Hole in Gun Control Law Lets Mentally Ill Through

By FOX BUTTERFIELD

SALT LAKE CITY — With the voices inside her head ordering her to kill, Lisa Duy walked into Doug's Shoot'n Sports here to buy a Smith & Wesson 9-millimeter semiautomatic pistol.

For Doug's, the biggest gun store in Utah, the transaction was routine. The manager, Dave Larsen, called the Utah Bureau of Criminal Identification to run a background check on Ms. Duy, and the agency quickly approved the sale, having found no record of felony convictions or mental illness. In the basement shooting range, Mr. Larsen showed Ms. Duy, 24 and unemployed, how to hold and fire the heavy stainless-steel gun. The only thing unusual, he thought, was that as she left the store, headed for the bus stop outside, she was wearing the shooting-range ear protectors he had lent her.

Less than two hours after leaving Doug's, on Jan. 14, 1999, Ms. Duy, ear protectors still in place, walked into the studios of television station KSL a few blocks from the Mormon Temple and began firing her new weapon. She shot more than four dozen times in all, killing a young mother and wounding the building manager.

What the background check had been unable to detect was that Ms. Duy (pronounced dwee) had a long history of psychiatric problems, had in fact been found to be suffering from paranoid schizophrenia and, only a year before the check, had been committed to a mental hospital by a judge after threatening to kill an F.B.I. agent, an encounter that sprang from her delusions that the station was broadcasting information about her sex life.

Of the 100 episodes of rampage killings examined for this series by The New York Times, none better illustrates than the case of Lisa Duy just how difficult it can be to enforce a key provision of the nation's fundamental gun control law. That provision prohibits people who have been involuntarily committed to mental institutions from buying a handgun. But laws in most states guard the privacy of the mentally ill, and to protect them from stigma these statutes generally bar law-enforcement agencies from access to mental health records.

As a result, gun background checks of people with psychiatric problems typically fail to turn up their mental health history, a loophole that has contributed to the wave of school and workplace shootings of the last decade. In the 100 cases reviewed by The Times, the vast majority of them from the last 10 years, half the killers were people with a history of serious mental health problems, and at least eight had been involuntarily committed.

Now, fueled by those shootings, there is a growing debate pitting public-safety concerns against the rights of the mentally ill. This March, in the wake of the Duy shooting and another like it in April 1999, Utah became one of the few states that give law-enforcement agencies mental health information for background checks on prospective gun buyers. Connecticut acted similarly last fall, after a state lottery employee with a history of depression and psychiatric hospitalization killed four of his bosses and committed suicide in 1998.

The Loophole

Lisa Duy Lied, And No One Knew

The provision that bars handgun purchases by people who have ever been involuntarily committed is more than 30 years old, dating from adoption of the sweeping federal Gun Control Act of 1968. These are frequently the most disturbed people, those forced into hospitals because courts have determined that they may harm themselves or others.

But the provision is usually meaningless: over the years, the National Rifle Association, mental health advocates and civil liberties groups have found themselves on the same side of this issue, fighting independently to keep agencies that conduct background checks from gaining access to information about who has been committed. At the time of her rampage, it was against the law in Utah for the court that had committed Ms. Duy to tell a law-enforcement agency.

Even the Federal Bureau of Investigation, which conducts background checks for the majority of states, has mental health records only on people treated in Veterans Affairs hospitals, plus an assortment of 41 other individuals, among its data on some 40 million people that the bureau now keeps for its system of national instant criminal background checks.

So when Ms. Duy, completing a mandatory federal handgun application, answered no to a question asking whether she had ever been committed, the Utah Bureau of Criminal Identification had no mental health records in its database to catch her lie.

"I don't understand how Lisa could buy a gun," said her mother, Khanh Duy, who immigrated with the family from Vietnam by way of their ancestral China in 1980, when Lisa was a little girl.

"Lisa is a good girl," Mrs. Duy said. "But she heard voices, and she had been in the hospital."

Another case in which a person who had been involuntarily hospitalized was able to buy a gun despite the federal law, and went on to kill with it, was that of Gracie Verduzco, a 35-year-old paranoid schizophrenic who believed she had a transmitter in her left ear that received messages from a satellite. Ms. Verduzco had been committed to mental hospitals three times, by judges in both Arizona and, after she had threatened President Clinton, the District of Columbia. Yet she was able to buy a .38-caliber revolver at a pawnshop in Tucson, and she used it to kill one person and wound four others at a post office and on a highway there on May 21, 1998.

And near Atlanta, James Calvin Brady, a black man who believed a machine had been implanted in his stomach that told him to kill white people, walked out of the Georgia Regional Hospital, where he had been involuntarily committed, and the same day bought a .38-caliber revolver at a pawnshop. The next day, April 25, 1990, he killed one person and wounded four at a shopping mall.

Both Ms. Verduzco and Mr. Brady lied on their gun applications in denying involuntary commitment, and there was no information to catch them.

The conflict between the rights of the mentally ill and the screening that would help keep guns out of their reach can be a wrenching one. Vicki Cottrell, executive director of the Utah branch of the National Alliance for the Mentally Ill, an organization of families of the disturbed, has a daughter with schizophrenia who, like Ms. Duy, heard voices. One day the voices told her to kill her mother, as a sacrifice to silence them. The daughter's psychiatrist called the police, who arrested her.

"We family members have a real dilemma," Ms. Cottrell said. "I used to lie awake at night worrying my daughter would buy a gun and carry out her delusions. So I think people who have been involuntarily committed should be in the computer for gun checks. But we have to be very careful we don't add to the stigma against mental illness and make people afraid to seek treatment."

According to a Justice Department study, about 150,000 people a year are committed to mental institutions by court order in the United States, where there are now perhaps 2.7 million people who have been involuntarily committed at some point in their lives and are therefore barred by the federal law from buying a handgun.

Few of these people commit murder, of course, and shootings by the mentally ill account for only a tiny fraction of all homicides. Indeed, recent studies have shown that the mentally ill are no more violent than other people — except in two circumstances: when they are off their medications or have been abusing drugs or alcohol.

In any case, highly publicized workplace and school shootings have now led the authorities in nine states, including Connecticut and New Jersey but not New York, to give their law-enforcement agencies some form of access to mental health records. Officials in those states say they have been surprised at the number of previously committed people who try to buy guns.

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In Illinois, for instance, 3,699 people who applied for a gun card — the first step in buying a handgun there — were turned down from 1996 to 1998 when records showed they had been either voluntarily or involuntarily committed within the last five years, the legal test under Illinois law, said Tim DaRosa, deputy director of the state police. An additional 5,585 people who were hospitalized from 1996 to 1998 were found to already possess gun permits, which as a result were revoked.

But at the national level, as in most states, there has been no comparable effort to create access to court commitment records for gun checks. That lack of action is in stark contrast to the long effort by gun control groups and the Clinton administration in winning enactment of the Brady law to create databases screening out convicted felons, who, like the involuntarily committed, were barred by the 1968 law from handgun purchases.

Some gun control advocates say privately that addressing the issue is simply too touchy a matter. They do not want to have to fight on two flanks at once, confronting liberals who support the rights of the mentally ill while battling conservatives who back the N.R.A.

One such advocate for the mentally ill is Michael Faenza, president of the National Mental Health Association, who said that despite The Times's finding that a number of the killers in the cases it reviewed had been able to buy guns despite having been involuntarily hospitalized, he was opposed to any law that would provide records on involuntary commitments for gun background checks.

"People with mental illnesses," Mr. Faenza said, "should not be discriminated against in any way. If you did that, you would not reduce the violence, only create more stigma."

The Woman

Voices of Torment, Hints of Rampage

Lisa Duy is a case study in how even a long record of psychosis, arrest, assault, threats to kill and court-ordered hospitalization may not be enough to stop a person from buying a gun. In Utah, no one, neither Ms. Duy's psychiatrists nor her lawyers, not judges, the police or prosecutors, knew her full story. It is this:

Until high school, young Lisa seemed to flourish. Then, in the 10th grade, she started to hear voices telling her that other students were spreading humiliating rumors about her sexual proclivities.

Late adolescence is a common age for onset of schizophrenia, and as Lisa got older, the voices grew more tormenting, threatening to hurt her. She began to have trouble focusing during conversation, unable to distinguish between what people were actually telling her and what the voices were saying.

Schizophrenia, a disease that doctors believe has a strong genetic component, had already been diagnosed in two of Lisa's older sisters, and she began to worry that she too might be mentally ill.

In 1994, during her sophomore year at the University of Utah, her mother finally took her to the emergency room of the university hospital. There she reported that the voices made it hard to sleep, caused burning in her head and had once led her to try to stab herself in the heart to silence them, according to a later report by a psychologist, Stephen L. Golding, included in court records in the shooting case.

The doctors sent her to Valley Mental Health, Utah's largest public mental health network, where she was placed on Mellaril, an antipsychotic drug used to treat schizophrenia, and on an antidepressant.

As doctors later acknowledged in reports related to the shooting, Mellaril has strong side effects, and Ms. Duy suffered from increased agitation as well as rapid involuntary movement of her arms and legs. Besides, the medicine did not stop the voices, and so she often quit taking it. (Mellaril did have one virtue, notes Ms. Cottrell, of the National Alliance for the Mentally Ill: it is much cheaper than newer, more effective and less troublesome antipsychotic drugs, and so Utah law requires that it be given to indigent patients like Ms. Duy who require such medication.)

On Oct. 7, 1996, the police in West Valley City, a Salt Lake suburb, got a call from a rock radio station, which said a woman holding a stick was standing outside the studio and insisting that a disc jockey nicknamed Steve Wonder was stalking her. Officer Mark VanRoosendaal arrived to find Ms. Duy's face rigid with anger. Steve Wonder, she said, had placed a camera inside her house and could read her mind. Not only that, he followed her everywhere, broadcasting secret information about her, and had tried to run her off the road.

Ms. Duy demanded to see the disc jockey, not realizing he had been standing next to her during the police interview. When Ms. Duy refused to leave and began hitting and kicking Officer VanRoosendaal and his partner, they arrested her. "Just shoot me," she said, according to their report.

She was charged with stalking, disorderly conduct, assault, interfering with a police officer and carrying a concealed weapon, a kitchen knife the police found in her back pocket.

The charges were only misdemeanors, and, given her mental condition, a psychologist raised questions about Ms. Duy's competence to stand trial. The assistant West Valley City attorney handling the case, John Huber, did not see any benefit to trying her, he said in an interview.

So he proposed a form of probation: a "diversion agreement" stipulated that if Ms. Duy sought mental health treatment and avoided further trouble, all the charges would be dismissed in two years.

When the two years were up, in November 1998, a secretary in Mr. Huber's office checked to see if there were any further criminal charges against Ms. Duy. The Bureau of Criminal Identification showed none, and so the charges were dismissed.

It was two months before the shooting at the television station.

What Mr. Huber's office and the judge presiding over her case did not know was that in the intervening period, in December 1997, Ms. Duy had threatened to kill an F.B.I. agent after he declined to help her stop what she maintained were broadcasts by the radio and television stations about her sex life. The bureau investigated her, found that she had psychiatric problems and had her doctors arrange for her to be picked up, an F.B.I. official said.

Ms. Duy was taken to the Neuropsychiatric Institute of the University of Utah, a high-security hospital. After psychiatrists there found that she was a danger to others — the diagnosis was chronic paranoid schizophrenia — Mike Evans, a mental health commissioner who acts as a civil court judge, committed her for 90 days.

When the commitment period was up, Valley Mental Health went to court to get it extended, arguing that Ms. Duy was still a danger to others and would stop taking her medication, said Jed Ericksen, the assistant director of adult services. But Commissioner Evans refused, saying that after treatment, she no longer appeared to pose an immediate danger to others, Mr. Ericksen recalled. Ms. Duy's case file was sealed in accordance with privacy provisions of Utah law, said Kim Zacherson, a clerk for Commissioner Evans. The commissioner declined to discuss the case.

"If we had known about the threat against the F.B.I. and about her court-ordered hospitalization, we would have taken it seriously," said Mr. Huber, now the chief West Valley City attorney. "She was in violation of the diversion agreement, so we would have reinstated our prosecution. And because of her mental condition, we would probably have ended up seeking a further court commitment, showing her pattern of dangerous behavior."

"This is a common problem we have, even in an era of all this technology," Mr. Huber said. "She was able to walk around free and buy a gun because of a lack of communication between the mental health system and the criminal justice system."

The Killing

A Timid Woman In a Man's World

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The largest gun store in Utah is a squat cinder block structure in a strip mall. There are racks of rifles on the walls, glass cases full of semiautomatic pistols and the constant sound of gunfire from the basement shooting range. Outside, the high, snow-covered Wasatch mountains loom like a white fortress, and there is a sign saying Doug's Shoot'n Sports that shows a man shaped like a bullet and wearing a Stetson hat drawing revolvers from holsters on both hips.

Lisa Duy first came here to look for a gun in November 1998, two months before the shooting, recalls Mr. Larsen, the manager. She was timid, but so are a lot of women when they enter a gun store.

"It's a man's world," Mr. Larsen said, "kind of intimidating, so we tried to be nice to her. She didn't act strange at all."

Ms. Duy did not know how to shoot, and so Mr. Larsen took her down to the basement and offered instruction.

He did not see her again until January, when she came back and picked out a 9-millimeter semiautomatic. She was wearing a hooded sweatshirt hiding her head from view, says David Sorensen, a customer who was standing next to her.

"She made me feel suspicious right away, with the hood," Mr. Sorensen said in an interview, "and then when I glanced at her, she gave me this real scary look." (Mr. Larsen recalls nothing particularly suspicious, saying it is hardly uncommon to see people wearing hooded sweatshirts in January.)

It was too late that night for Mr. Larsen to call the Bureau of Criminal Identification to run a background check, and so Ms. Duy came back the next day. It took only a couple of minutes for her to be cleared: the bureau checked its criminal-history records, its outstanding-warrants file and the F.B.I. database, but found no disqualifying information, said Joyce Carter, the supervisor of the state agency's firearms section.

Ms. Duy then paid $285 for the gun and went back to the basement to practice for an hour. Mr. Larsen noticed on a television monitor that she was mishandling the gun, holding it with only one hand and a limp wrist, so that the firing mechanism, which needs to be held level, was likely to jam. He went down to give her another lesson.

Ms. Duy was on a mission, she later told doctors who examined her. She needed the gun because the voices had told her that the only way she could stop KSL from reading her mind and informing all of Salt Lake City about her sex life was to kill a woman who worked at the station as a broadcaster.

When she walked into the television station's reception area and began shooting, it was like "going to a beautiful island and I was spreading flowers at them, shooting at them," she later said.

Ultimately, after her gun had jammed and she had been subdued, Sgt. Don Bell of the Salt Lake City police was assigned to interrogate her. He wondered how anyone could have sold her the gun.

"You would not have had to be a rocket scientist to know this woman was not your normal customer," said Sergeant Bell, the city's senior crisis negotiator. "She was swearing a lot, and all she wanted to know was whether the woman she shot in the head was dead. When I said no, she was only critically wounded at that point, Lisa said, 'Then this questioning is illegal.' "

The wounded woman did die later. Her name was Anne Sleater, and she was not even a KSL employee. She was a human resources manager in AT&T Wireless offices in the same building as the station's studios.

A judge ruled that Ms. Duy was mentally incompetent to stand trial and ordered her to the Utah State Hospital for treatment to restore her to competence. She is still there, and doctors' reports suggest that there is little chance she will ever be well enough to be tried.

The Aftermath

Enough Is Enough, Some States Decide

Public concern about mentally ill people's ability to buy guns was further heightened here in Utah three months after the Duy shooting. Last April 15, Sergei Babarin, a 70-year-old Russian immigrant who was off his medications for schizophrenia and depression, killed two people and wounded five others in the Mormon genealogical library. Gov. Michael O. Leavitt, a conservative Republican, called for a special session of the Legislature to deal with the issue raised by the two shootings.

Some advocates for the mentally ill, along with some judges, warned that allowing law-enforcement officials access to mental health records would infringe on the civil rights of emotionally troubled people. And the powerful speaker of the Utah House of Representatives, Martin R. Stephens, who has a long record of support for gun owners, said he was against "legislation that will take away people's individual rights in the name of a little personal safety."

But now, a year later, Utah has enacted a law requiring courts that commit people to mental institutions to forward the information to the Bureau of Criminal Identification. So that the confidentiality of the records is safeguarded, the bureau can use the information only for gun checks, and cannot share it with other government agencies.

Most of the nine states that now provide access to mental health information for gun background checks have even more stringent safeguards. In Illinois, the state police each day send a list of new gun-permit applicants to the state's Department of Mental Health and Developmental Disabilities, which checks the names against its database. This means the state police have no direct look at the files of the mentally ill.

Connecticut has adopted a similar system, acting after an accountant with a history of depression, suicide attempts and hospitalization killed four of his bosses and then himself at offices of the state lottery in 1998. But since the accountant, Matthew Beck, had been hospitalized voluntarily, brought in on an emergency basis by his father and the police, and not by court order, the law would not have applied to him or barred him from buying a gun.

This raises a further troublesome issue, said Kay Redfield Jamison, a professor of psychiatry at the Johns Hopkins School of Medicine.

"Often there is not much medical difference between someone who is voluntarily or involuntarily hospitalized," Dr. Jamison said. (Indeed, some patients agree to be hospitalized to avoid court-ordered treatment.) At least eight of the cases that The Times studied involved people who bought guns after voluntary hospitalization, in addition to the eight cases of involuntary commitment.

To fill this gap, Connecticut last year passed another law, the first of its kind in the nation, that allows the police to obtain a court warrant to seize any guns from a person who, in their judgment, is a danger to himself or others. Soon after the law took effect last fall, the police used it to confiscate five guns from a man in North Branford who was depressed after being suspended by his factory for an assault and had told officers he was going to kill his neighbors and co-workers.

"We can't prove how many lives we may have saved," said Mike Dooty, the deputy police chief in North Branford. "But in our eyes, this case had all the telltale signs. As a police department, we usually don't get to see the signs till after a tragedy has happened."

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Bush and Texas Have Not Set High Priority on Health Care

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By ADAM CLYMER

Texas has had one of the nation's worst public health records for decades. More than a quarter of its residents have no health insurance. Its Mexican border is a hotbed of contagion. The state ranks near the top in the nation in rates of AIDS, diabetes, tuberculosis and teenage pregnancy, and near the bottom in immunizations, mammograms and access to physicians.

But since George W. Bush became governor in 1995, he has not made health a priority, his aides acknowledge. He has never made a speech on the subject, his press office says. His administration opposed a patient's bill of rights in 1995 before grudgingly accepting one in 1997, and fought unsuccessfully to limit access to the new federal Children's Health Insurance Program in 1999.

Health care is near the top of the election agenda, with Vice President Al Gore already proposing a vast expansion of insurance coverage for children. Mr. Bush will begin discussing insurance and other health issues starting on Tuesday with a speech in Cleveland.

Democrats, not waiting for Mr. Bush's proposals, are already attacking him for the Texas record. But politics aside, two things are clear: Texas' health problems run far deeper than the identity of any Austin officeholder, and Mr. Bush has not tried to tackle them, despite a large state budget surplus.

The Democrats point out that Texas' lack of health insurance is among the most severe in the country. Among Texans ages 19 to 65, the percentage without coverage rose slightly under Mr. Bush and is higher than in any state but Arizona. The numbers are even worse among poor children, and hundreds of thousands of them are not enrolled in Medicaid, even though they qualify.

Governor Bush declined to be interviewed for this article, but the views expressed by the state's commissioner of health, Dr. William R. Archer III, cast a light on the Bush administration's approach to the issue.

(Dr. Archer, the son of Representative Bill Archer, Republican of Texas and the chairman of the House Ways and Means Committee, said the governor asked him to apply for the commissioner's job; he was formally chosen by the Board of Health in 1997, and took office after Mr. Bush approved the appointment.)

Almost alone among health experts in Texas, Dr. Archer minimizes the importance of the low rate of health insurance, a protection that two-fifths of the state's poor children lack. In an interview, he said he thought that while "eventually we have to insure everybody," he believed the uninsured were still getting care.

"I think insurance is important," he said. "But I don't think it's the most important thing."

Dr. Archer said he doubted that coverage made much real difference to health.

When told of that view, one of the state's leaders in public health, Dr. Ron Anderson of Parkland Hospital in Dallas, said, "Then he hasn't read the literature. Shame on him!"

Dr. Archer also accused Texas doctors of opposing preventive health care out of misplaced concern for their own billings.

"If I can prevent certain diseases upstream, and then there is no need to treat that disease, then there is nothing to charge against," he said.

And he has stirred disputes with his efforts to take his department away from the traditional services it has provided to examine the cultural causes of unhealthy behavior and lifestyles.

For example, he said Texas' high teenage pregnancy rate came about because the state's Hispanic population lacked the belief "that getting pregnant is a bad thing."

"If I were to go to a Hispanic community and say, 'Well, we need to get you into family planning,' they say, 'No, I want to be pregnant,' it doesn't work very well," he said.

According to the Alan Guttmacher Institute, Hispanic teenagers in Texas had a higher pregnancy rate than non-Hispanic whites or blacks, but the white rate was among the nation's highest, too.

The health problems of Texas go back far beyond Governor Bush and Dr. Archer. Texas ranks 25th in per capita income, just ahead of Oregon, but taxes lightly and provides a modest level of public services. Only six states collect a smaller percentage of their residents' personal income in state and local taxes than Texas does.

"The flip side of having no income tax is having a very low level of services," said Anne Dunkelberg, a senior analyst at the Center for Public Policy Priorities, a nonpartisan research institution in Austin.

Dr. Archer explained why the state tolerated having 598,000 children eligible for Medicaid, the federal-state health plan for the poor, but not enrolled in the program: "The problem is that the Legislature knows that if we are successful, and we got all those kids registered, they would not balance their budgets any more. It's not one person saying, 'Don't do this.' It's not one agency saying, 'Don't do this.' It's sort of 'Why would we all rock the boat at this point?' "

Except for Dr. Archer, most prominent health experts in Texas see the low insurance rates as the state's biggest health problem. Clair Jordan, executive director of the Texas Nurses Association, said, "Uninsured children end up in the most costly place, the emergency room."

State Representative Elliott Naishtat, a Democrat who is chairman of the House Human Services Committee, said, "The biggest health problem in Texas is the exorbitant number of people, primarily children, who have no health insurance."

Without insurance, said Jose Camacho, head of the Texas Association of Community Health Centers, children get only sporadic treatment for ear infections, asthma and diabetes.

Health insurance coverage in Texas has been stagnant for years. According to the Kaiser Commission on Medicaid and the Uninsured, among Texans 19 to 65 years old, 27.5 percent were uninsured in 1998, compared with 19.7 percent for the nation. In 1994, before Mr. Bush took office, the Texas percentage was 27.8 and the national figure 18.6 percent.

Among poor children the coverage was much worse. In 1998, 39.1 percent of Texans under 18 living at no more than twice the poverty level lacked insurance, compared with 25.7 percent nationally. In 1994, 36.7 percent of poor children in Texas and 22.8 percent of poor children nationally were uninsured.

There are many reasons for the low rates of insurance, including migratory labor, a large rural population and many low-wage workers in nonunion jobs.

But the single biggest reason is probably the state's Medicaid program, which has some of the nation's most severe limits and complicated eligibility rules and thus makes Texas "one of the most difficult states for someone to figure out how to get enrolled," said Diane Rowland, executive vice president of the Henry J. Kaiser Family Foundation, a research organization.

State Representative Garnet F. Coleman, a Democrat who is vice chairman of the House Public Health Committee, contended that the state had created an "atmosphere of fear" around applying for Medicaid.

Bertha Rochel, a homemaker interviewed at an El Paso clinic, said some of her neighbors did not seek Medicaid because "they are afraid and maybe some of their children are illegal." Some others would find their citizenship applications barred if they sought government benefits now. Mr. Camacho pointed to the Texas rule that missing an appointment meant a Medicaid applicant had to start over.

Of the 1.4 million to 1.5 million children without health insurance, the number may drop sharply in the

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