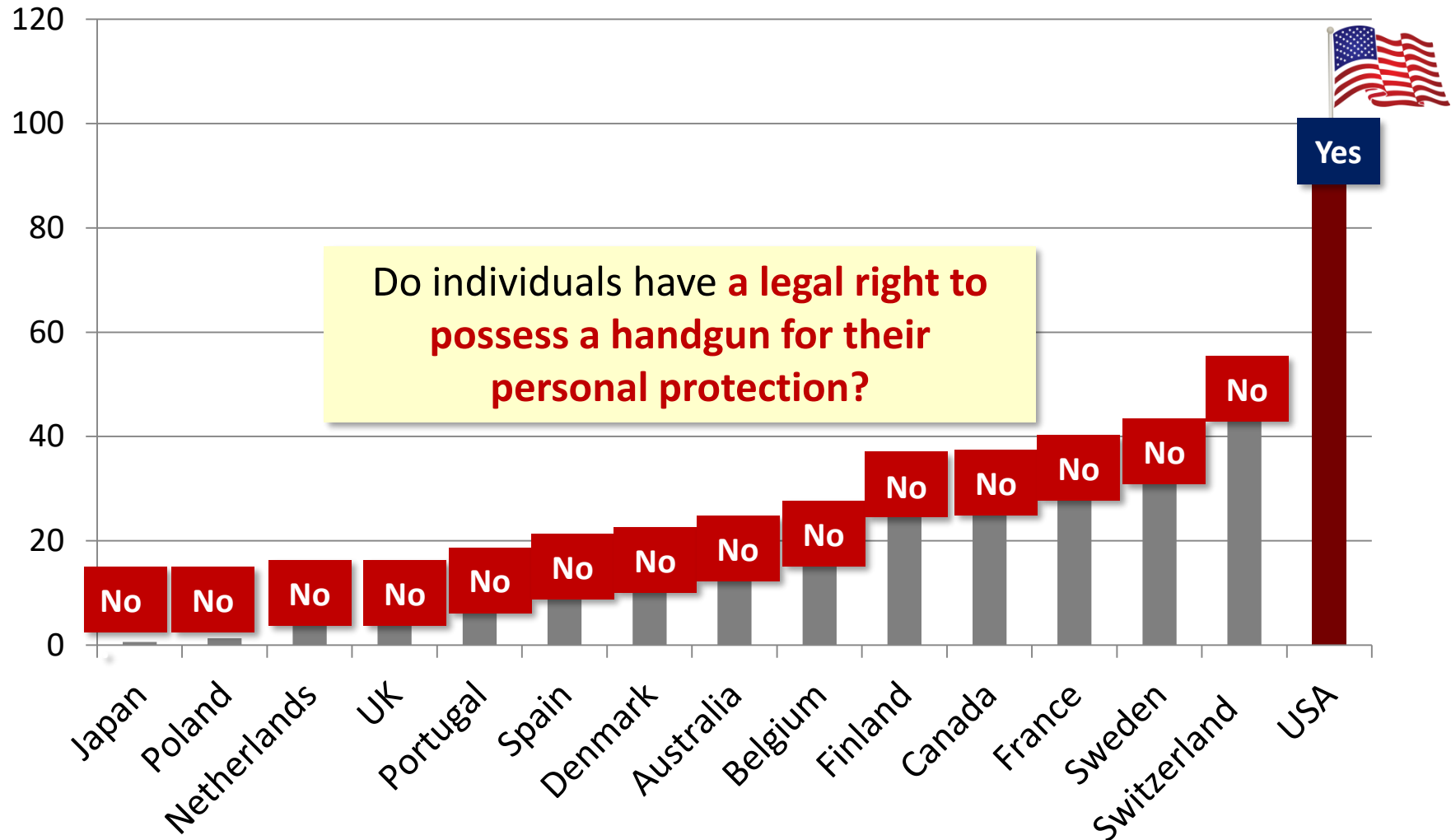


* Source: OECD 2012

Gun ownership per capita in 15 industrialized countries: Number civilian-owned guns per 100 population



Gun ownership per capita in 15 industrialized countries: Number civilian-owned guns per 100 population



Current starting point for firearms policy

– Constitutional right

- Landmark US Supreme Court decisions striking down across-the-board handgun bans -- *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. Chicago*, 561 U.S. 3025 (2010) -- affirmed that the 2nd amendment **“confers an individual right to keep and bear arms...”**

– Not an unlimited right

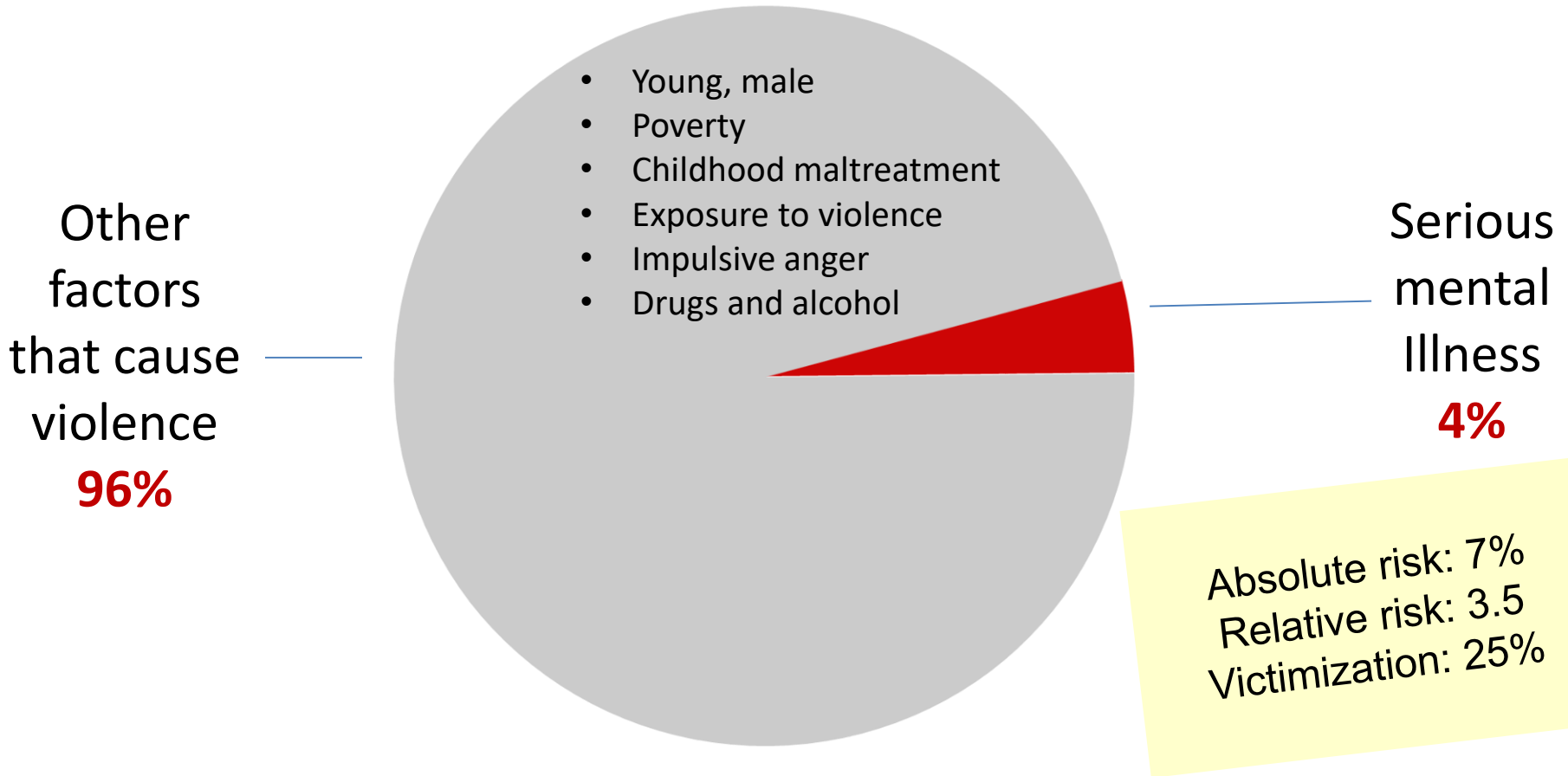
- Court added, **“...the right is not unlimited”** and explicitly preserved gun restrictions for people with:
 - Felony convictions
 - Mental health adjudications
 - Involuntary civil commitment
- | | |
|-----------------|--|
| * Dangerousness | » Incompetent to manage own affairs (e.g., guardianship) |
| * Due process | » Incompetent to stand trial in a criminal matter |
| | » Not guilty by reason of insanity |

– Focus on **“dangerous people”** more than guns

- We cannot solve our gun violence problem by broadly limiting the public’s legal access to firearms. Instead, we must focus more narrowly on **how best to identify and limit “dangerous people” who should not have access to guns.**

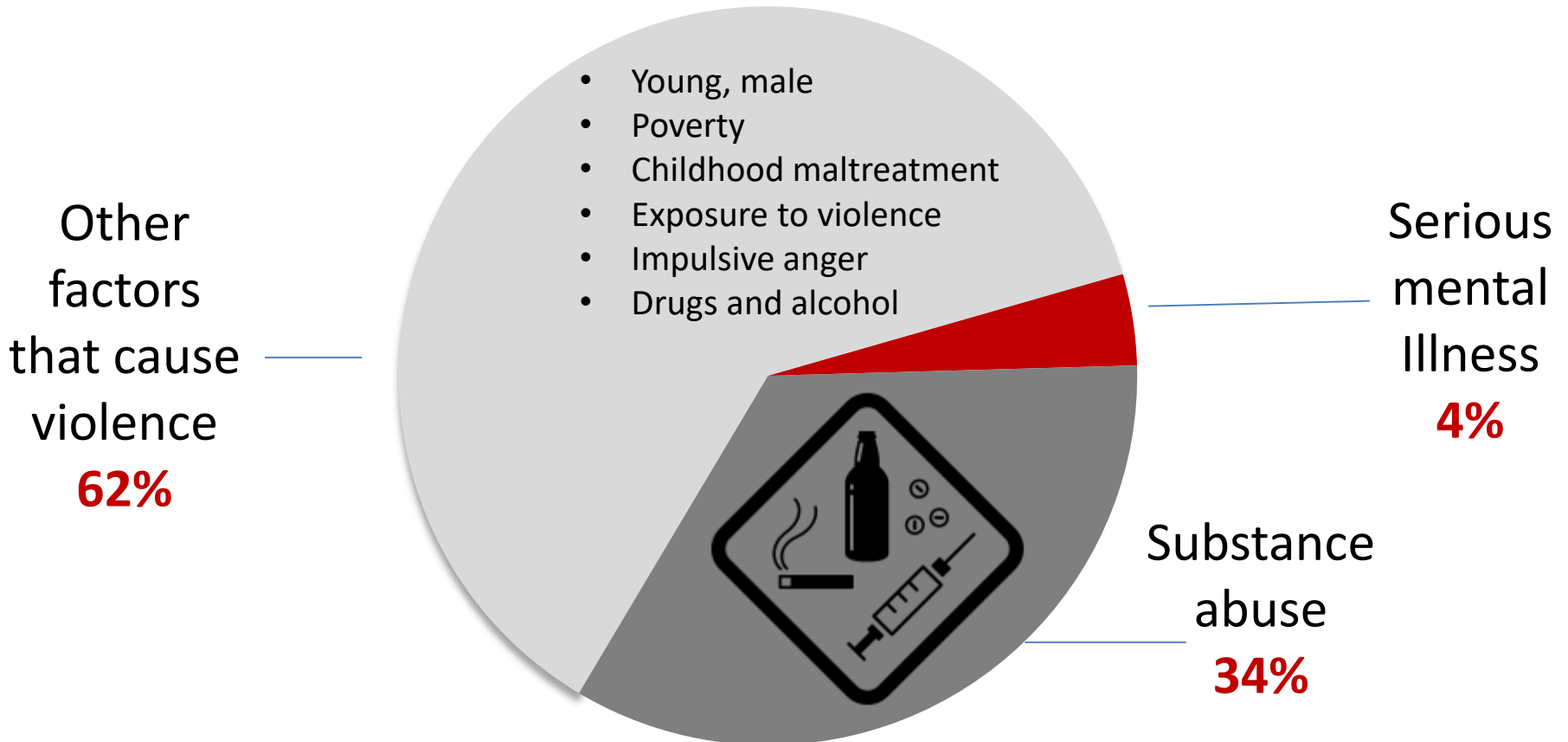
Serious mental illness **contributes very little** to overall violence towards others

Population attributable risk (PAR) of minor or serious violent behavior towards others

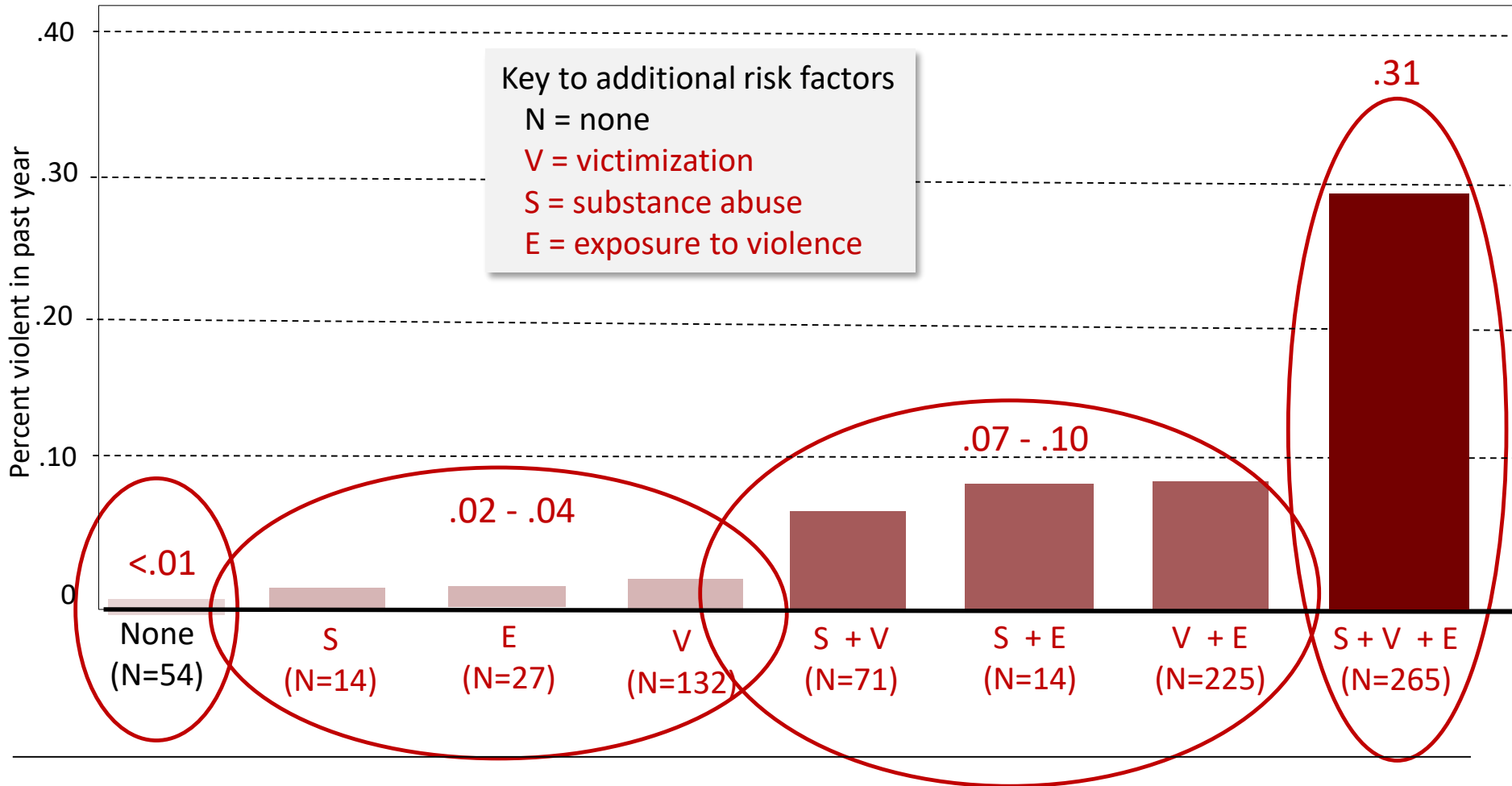


Serious mental illness **contributes very little** to overall violence towards others

Population attributable risk (PAR) of minor or serious violent behavior towards others



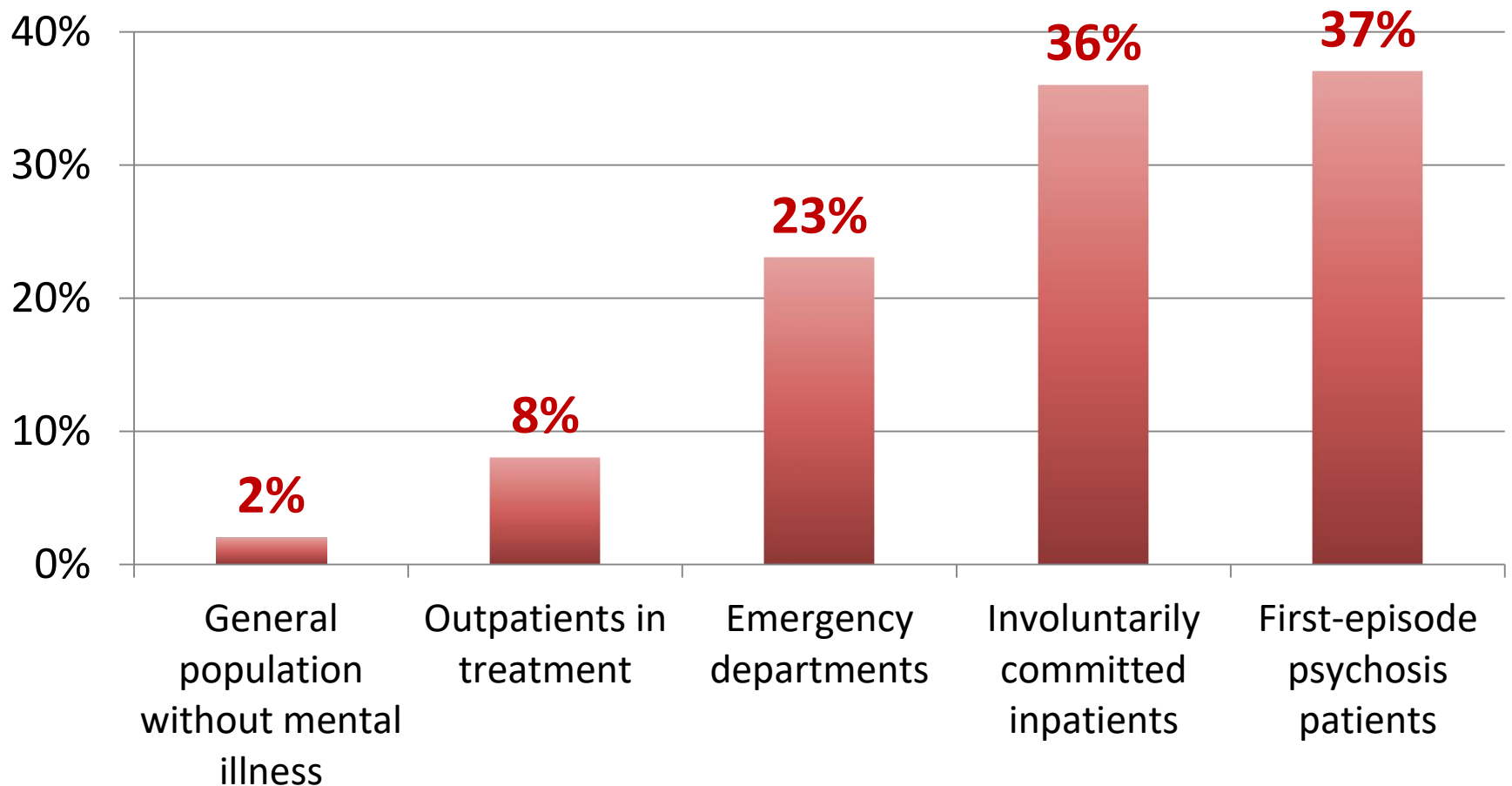
Predicted **probability of serious violent behavior** in persons with serious mental illness by combined risk factors, controlling for significant covariates in logistic regression model (N=802)



Source: Swanson JW, Swartz MS, Essock SM, Osher FC, Wagner HR, Goodman LA, Rosenberg SD, Meador KG (2002). The **social-environmental context** of violent behavior in persons treated for severe mental illness. American Journal of Public Health, 92(9): 1523-1531.

People with mental illness are at **increased risk of violence** when identified in **certain settings**, in **certain periods**

Percent violent within 6 – 12 months



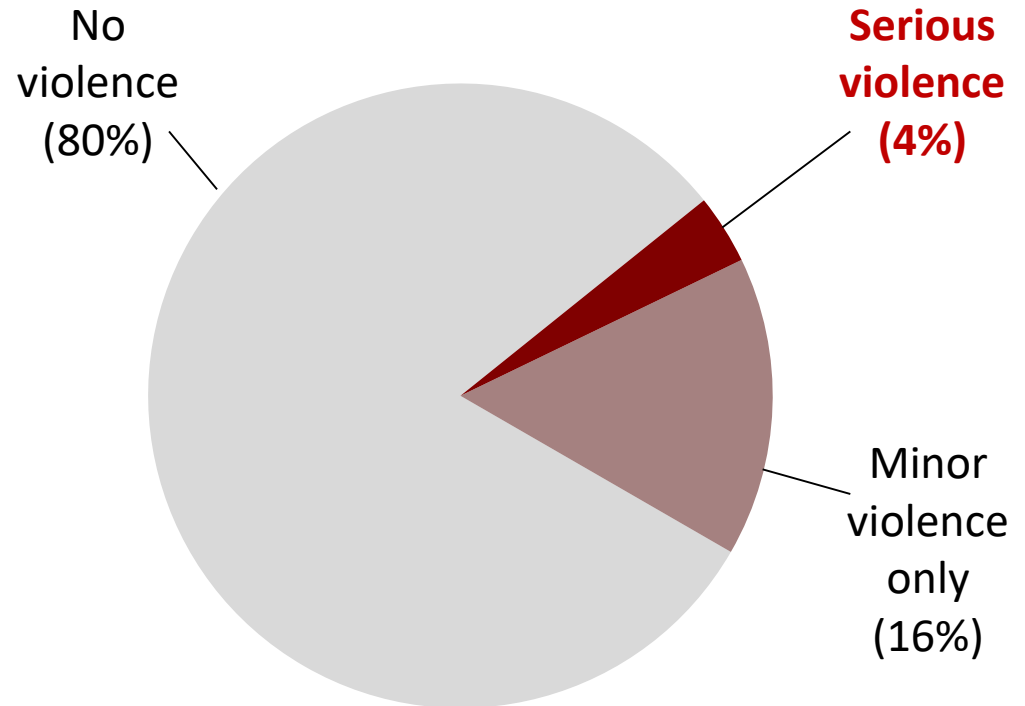
Sources: Adapted from (1) Choe JY, Teplin LA, Abram KM (2008). Perpetration of violence, violent victimization, and severe mental illness: Balancing public health concerns. *Psychiatric Services* 59, 153-164; (2) Large MM, Nielsens O (2011). Violence in first-episode psychosis: A systematic review and meta-analysis. *Schizophrenia Research* 125, 209-220.

NIMH Clinical Antipsychotic Trials of Intervention Effectiveness (CATIE) study: N=1,460 patients with schizophrenia in community treatment; 57 U.S. clinical sites

Measure : MacArthur Community Violence Interview (MCVI)

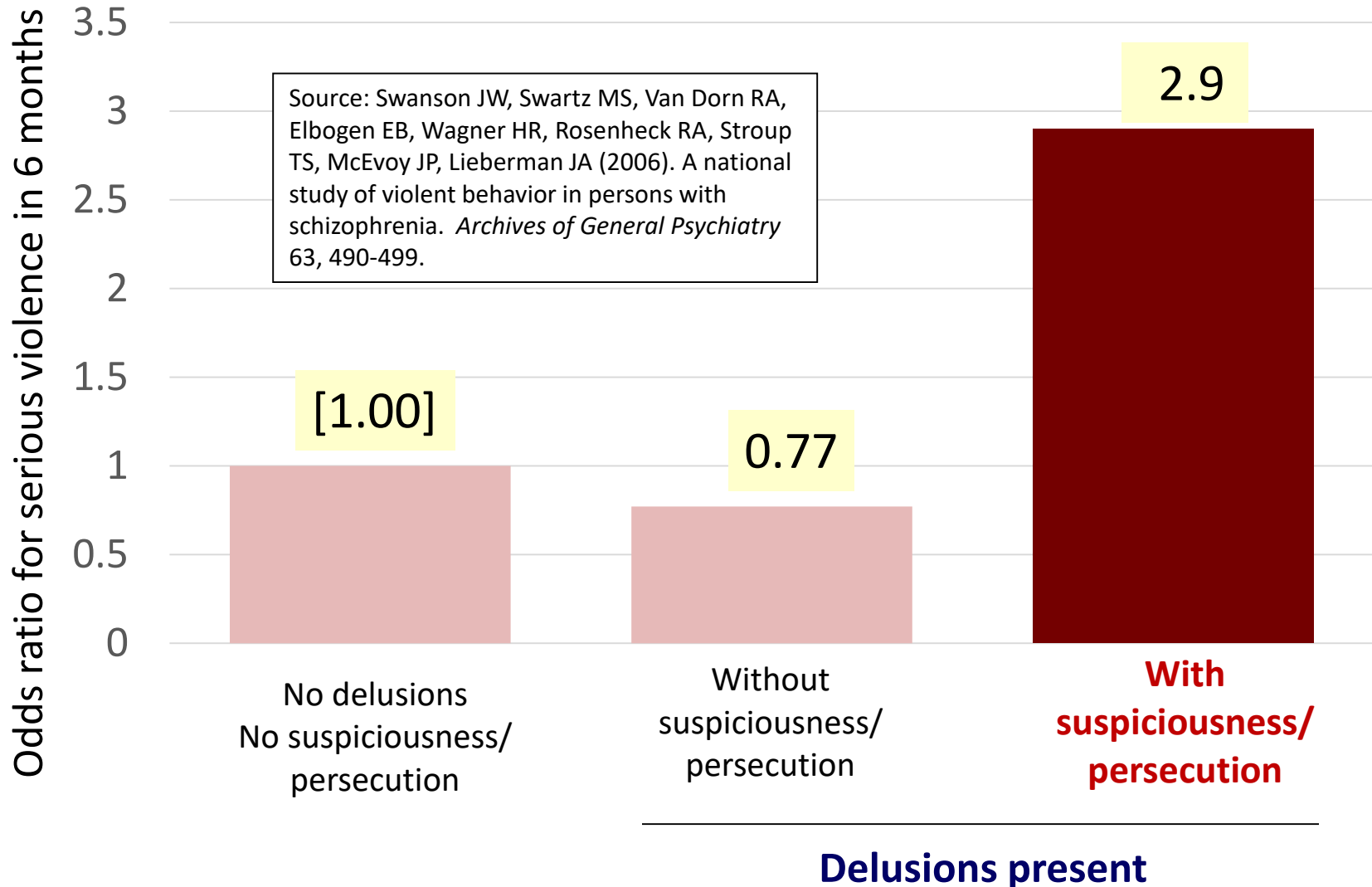
- Structured interview questions about violent behaviors; 2 levels of severity:
 - Minor violence: simple battery without injury or weapon use
 - Serious violence: use of a lethal weapon; acts resulting in physical injury; threats with a lethal weapon in hand; any sexual assault.
- Self-report information supplemented with family collateral reports on parallel questions.
- 6 month period of reference/recall.

6-month **prevalence of violence** at baseline

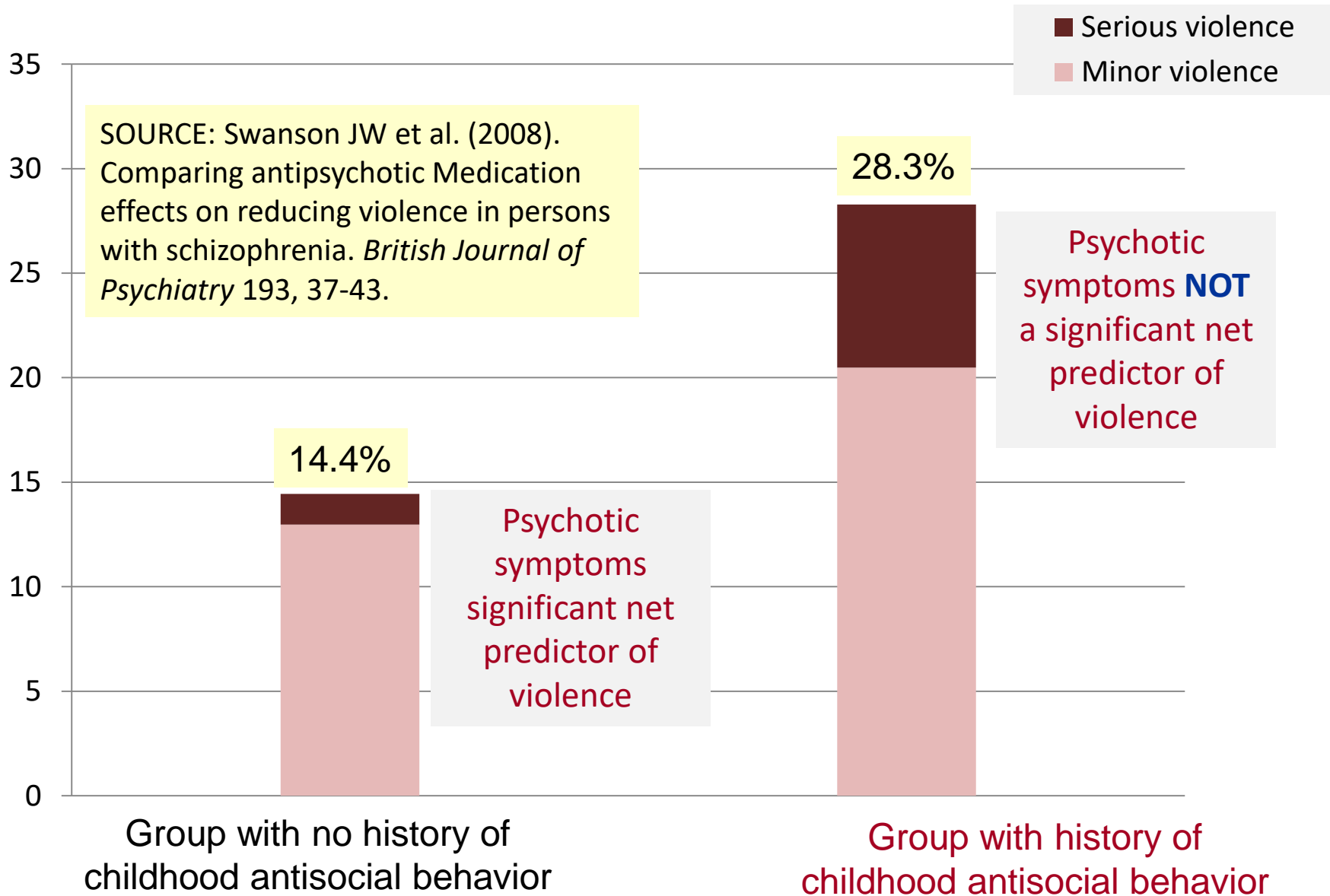


Source: Swanson JW, Swartz MS, Van Dorn RA, Elbogen EB, Wagner HR, Rosenheck RA, Stroup TS, McEvoy JP, Lieberman JA (2006). A national study of violent behavior in persons with schizophrenia. *Archives of General Psychiatry*, 63, 490-499.

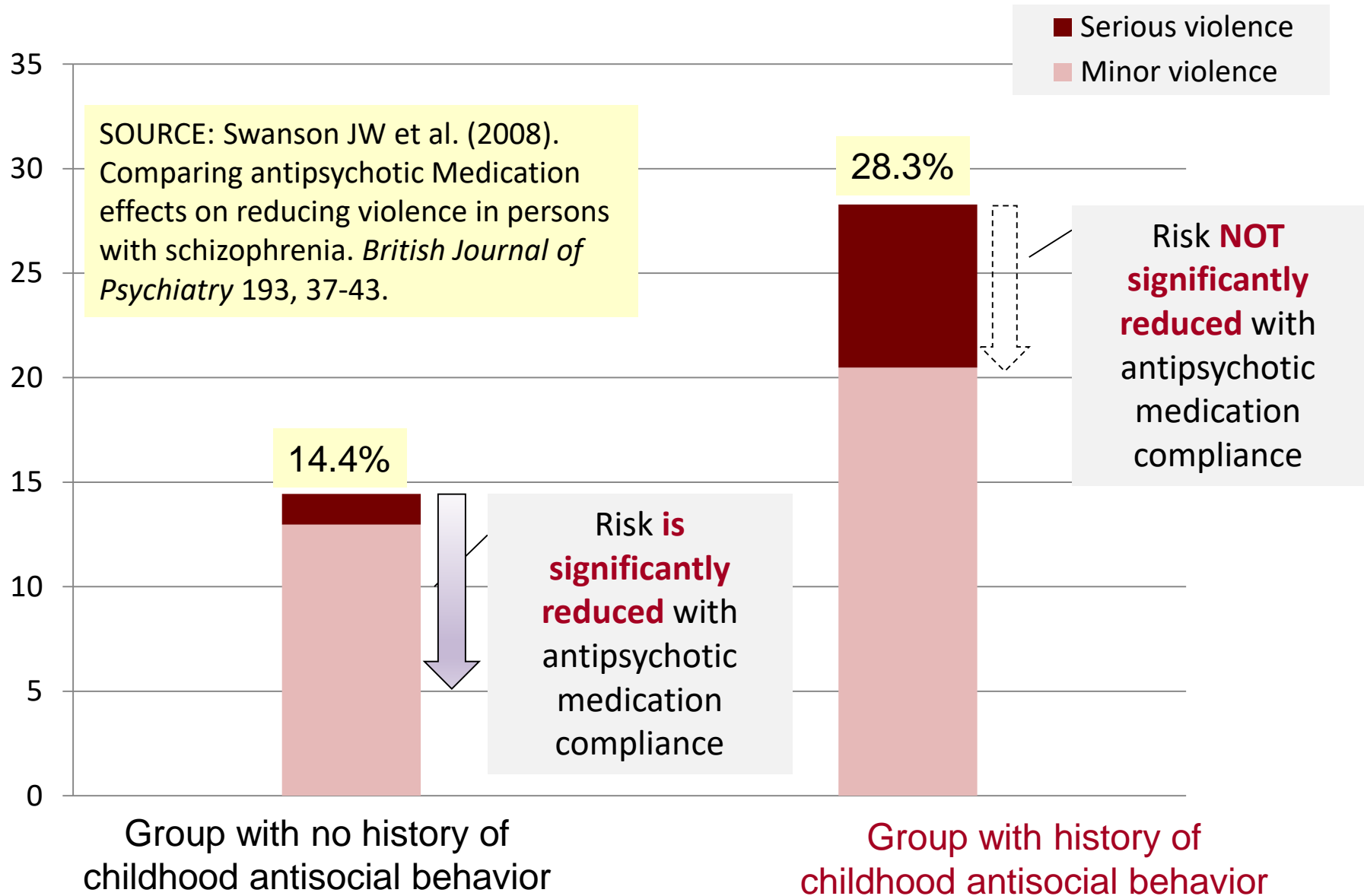
Delusions, suspiciousness/persecution interaction in risk of serious violence: Odds Ratios



6-month prevalence of minor and serious **violent behavior** in schizophrenia patients, by history of **childhood antisocial behavior**

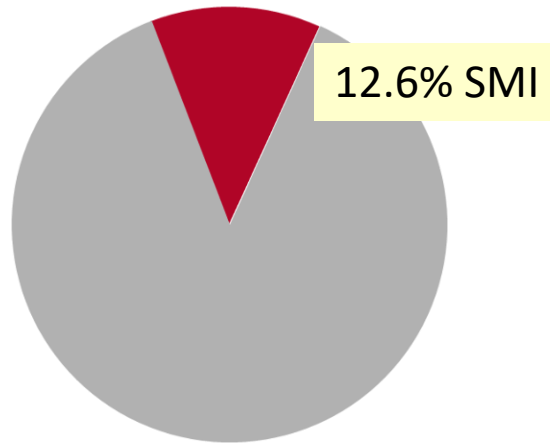


6-month prevalence of minor and serious **violent behavior** in schizophrenia patients, by history of **childhood antisocial behavior**

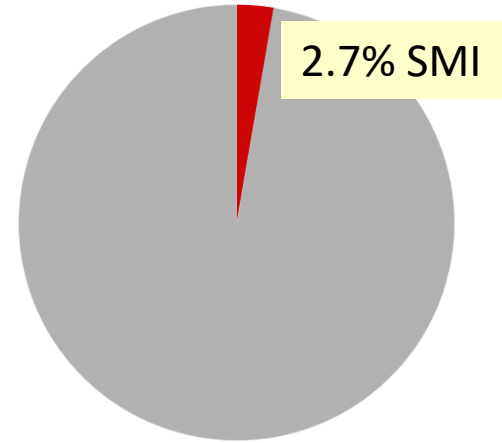


HOMICIDES

No firearm involved



Firearm involved

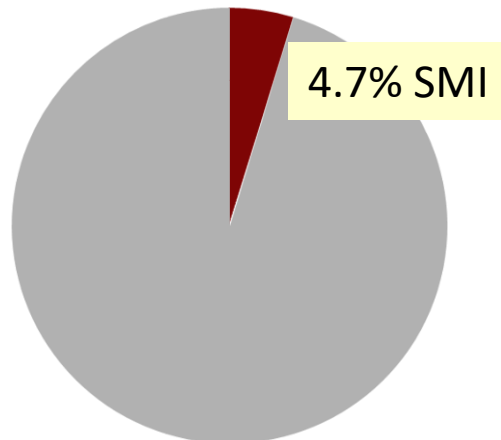


**Percent of arrests
that involve
persons with
serious mental
illness:**

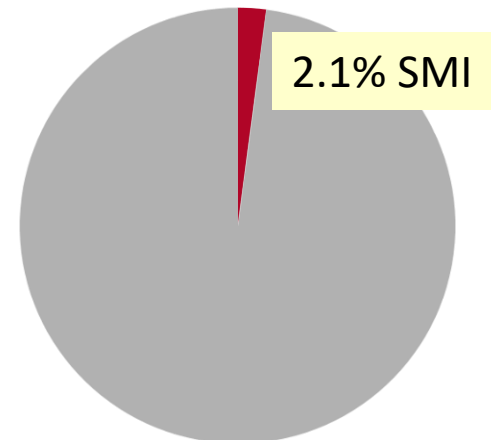
2 large Florida
counties, 2002-
2011

NON-LETHAL VIOLENT CRIMES

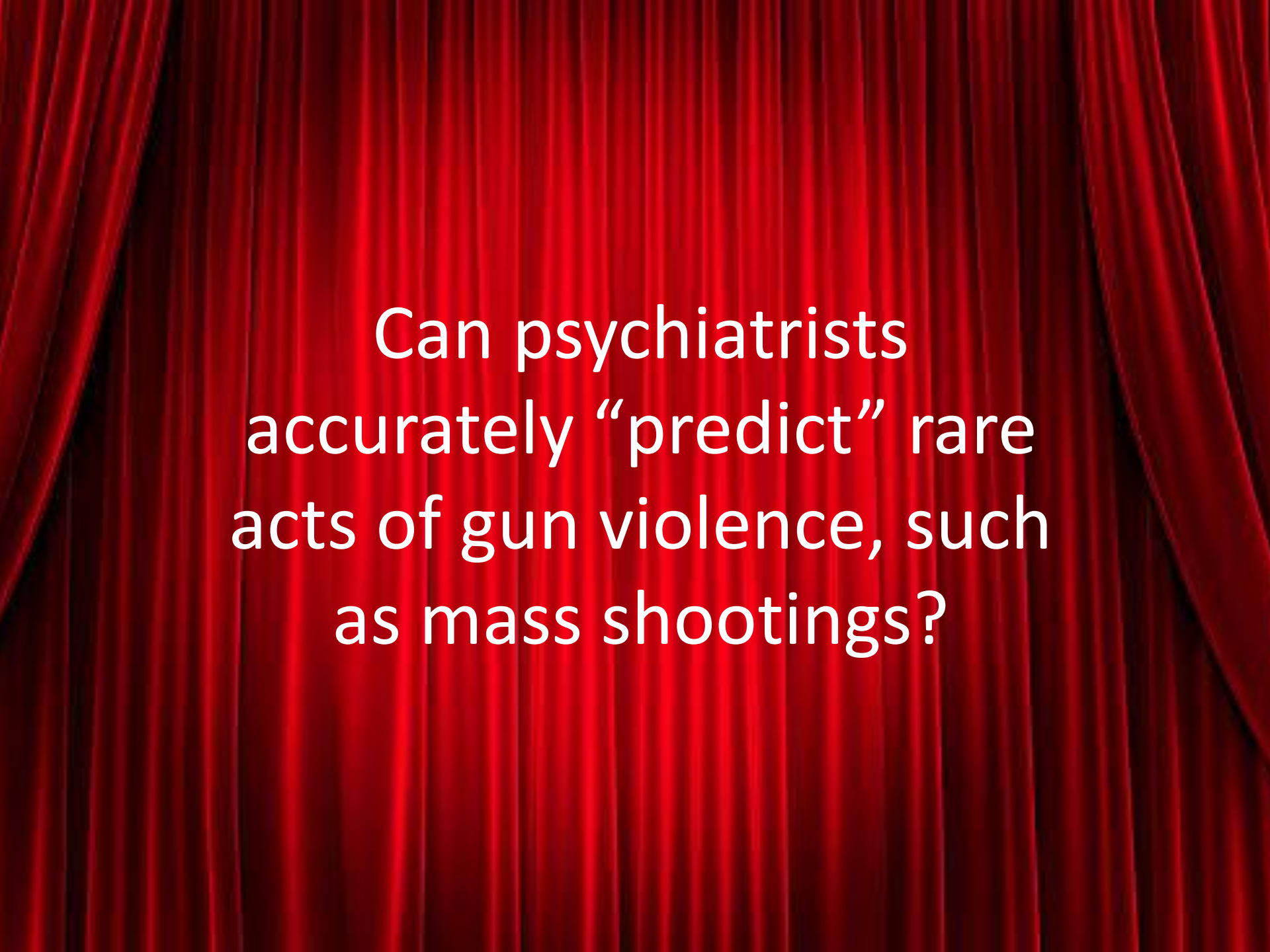
No firearm involved



Firearm involved



Source: Swanson et al., Comparing violent crime and gun involvement among behavioral health clients and the general population in two Florida counties (2017, forthcoming)

The background of the slide consists of a pair of red, vertically pleated curtains that are slightly parted in the center, creating a dark opening. The lighting is soft, highlighting the texture of the fabric.

Can psychiatrists
accurately “predict” rare
acts of gun violence, such
as mass shootings?



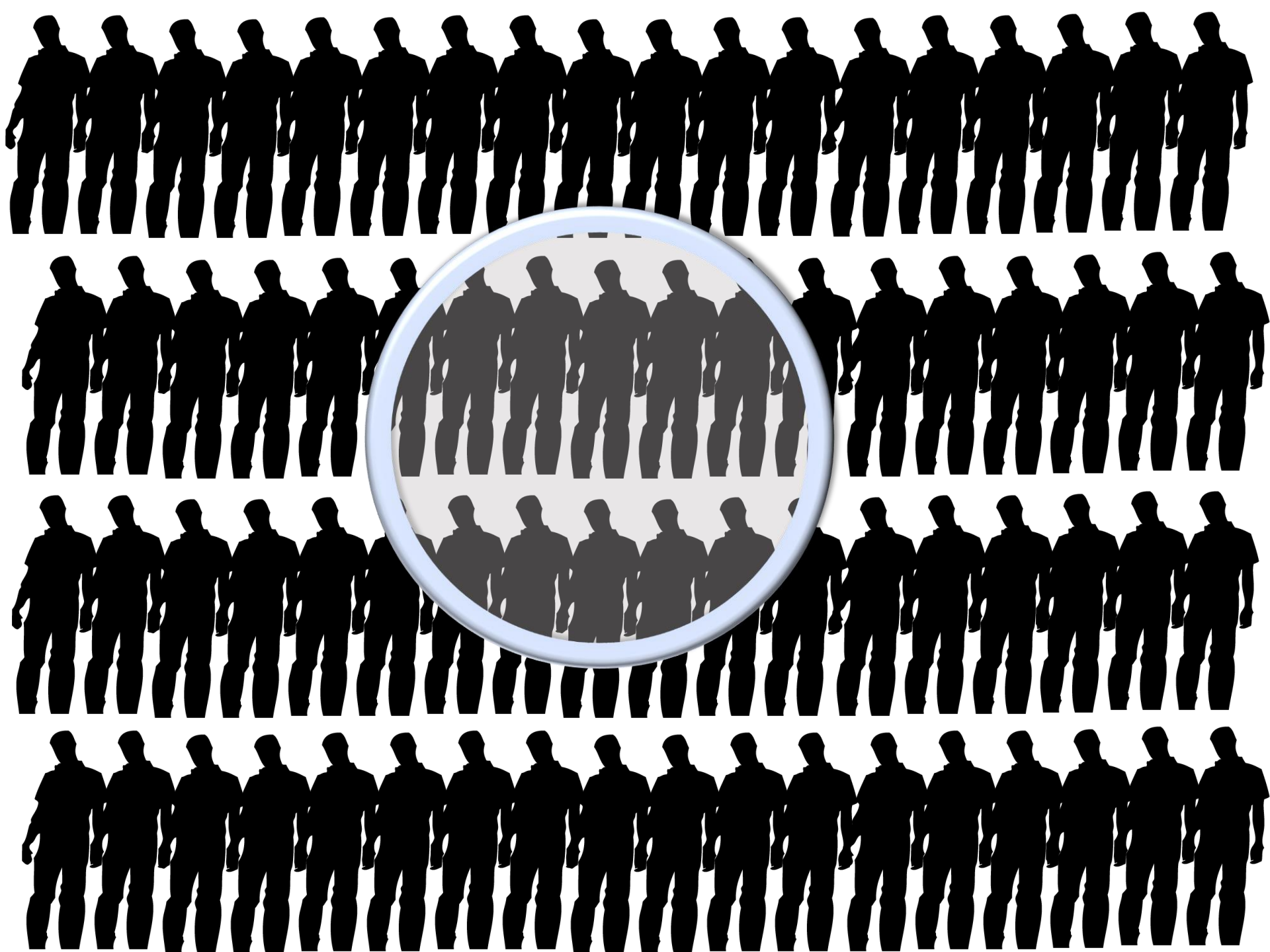
**THE AMAZING
RETROSPECT-O-SCOPE!**

Mass Shooter



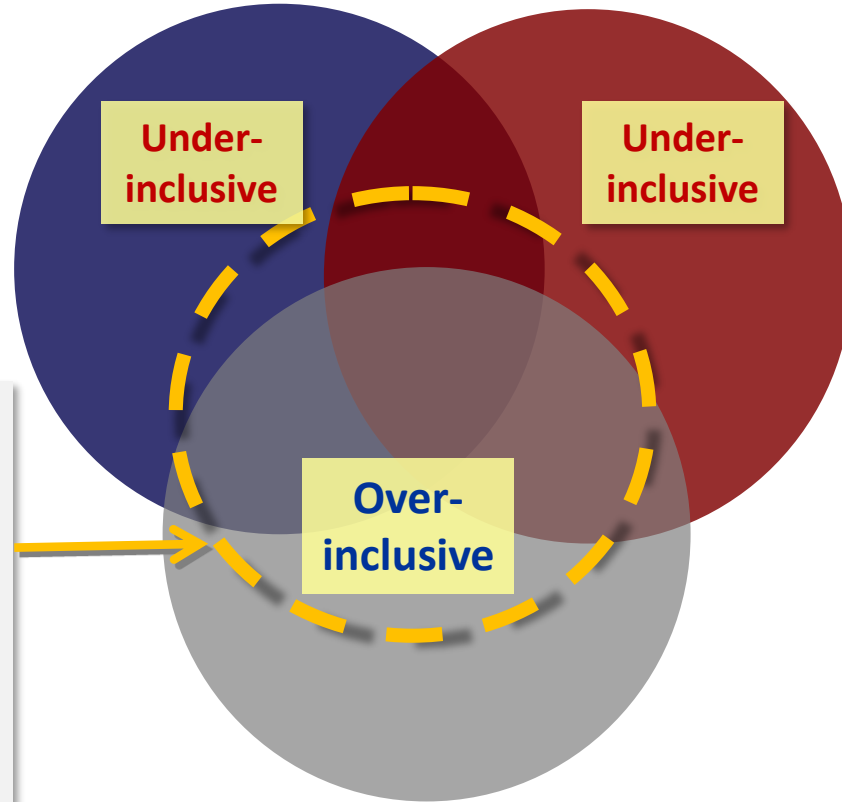
Mass Shooter





Suicidality

Interpersonal violence



Gun purchase restrictions based on background checks for disqualifying criminal and mental health adjudication records.

Mental illness

Gun restrictions **over-inclusive (too broad)** in some cases:

Tyler v. Hillsdale County Sheriff's Dept., 837 F. 3d 678 (6th Cir. 2016)

- Charles Tyler **involuntarily hospitalized for suicide** concern in 1985 at age 23
- Psych diagnosis: “**Brief reactive depression** in response to his wife divorcing him.”
- Tyler remained employed for the next 19 years with **no depressive episodes**, no problems with substance abuse, no legal involvements.
- In 2011, Tyler **attempted to purchase a firearm, but was denied** when a NICS background check revealed he was a prohibited person under U.S.C. §922(g)(4).
- Tyler's home state, **Michigan, had no procedure for him to seek restoration** of his firearm rights.
- **Tyler sued in federal court**, claiming that his 2nd amendment right had been violated; lower court ruled against Tyler.
- Tyler appealed to the **US 6th Circuit, which reversed and remanded** the case to the district court with instruction to apply “intermediate scrutiny” standard to **determine whether the law was constitutionally applied** specifically to appellant Charles Tyler

Felthous AR and Swanson JW, The Constitutional limitations of prohibiting persons with mental illness from gun ownership under *Tyler*. *Journal of the American Academy of Psychiatry and the Law*, in press.

Gun restrictions **over-inclusive (too broad)** in some cases:

Tyler v. Hillsdale County Sheriff's Department

File Name: 14a0296p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

CLIFFORD CHARLES TYLER,

Plaintiff-Appellant,

v.

HILLSDALE COUNTY SHERIFF'S DEPARTMENT, et al.,

Defendants-Appellees.

No. 13-1876

Appeal from the United States District Court
for the Western District of Michigan at Grand Rapids
No. 1:12-cv-00523—Gordon J. Quist, District Judge.

Argued: March 21, 2014 **December 14, 2014**

Decided and Filed: December 18, 2014

Before: BOGGS, SILER, and GIBBONS, Circuit Judges.

... gun ownership under Tyler. *Journal of the American Academy of Psychiatry and the Law*, in press.

Gun restrictions **over-inclusive (too broad)** in some cases:

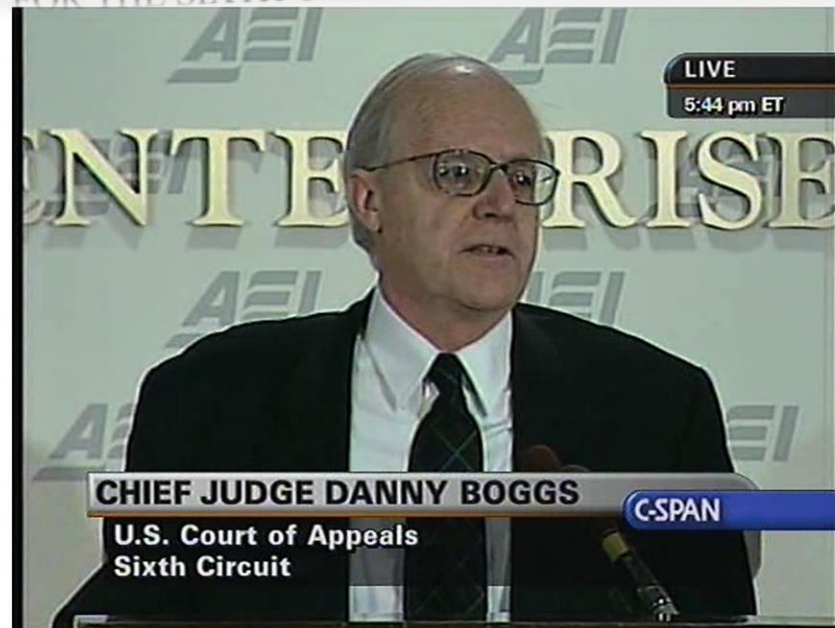
Tyler v. Hillsdale Court of Appeals

File Name: 14a0296p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

“The government’s interest in keeping firearms out of the hands of the mentally ill is not sufficiently related to depriving the mentally healthy, who had a distant episode of commitment, of their constitutional rights,” wrote Judge Danny Boggs, an appointee of President Ronald Reagan, for the panel.



December 14, 2014

Decided and Filed: December 14, 2014

Before: BOGGS, SILER, and GIBBONS, Circuit Judges.

...ing persons with mental illness
...gun ownership under Tyler. *Journal of the American Academy of Psychiatry and the Law*, in press.

Categorical gun restrictions are **too broad...** **and too narrow**

This is what 100,000 people looks like.

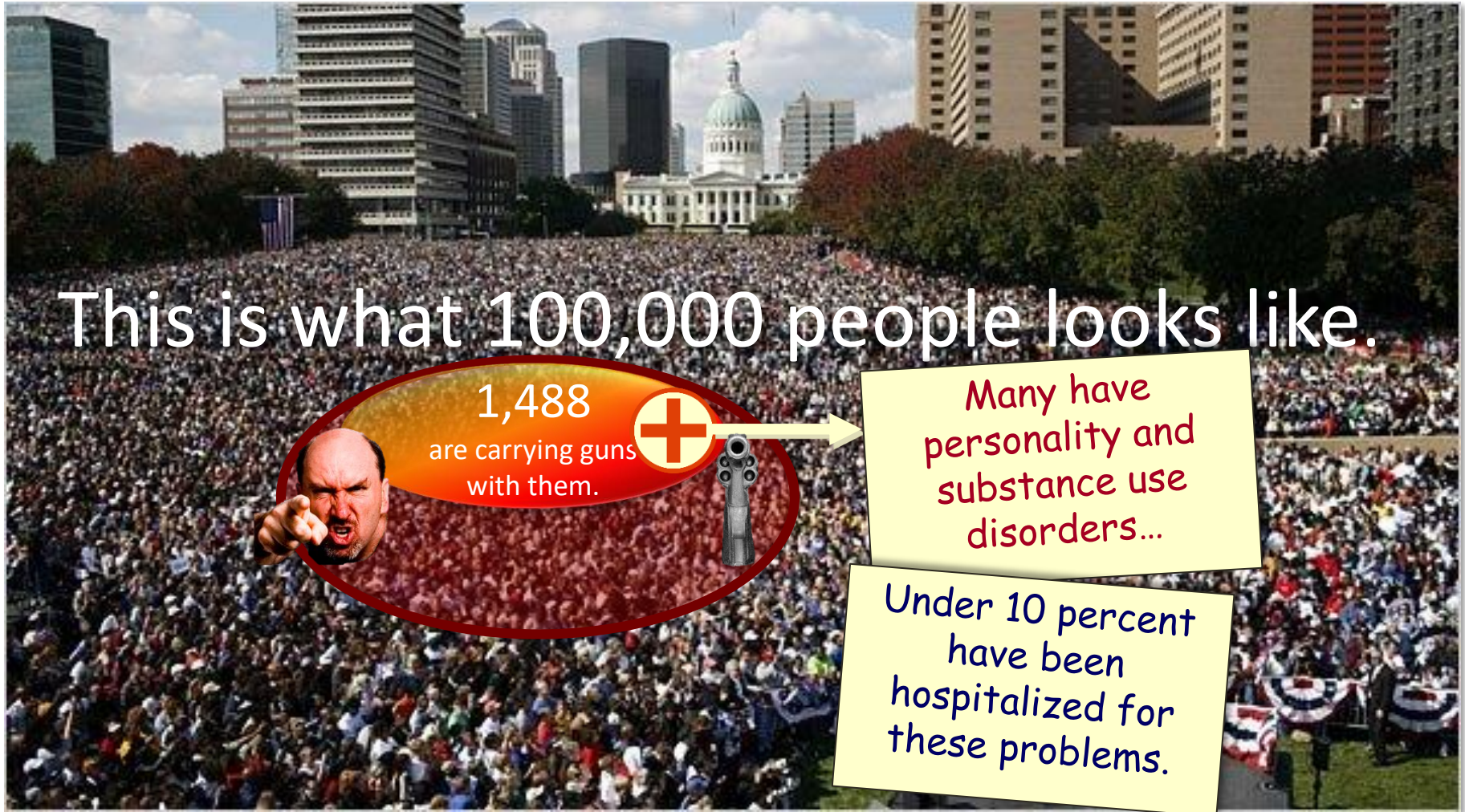
1,486
8,865

are carrying
have impulsive anger
behavior problems...
and have access to
firearms.



Categorical gun restrictions are **too broad...** **and too narrow**

This is what 100,000 people looks like.



1,488

are carrying guns
with them.



Many have
personality and
substance use
disorders...

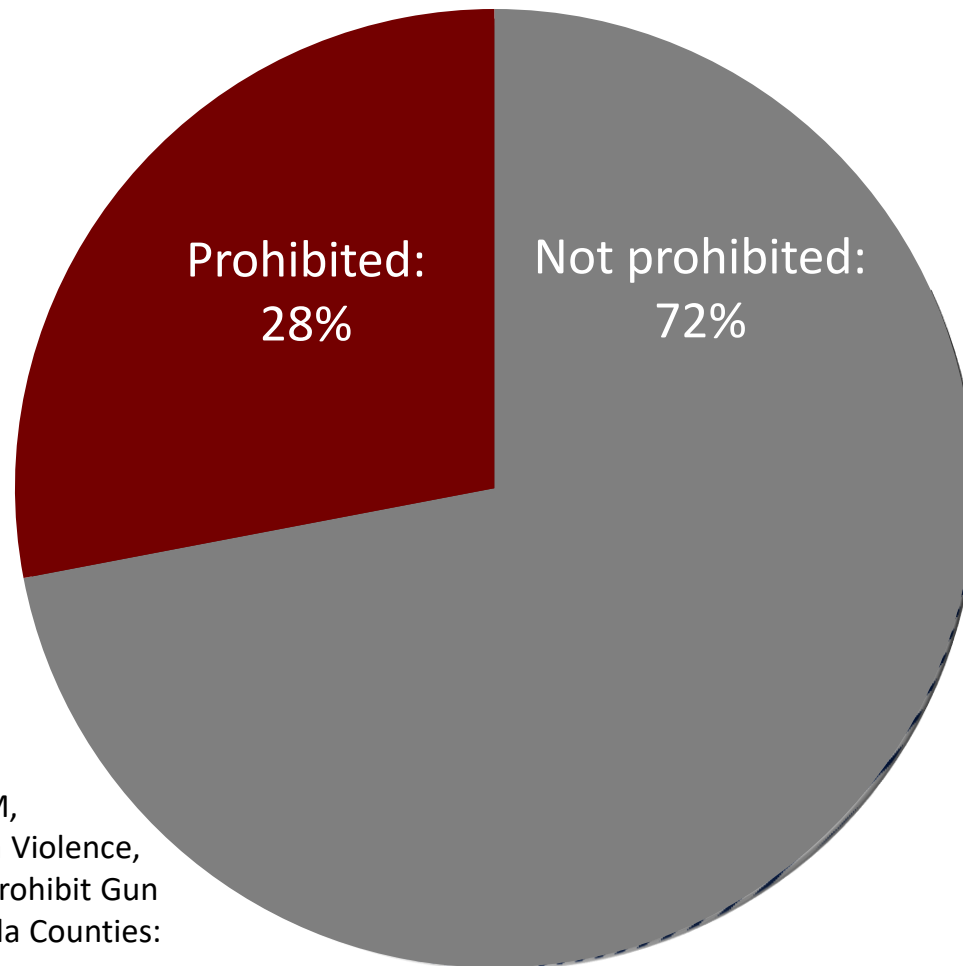
Under 10 percent
have been
hospitalized for
these problems.

Chapel Hill, NC
February 10, 2015



Categorical gun restrictions are **too broad...** **and too narrow**

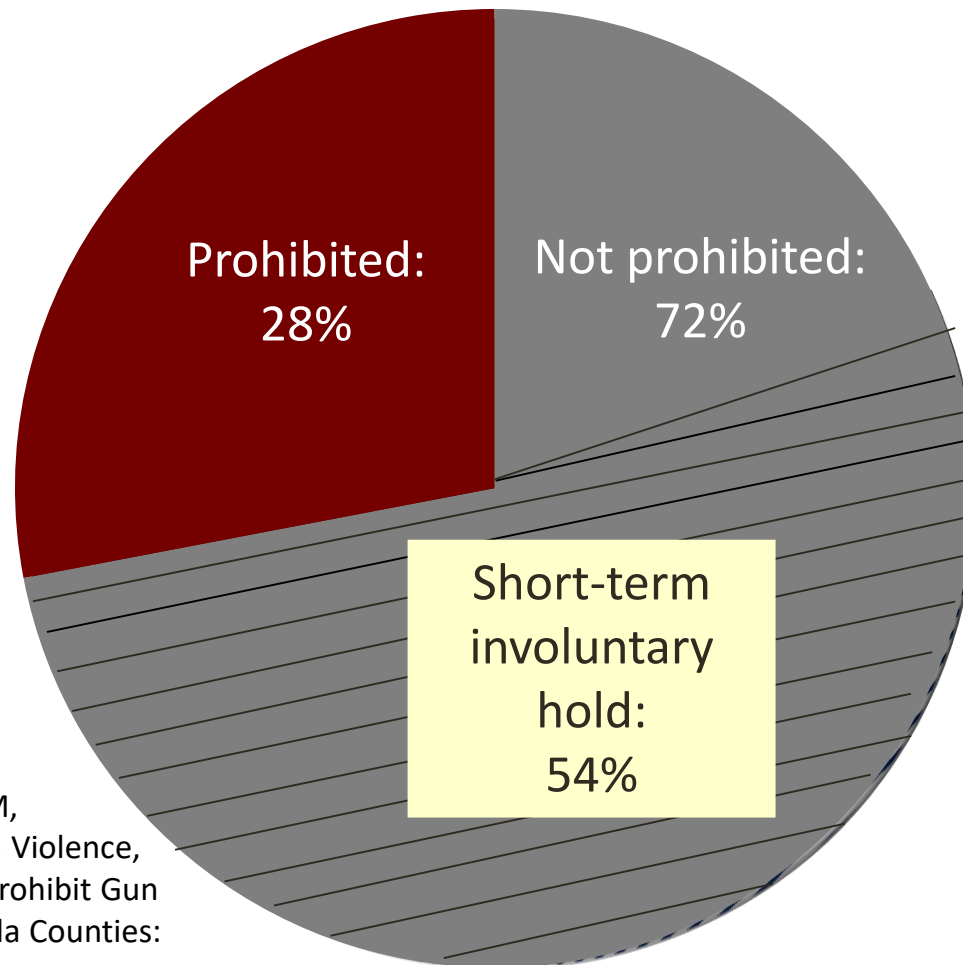
50 gun suicides: gun prohibited status at death



Source: Swanson JW, Easter MM, Robertson AG et al. (2016). Gun Violence, Mental Illness, And Laws That Prohibit Gun Possession: Evidence Two Florida Counties: Health Affairs 35, 6 1067-1075

Categorical gun restrictions are **too broad...** **and too narrow**

50 gun suicides: gun prohibited status at death



Source: Swanson JW, Easter MM, Robertson AG et al. (2016). Gun Violence, Mental Illness, And Laws That Prohibit Gun Possession: Evidence Two Florida Counties: Health Affairs 35, 6 1067-1075

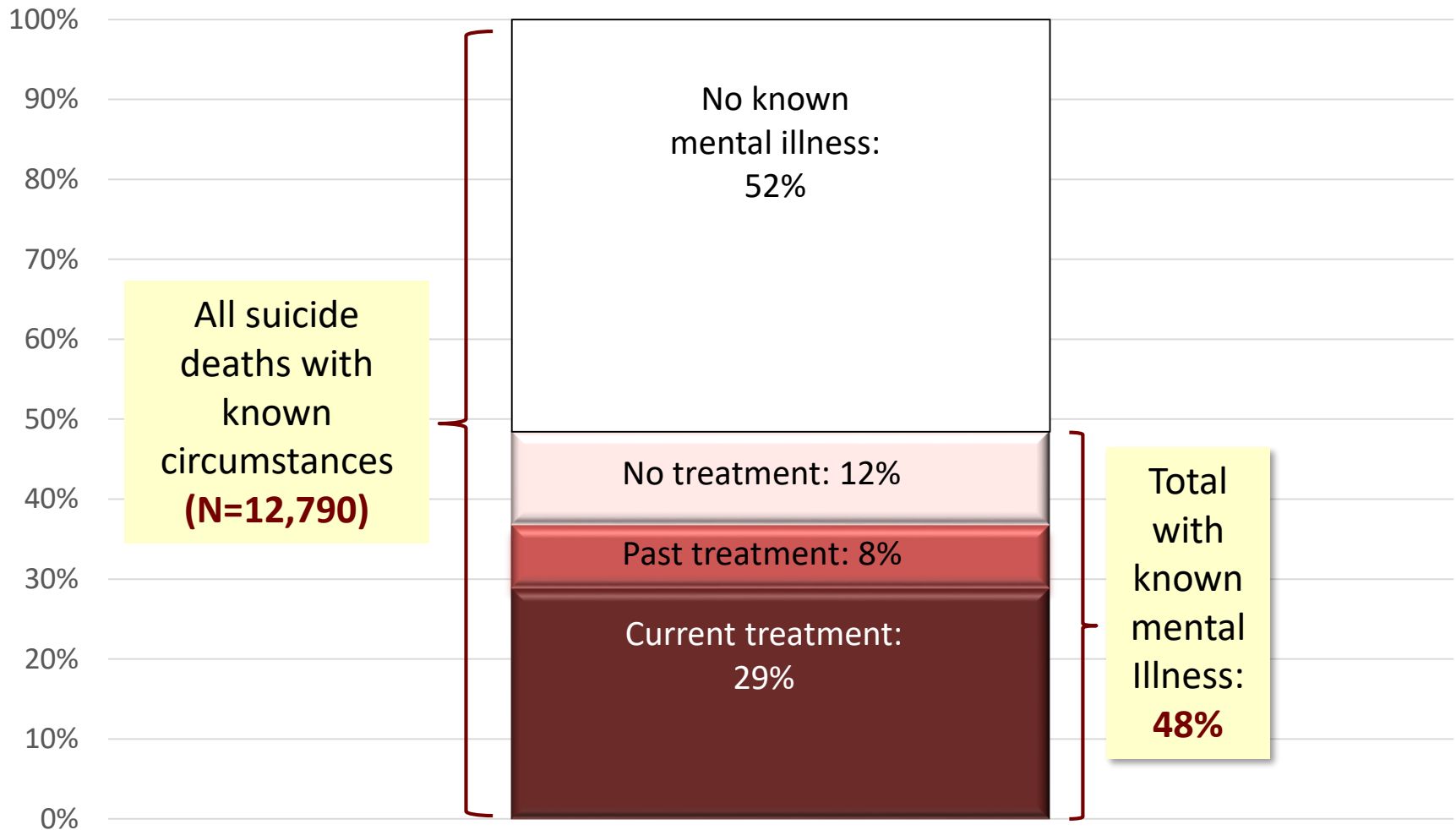
Consortium for Risk-Based Firearm Policy: Recommendations for state gun policy reforms

- Prohibit firearms, on a temporary basis, from persons with **behavioral indicators and evidence of risk of harm to self or others**. Proposed indicators of risk, which currently do not result in disqualification from firearms in many states, include:
 - violent misdemeanor convictions
 - temporary domestic violence restraining orders
 - two or more DUI's or DWI's in 5 years
 - two or more illicit drug offense convictions in 5 years
 - mental health: short-term involuntarily hospitalization in a psychiatric emergency not subject to formal civil commitment in an adjudicative procedure.

Consortium for Risk-Based Firearm Policy: Recommendations for state gun policy reforms (cont.)

- Make the expanded disqualification contingent upon states also having a **meaningful, expedient, and clinically-informed process for restoring gun rights** to individuals who are subject to temporary prohibition.
- Enact **“dangerous persons” preemptive gun removal laws** with a judicial proceeding to restore firearms based on evidence of risk

Role of mental illness and mental health treatment in 12,790 persons who died from suicide in 2014 (National Violent Death Reporting System data)



Role of mental illness and mental health treatment in
12,790 persons who died from suicide in 2014

OTHER CIRCUMSTANCES

Crisis in past 2 weeks	34%
Intimate partner problem	28%
Physical health problem	22%
Alcohol dependence	18%
Other substance problem	16%
Job problem	11%
Financial problem	10%
Recent criminal legal problem	9%
Death of friend or family	8%
Eviction or loss of home	4%
School problem	2%

A large iceberg floats in the middle of a vast, dark blue ocean under a clear blue sky with light clouds. The iceberg is white and jagged, with a smaller peak to its right. The water is dark blue with small ripples.

Suicide deaths:
44,193¹ in 2015

10% die

90% survive

Data Source

¹ CDC Fatal Injury Data,
National Vital Statistic System

An iceberg floating in the ocean. The tip of the iceberg is above the water, while the much larger part is submerged. The sky is blue with light clouds, and the water is a deep blue. The text 'Firearm suicide' is written in red on the left side of the image. Two yellow boxes on the right side of the image contain the statistics '90% die' and '10% survive'.

Firearm suicide

90% die

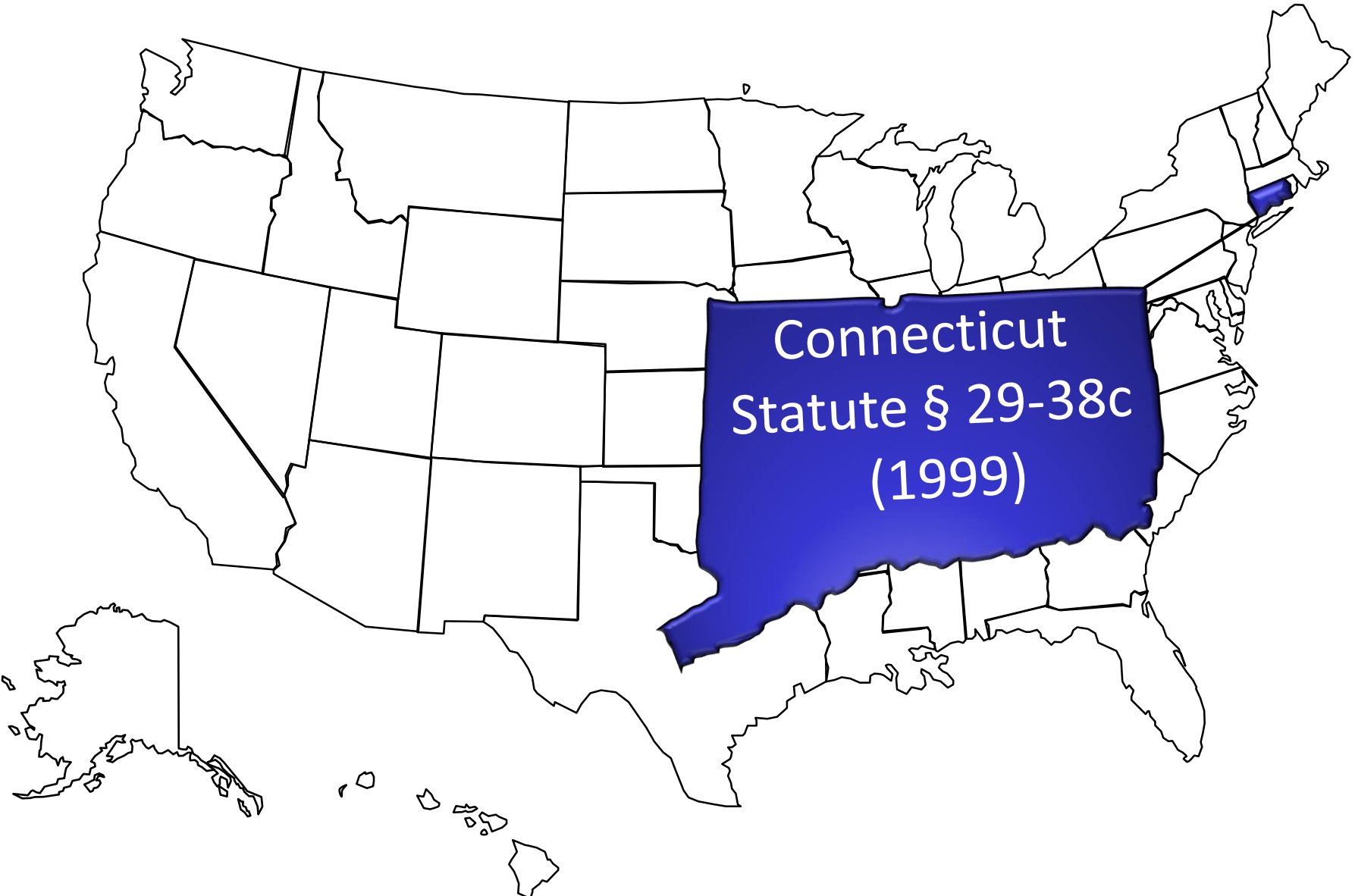
10% survive

Risk-based firearm removal laws

- Risk warrant law
- Gun violence restraining order
- Gun violence protective order
- Extreme risk protective order
- Lethal violence protective order
- Security temporary order of protection

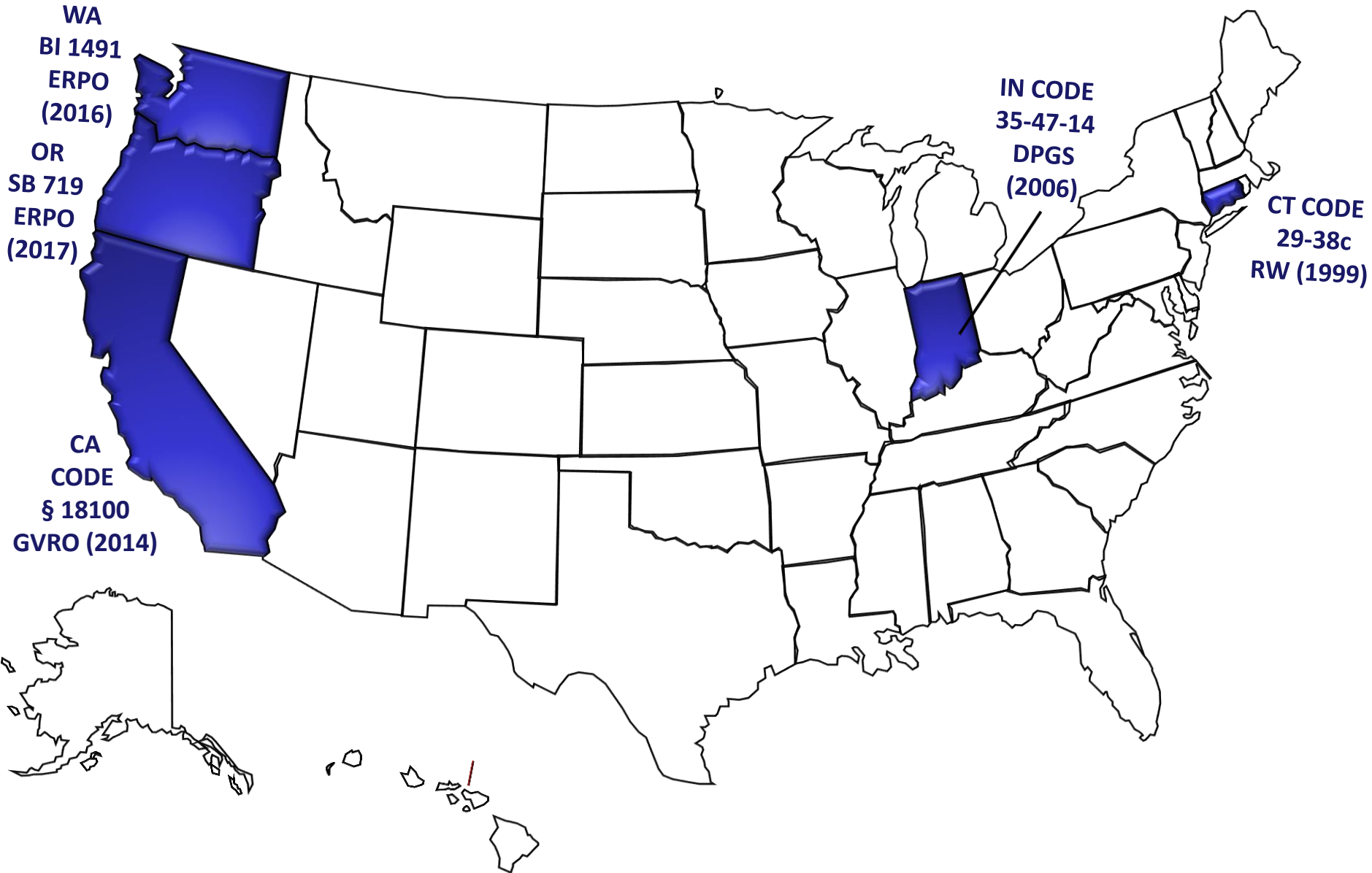
Common elements

1. Civil court order for gun removal (non-criminalizing)
2. Authorizes police to search for and remove firearms
 - Initial warrant based on probable cause of imminent harm
 - Subsequent court hearing (e.g., within 2 weeks) requires state to show clear and convincing evidence of ongoing risk
3. Applied to persons at high risk of harming others or themselves, even with no past criminal record or mental health adjudication
4. Gun removal is time-limited, typically 12 months



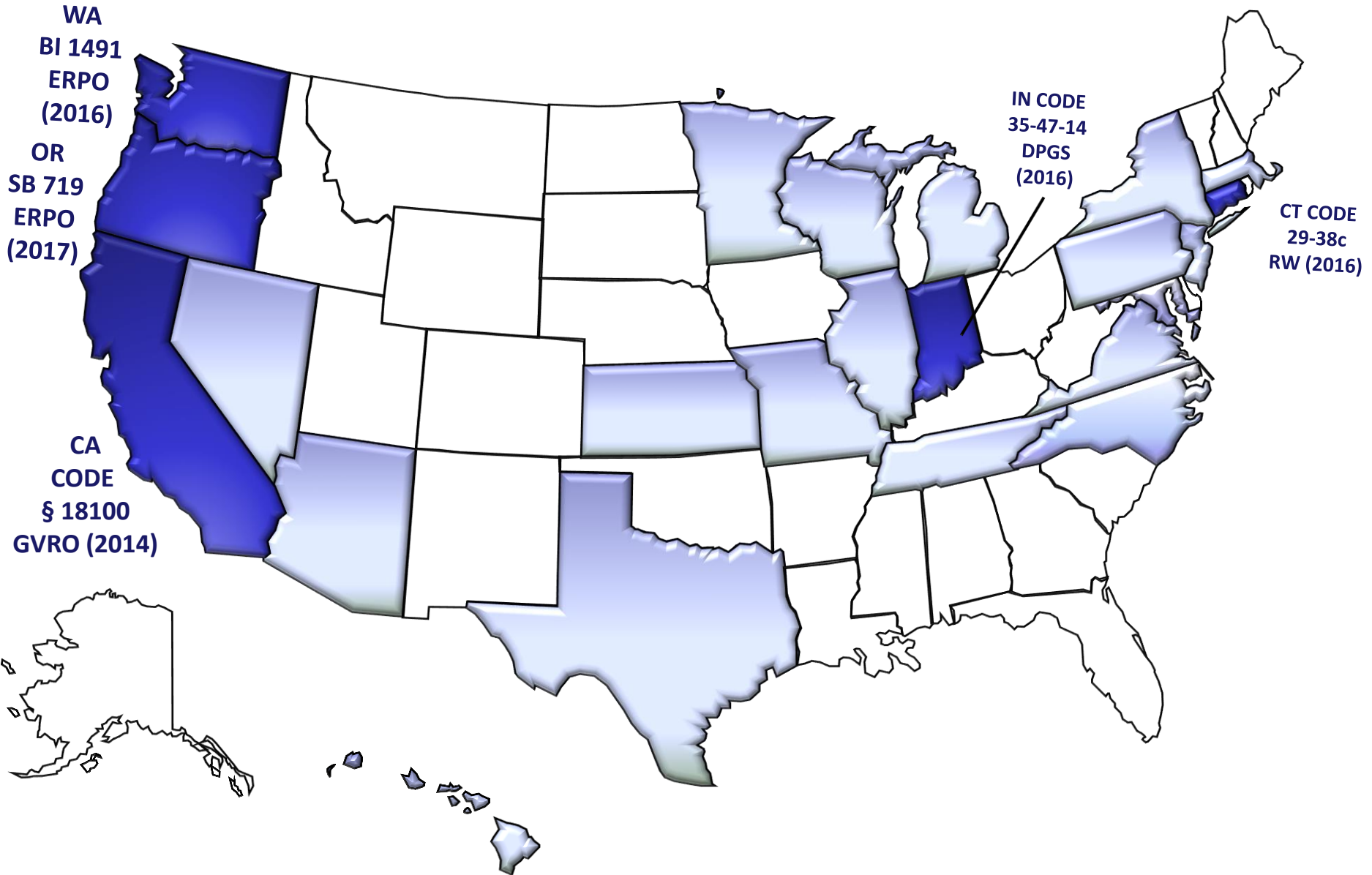
Connecticut
Statute § 29-38c
(1999)

States with risk-based gun removal laws



16 additional states

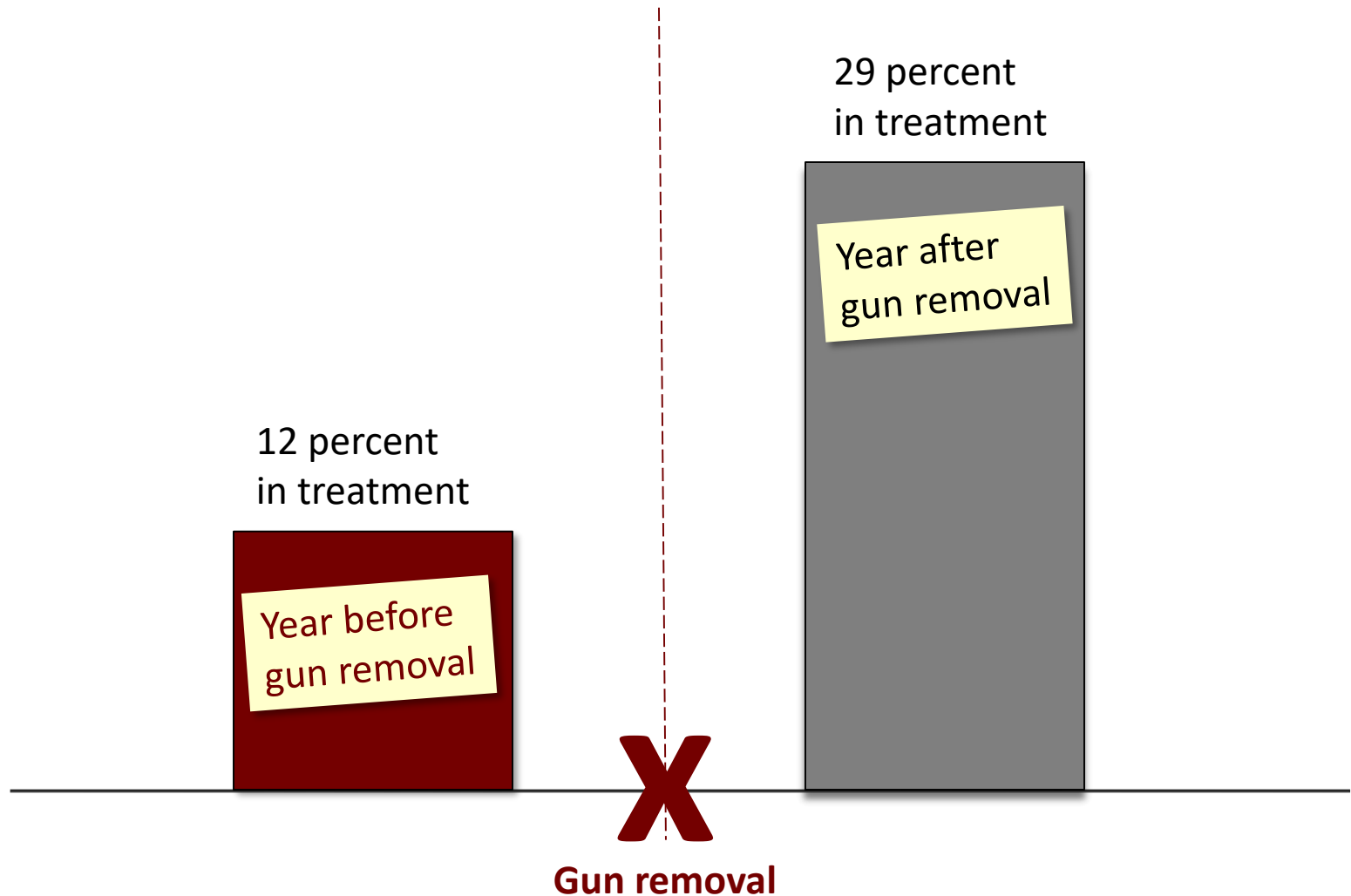
with proposed risk-based gun removal bills by 2018

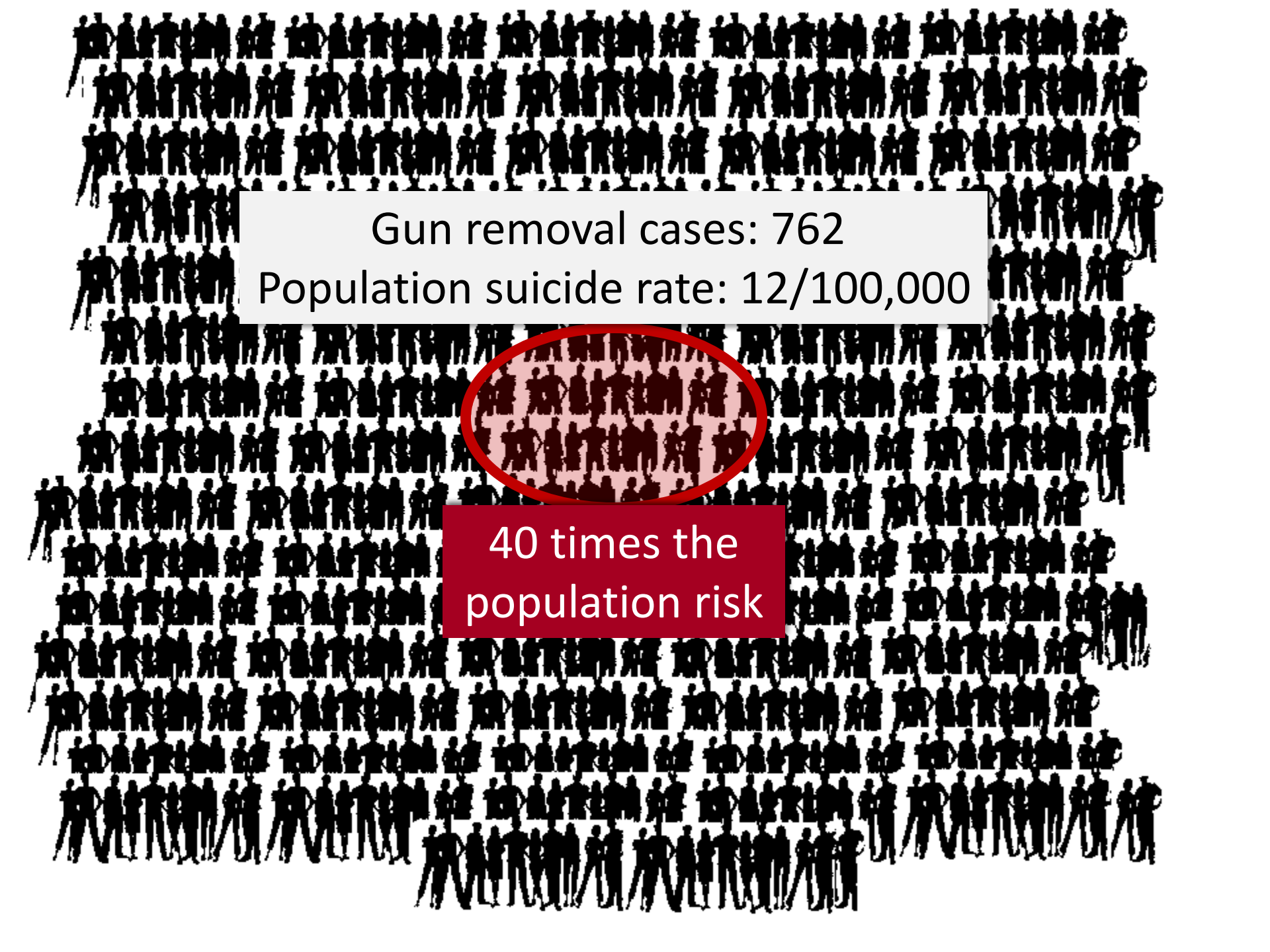


Descriptive information on implementation of Connecticut's "risk warrant" gun removal law 1999 - 2013: N=762 cases

- Average number of guns removed per case: 7 guns
- Gender: 92% male
- Age: mean 47 years
- Marital status: 81% married or cohabiting
- Military veterans (Iraq/Afg.) overrepresented: 85 vs. 28/100K
- Mental health or substance use treatment record: 46%
- Arrest leading to conviction in year before or after: 12%
- Risk of harm to self: 61%
- Calls to police come from family/acquaintance: 49% of cases
- Transported to ED/hospital: 55%

Proportion in treatment in public behavioral healthcare system **year before and year after gun removal** event

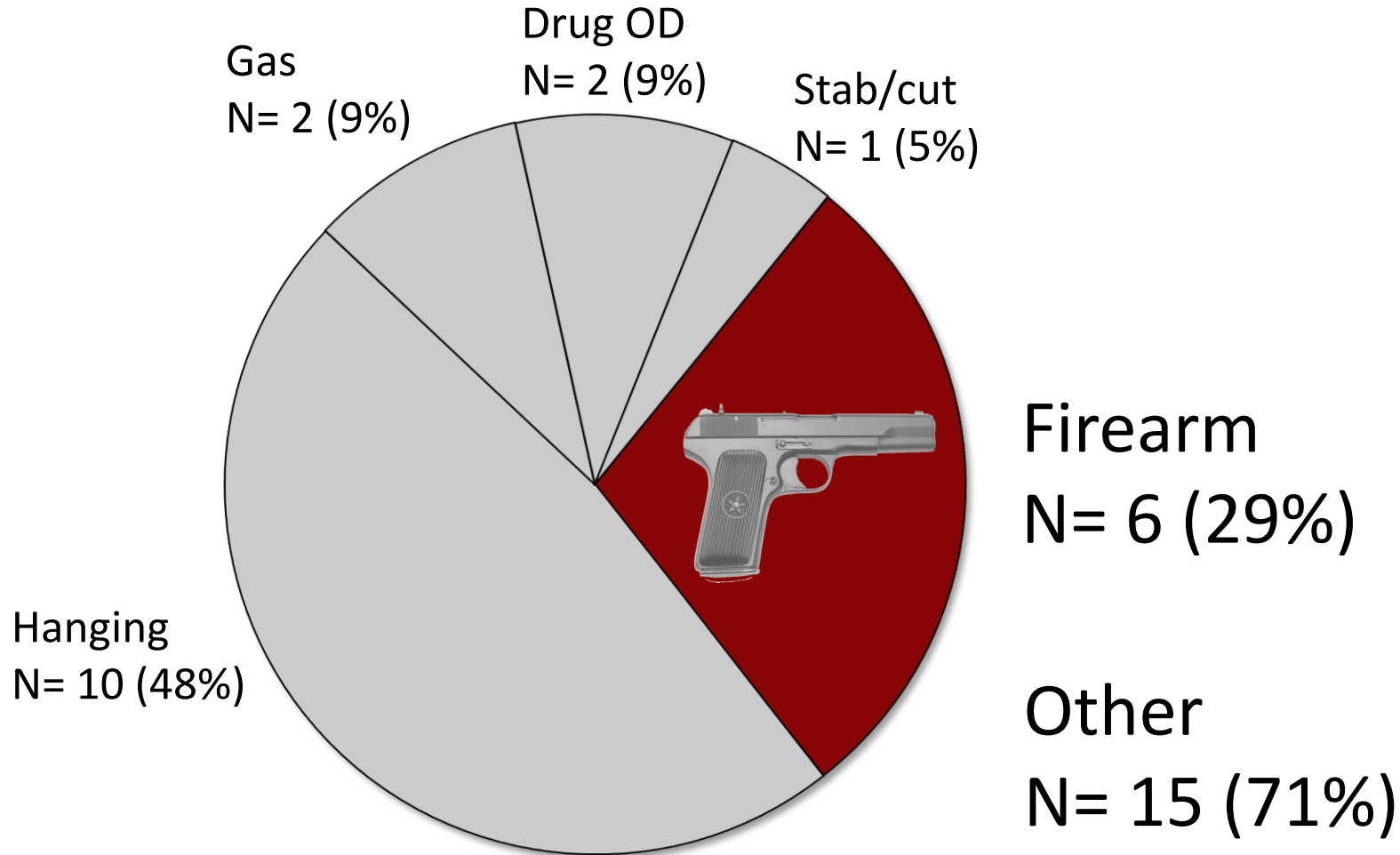




Gun removal cases: 762
Population suicide rate: 12/100,000

40 times the
population risk

Suicide means in gun removal cases



A photograph of an iceberg floating in the ocean. The top part of the iceberg is above the water surface, appearing as a white, jagged peak. The bottom part is submerged, appearing as a large, dark blue mass. The water is a deep blue, and the sky is a lighter blue with some clouds. The horizon line is visible in the middle of the image.

Measure the tip

Estimate the iceberg

Risk-based, time-limited **firearm removal**: What is in the balance?



**10-20
risk
warrants**

**1
prevented
suicide**

Public support for risk-based temporary gun removal laws

Policy proposal: Do you support...	Percent YES	
	Non-gun owners	Gun owners
Allowing family members to ask the court to temporarily remove guns from a relative who they believe is at risk of harming himself or others?	73.9	63.6
Authorizing law enforcement officers to temporarily remove guns from individuals who the officer determines pose an immediate threat of harm to self or others?	71.8	67.0

Source: Barry et al. (2015) Two years after Newtown—public opinion on gun policy revisited. *Preventive Medicine*

Public support for comprehensive background checks and expanded restriction of gun sales to people with temporary restraining orders and DUI convictions

Policy proposal: Do you support...	Percent YES	
	Non-gun owners	Gun owners
Requiring a background check system for all gun sales to make sure a purchaser is not legally prohibited from having a gun?	83.4	84.7
Prohibiting a person subject to a temporary domestic violence restraining order from having a gun for the duration of the order?	79.6	77.5
Prohibiting a person convicted of two or more DWI or DUIs in a five-year period from having a gun for five years?	52.1	43.1

Source: Barry et al. (2015) Two years after Newtown—public opinion on gun policy revisited. *Preventive Medicine*

Principles to guide gun policy reforms related to mental illness

- **Prioritize** contemporaneous risk assessment based on evidence of behaviors that correlate with violence and self-harm at specific times, not mental illness or treatment history *per se* as a category of exclusion
- **Preempt** existing gun access, rather than simply thwarting a new gun purchase by a dangerous person
- **Provide** legal due process for deprivation of gun rights
- **Preserve** confidential therapeutic relationships
- **Prevent** the unpredictable through comprehensive background checks, but also by reducing the social determinants of violence and investing in improved access to mental health and substance abuse services