

Public Policy & Ethics

Gun Control: Federal Background Check

The debate over gun control has been a volatile argumentative issue in American society. Several states already have passed laws that regulate the possession and sales of firearms. By the same token, several federal gun control laws have been enacted. Yet, the mass shooting at Sandy Hook sparked the most recent discussion about creating more restricted gun control laws that ban assault weapons and increase background checks of all gun buyers. Present Barack Obama announced his gun control policy, which raises several ethical issues.

Gun Control Background :

The nation has experienced several types of gun-control and gun-rights laws throughout history. In Colonial America, adult white men had the right to own firearms, and in some cases, were "required to use them" while serving in the local militia (Mantel, 2013). In contrast, some colonies prohibited gun ownership for many groups. For instance, people accused of heresy, slaves, freed slaves, people of mixed races in places where their numbers exceeded that of whites, Roman Catholics, and Loyalists were all prohibited from owning firearms (Mantel, 2013). One might say these laws have had a history of bias. They were legal, yet unethical.

After the Revolutionary War, gun rights were included in The Second Amendment to the U.S. Constitution which states: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." According to Mantel (2013), "various states drafted constitutions with similar provisions. Their intended meaning became the subject of debate in the early 19th century as states enacted ' the first comprehensive laws prohibiting hand guns

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and other concealed weapons"(p.242). Kentucky and Louisiana were the first states to ban carrying concealed weapons in 1813. Some gun control laws were legal, but unethical. Kopel (2011) claims that "during the nineteenth century, gun control was almost exclusively a Southern phenomenon. It was concerned with keeping guns out of the hands of slaves or free blacks before the Civil War, curbing dueling, and suppressing the freedmen after the Civil War" (p.1529). Several states have enacted their own gun control laws during the twentieth century. In 1934, the nation witnessed the first federal gun control law. President Franklin Roosevelt signed the National Firearms Act (NFA) of 1934 into law (Mantel, 2013, p. 245). Subsequently, several federal gun control laws and gun rights laws have been enacted by U.S presidents. Presently, in the aftermath of the Sandy Hook shooting, President Barack Obama announced his plan to combat gun violence, which includes 23 executive actions (The Office of the President of the United States, 2013). Increasing background check requirements, mental health reporting standards, and banning military style assault weapon have raised many ethical issues.

Legal Ethical Issues:

Public policy always impacts citizens either positively or negatively. Peters (2009) argues that "public policy is the sum of government activities, whether pursued directly or through agents, as those activities have an influence on the lives of citizens" (p.4). The impact of President Barack Obama's plan to reduce gun violence raises several ethical-legal questions. First of all, the plan negatively impacts mentally ill persons. It violates their individual rights, especially the privacy rights. For almost 50 years, federal laws have prohibited persons who have involuntarily been admitted to mental institutions or judged by the court, as well as people who may be dangerous to themselves or others, from owning firearms. However, those laws do not include

persons who have voluntarily admitted themselves for mental help (Kangas & Calvert, 2014, p.77). The White House's plan requires all healthcare providers to report every patient who has voluntarily sought mental help to the NICS database (Kangas & Calvert, 2014, p.77). These requirements violate several civil rights laws, such as the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Family Educational Rights and Privacy Act. HIPAA rules prohibit disclosing information about persons who voluntarily seek mental help (Rosenberg, 2014, p. 111). Many health care providers express serious concerns about the legitimacy of such requirements. Beckett (2010) argues that "legislative enactments and administrative practice must not violate individuals' rights" (p.14). To avoid the dilemma of violating individuals' rights, President Obama used his executive power to sign executive orders, which do not require prior approval from the Congress, to modify the HIPAA privacy rule (Rosenberg, 2014, p. 111). Therefore, federal laws no longer prohibit health care providers from reporting their patient's information to the NICS database. (The Office of the President of the United States, 2013). The National Alliance on Mental Illness (NAMI) (2013) announced that "We believe that the current NICS law is based on faulty assumptions about the relationships between mental illness and violence.... We therefore do not support amending the HIPAA Privacy Rule to create a special exception for reporting of mental health records to the NICS database" (as cited in Rosenberg, 2014, p 118)

All health care providers will submit their patients' information to the NICS database using Information Technology (IT), which may jeopardize their information if it falls in the wrong hands. Danziger and Andersen argue that IT has a negative impact on public privacy because some political organizations, interest groups, or even private providers may have access to public records (as cited in Haque, 2003,

p.41). Another issue with the current plan is that all patients who seek mental help will lose their constitutional right to bear arms. Moreover, the White House's plan does not explain when the mentally ill can regain the right. In Connecticut, for instance, any person voluntarily admitted to a mental institution will be prohibited from purchasing and possessing firearms for six months (Gold, 2013, p.330). In addition, President Obama's plan uses vague language to describe what constitutes mental illness. Whether or not minor mental illnesses, such as general anxiety disorders, are included is not clear from the law as it is written.

Box (1998) argues that "The Anti-Federalists wanted to keep governmental units as small as possible so they would be accountable to individual citizens who could take part directly" (p. 68). Requiring healthcare providers and states to share patient information and records with the federal government overpowers state autonomy. The Federalists, especially Madison, claimed that central government is significant to protect individuals from local governments (Amar, 1993, p. 1993). However, on this issue, the federal government has started to abuse its power by violating individuals' rights, especially the privacy right of mentally ill persons. The best example of this is how the President changed HIPAA's rules to fall in line with his plan.

Professional Ethical Issues

Public servants must be held to higher ethical standards as well as maintaining ethical conduct in their organizations. Ethical codes promote ethical behavior. "Codes of ethics can also be tailored better to the typical situations of a profession. Whereas law tends to be universal, or at least more inclusive, in its application, codes can be more particular in their audience" (Cooper, 2012, p.149). The American Psychological Association's (APA) code of ethics emphasizes that all members must

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adhere to their code of ethics and be held responsible to their patients. Any member who violates the APA's code may be exposed to sanctions. The APA (2010) writes that "APA may impose sanctions on its members for violations of the standards of the Ethics Code, including termination of APA membership, and may notify other bodies and individuals of its actions" (p.2). President Obama's plan to reduce gun violence, which requires health care providers to report their patients' information to the National Instant Criminal Background Check System (NICS), violates the APA's code of ethics (Kangas & Calvert, 2014, p, 78). The relationship between patients and psychiatrists is based on confidentiality. Breaking down this confidentiality will harm patients, patient-professional relations, and undermine the APA's ethical foundation. The president is a steward of public trust and he must uphold the law; yet, he is asking psychological health professionals to violate their organization's (APA's) ethical codes.

Essentially, the president (by his gun control mandate) is telling the APA that they cannot remain ethically autonomous. This alienates an entire group of professionals and forces them to operate according to laws that are unethical, but superimposed upon them because of popular demands for greater gun control. This is an unethical representation, and a hastily structured system that ignores ethics altogether and the opinions of professionals who actually work with mental illness.

Social ethical impact:

Unfortunately, the government is likely unaware that it is engaging in evil administrative acts. The plan does have good intentions, which the primary purpose is to reduce gun violence. However, President Obama's plan implies that mentally ill persons are generally the primary cause from gun violence. The White House' plan approximately used the words mental health/ mentally fifty times; on the other hand

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criminal/ crime are used separately eight times. However, some psychologists oppose the measures taken against mentally ill persons; according to Julie L. Kangas and James D. Calvert, “there is no evidence to suggest that people with a history of mental illness are more likely to commit a violent act with a firearm” (p. 81). They expand by saying that the “best predictors of future violence” are an actual historical and criminal record of previous gun violence (p. 81). Also, it is hard to predict future violence (Kangas and Calvert, p. 79)

One of the possible impacts the plan might have is it could possibly deter people from seeking mental healthcare- because it is a form of blacklisting- and furthering the stigmatization of a already stigmatized population by fostering even more prejudices (Kangas and Calvert, p. 80). It's extremely difficult to track down anyone who is likely to commit violent acts with guns; according to Gold (2013), “many high-risk individuals will go unidentified” because the scope would only cover individuals currently seeking professional help (p.340). Thus, any legislation requiring health care providers to report their patients in order to reduce gun violence is ineffective (Gold, 2013. p.338). Adams & Balfour (2010) argues that " if one does something cruel or violent to a fellow human being, it may well be morally disturbing. But if that person is part of a group of people who are (that is, have been redefined as) not "normal," not like the majority, not good Americans, such action becomes easier" (p. 18). The previous quote highlights the thinking process of dehumanization and the White House's plan dehumanizes mentally ill persons because it assumes that they are dangerous, or "not normal," so their privacy can be violated to protect public good. Gold (2013) argues this as well; she claims "media coverage and legislation" assumes that mentally ill persons are the main reason for gun violence and it dehumanizes them(p.338)

Conclusion

Using the go/no-go model, the gun control legislation fails to meet two of the three conditions- ethical and effective. The go/no-go model for decision making takes into account three conditions, which are legal, ethical, and effective, where each must be met in order for decisions to be rightfully carried out. According to Lewis and Gilman, acknowledging "the law's priority is the first step" in making decisions, but all decisions should take into account ethical concerns for "good decision making" (p.57). In addition to legal and ethical considerations, the effectiveness of decisions must also be considered; because if problems are not solved, there is no reason to carry out the decision (Lewis & Gilman, 2012, p.57). The authors conclude that all "action should be legal, ethical, and effective" (p. 58). The White House's plan to reduce gun violence only meets the legal condition. The plan is ineffective because it will deter people from seeking mental health and will not be able to actually identify and predict future perpetrators of gun violence. Additionally, ethical concerns are raised because the program will mandate healthcare providers to violate confidentiality and the APA's code of ethics. The go/no-go model suggests that Obama's gun policy is a "no-go" because it unethical and ineffective.

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