



## Psychiatry & Behavioral Sciences Section – 2007

### **115 Firearms and the Mentally III: Demographics and Psychiatric Characteristics of Individuals Petitioning for Early Relief From Firearms Prohibition**

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After attending this presentation, attendees will have learned about the weaknesses of the current national background check system for firearms purchases, the incidence of firearms prohibition on grounds of involuntary commitment in California, the demographics and psychiatric characteristics of a sample of individuals who petitioned for relief from this prohibition, and the internal and external factors correlated with the granting or denial of the petition. They will also learn about the potential negative impact of an involuntary hold in terms of employment and the need for input by forensic experts in judicial determinations involving firearms possession issues.

This presentation will impact the forensic community and/or humanity by describing the impact of clinical decisions on firearms possession, pointing out the opportunities for expert witness input in the adjudication of firearms prohibition relief petitions in California and around the nation, and pointing out the weaknesses in the national background check system with regards to the purchase of firearms by individuals with a mental health history.

California law provides for stringent regulation of the possession of firearms by individuals with a history of mental health treatment. Any person who is placed on a 72-hour involuntary hold for observation on the grounds of danger to self or others and admitted to a psychiatric ward is subject to a five-year prohibition on the possession of weapons including all firearms. Each month the California Department of Justice receives notice of thousands of individuals who have been placed on 72-hour holds. Some of those who thus lose the ability to legally possess firearms had no psychiatric history prior to the index 72-hour hold. Of these, some are employed, or wish to be employed, in fields that require a firearms permit, *e.g.*, law enforcement or private security. Thus, placing someone on an involuntary hold for convenience when it is not clinically necessary (as may happen when a patient is ambivalent about admission but at the moment of consultation agrees to voluntary hospitalization) may have unanticipated consequences for the patient's livelihood.

California law also provides an opportunity to petition, once in the five-year period, for early relief from the prohibition. There has been no systematic investigation of the characteristics of individuals making these petitions or of the outcomes of these legal actions. Significantly, California law does not require the input of a mental health expert in the decision, but leaves it to the discretion of the judge of the superior court in the county where the petitioner resides. In some states, restoration of the right to possess firearms is dependent on certification by a physician that the individual no longer presents a danger as a result of mental illness. Typically this is the patient's treating psychiatrist. No state currently requires examination by an independent forensic expert in the restoration process.

This presentation will review California laws governing possession of firearms by individuals with a mental health history, contrasting these laws with federal laws and the laws of other states. The mechanics of the national background check mandated by the federal Brady Handgun Violence Prevention Act of 1993 as it pertains to individuals with a history of mental health commitment will be examined. Upwards of four million firearms transactions take place in the U.S. each year, but important weaknesses in the background check system remain. Finally, the demographic and mental health data of a sample of individuals petitioning for early relief in Los Angeles County and the results of their petitions will be discussed.

Clinicians who place individuals on involuntary holds should familiarize themselves with the firearms laws of their jurisdiction and avoid the unnecessary forfeiture of their patients' right to possess firearms. Psychiatrists and psychologists who provide expert witness services have the potential to improve the quality of the analysis performed in proceedings where an individual is seeking the overturning of a prohibition on firearms ownership. The addition of expert testimony in such proceedings would likely reduce the number of unnecessary denials of petitions for relief, while simultaneously reducing the number of individuals who appear safe to the untrained judicial eye, but in fact pose an unacceptable risk. Clinicians and forensic experts alike should be aware of the limitations of the current national background check system for firearms purchases.

**Firearms, Involuntary Hospitalization, Expert Witness**