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## RED FLAG AT HALF MAST (PART II)

### *Preventing more than suicide may carry serious risks*

*By Julius (Jay) Wachtel.* State and Federal laws [generally prohibit gun possession](#) by the adjudicated mentally ill and by subjects of a domestic violence restraining order. According to [a nationally-representative survey](#) of 5,653 persons 18 and older, about 10½ percent of the adult population self-reports substantial “anger traits” and keeps guns at home, while about 1.6 percent self-reports such traits and carries a gun (those required to do so by their job were excluded.) However, only a very small slice of this problematic group – 13.2 percent of the angry, gun-at-home cohort and only 16.3 percent of the angry gun-packers – has been hospitalized for a mental health problem, thus automatically denying them the right to have guns. It’s their far greater number of non-adjudicated, gun-possessing peers that “Red Flag” laws are meant to address.

Unlike Red Flag laws that simply command alleged possessors to give up their guns (if needed, search warrants must be separately obtained), [Connecticut’s](#) statute, which was first out of the gate in 1999, directs officers to conduct a search and seize the guns they find. It was at first applied sparsely, generating about 20 seizure orders a year. But its use jumped after the [2007 Virginia Tech massacre](#), with 100 warrants in 2011, 139 in 2012, 183 for the full year 2013, [and 150 or more during each subsequent year through 2017](#).

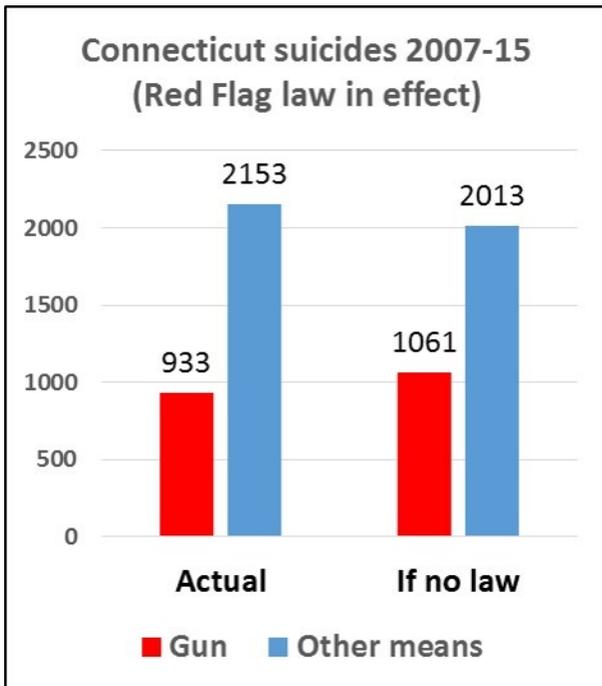
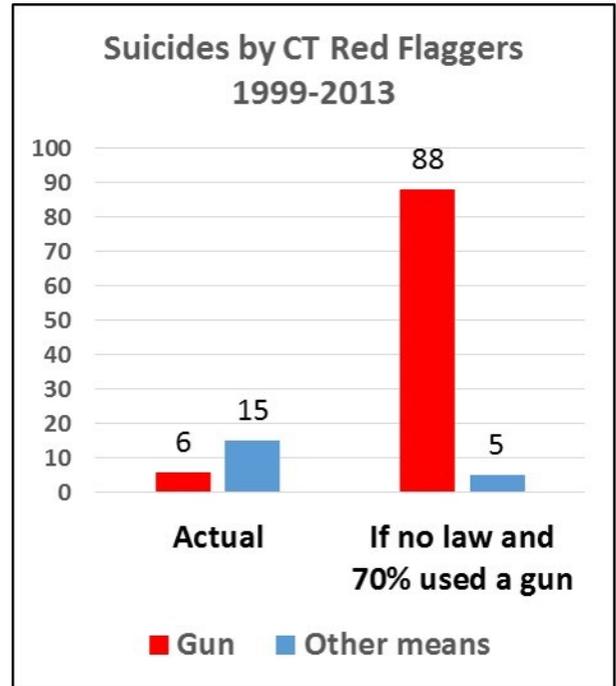
A study published in [Law and Contemporary Problems](#) examined the statute’s effects between its enactment and June, 2013. During this period judges issued 762 Red Flag warrants. Twenty-one of the named defendants subsequently committed suicide, six by gun and fifteen by other means (e.g., pills).

What did the law accomplish? Persons served with warrants who thereafter committed suicide were less likely to do so with guns (6/21, 29 percent) than adults of the same gender in the general population (35 percent), and far less often than gun owners (65 percent.) Applying what’s known about the efficacy of suicide methods, researchers estimated that Red Flaggers attempted suicide 142 times post-seizure, seven times with a gun and 135 times by other means. After an elaborate process, the authors concluded that one life was saved for every ten to twenty seizures. Computations that led to the less effective estimate (1/20) were based on the suicidal inclinations of Connecticut gun owners at large, while the other extreme (1/10) reflected the fact that

Red Flaggers were at special risk, with a suicide rate forty times that of the general population.

Guns are a particularly effective means of killing oneself, so the law's deterrent effect on gun slinging seems a good thing. Just how good was it? Had members of the group *not* been "flagged," retaining their access to firearms and lethal inclinations, they might have turned to guns in, say, seventy percent of suicide attempts. If so, there would have been eighty-two additional gun deaths and ten fewer by other means, yielding a total of ninety-three fatalities instead of twenty-one.

*Psychiatric Services* ([abstract online](#)) recently published a study that analyzed the effectiveness of Red Flag laws in Connecticut and Indiana. Using a quasi-experimental approach, it compared their post-enactment suicides to control groups of non-Red Flag law states whose pre-law characteristics were weighted to provide a close initial match.

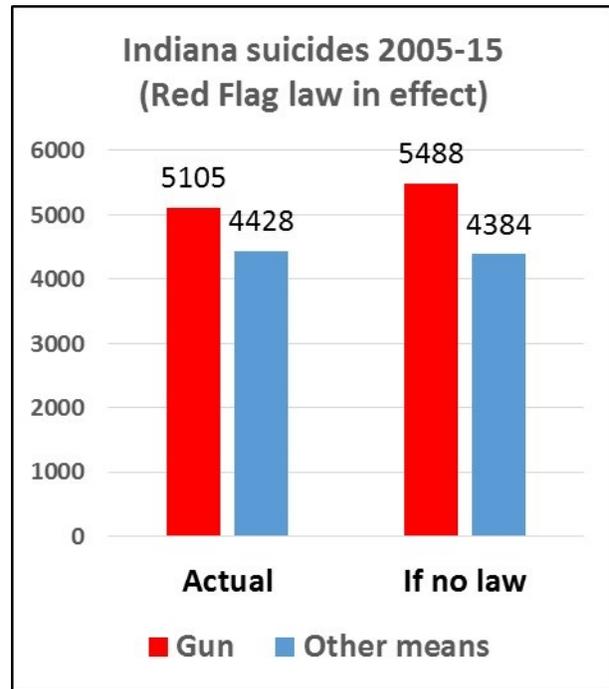


As we mentioned in [Part I](#), Connecticut's unique [Red Flag law](#) authorizes search and seizure. Its effect on suicide was separately computed for two periods: enactment to 2007 and 2007 to 2015, when enforcement sharply increased because of the [Virginia Tech massacre](#). For the first period, the authors reported 1.6 percent fewer firearm suicides than the control group but 5.7 percent more suicides by other means. For the second period the corresponding figures were a 13.7 decrease (matched by few control states) and a 6.5 percent increase (common among the control states). Compared to the controls, the authors estimated that during 2007-2015, when Connecticut suffered 3086 suicides, 933 by gun and 2153 by other

means, its Red Flag law prevented 128 of the former but caused 140 of the latter, increasing the overall toll by twelve, or about .4 percent ( $3086-12/12 \times 100$ ).

Indiana's Red Flag approach (also reported in [Part I](#)) is more conventional. Its gun to non-gun displacement effect also seemed far milder than Connecticut's. During a ten-year post-law period (2005-2015) the state suffered 9533 suicides, 5105 by gun and 4428 by other means. Compared to the control group, its Red Flag law reportedly prevented 383 gun suicides while causing 44 non-gun suicides, yielding a net decrease of 339 suicides, or about 3.4 percent ( $9533+339/339 \times 100$ ).

In all, the study praised the tendency of Red Flag laws to reduce gun suicides but warned of increases in non-gun suicides, which seemed particularly pronounced in Connecticut.



Alas, what Red Flag laws can't seem to extinguish is the urge to kill oneself. When deeply troubled persons want to commit suicide, discouraging their access to firearms is not an effective long-term solution. In any event, suicide isn't what these laws were originally intended to prevent. From the very beginning their avowed purpose has been to stamp out the scourge of mass killings that have shaken America to the core.

Yet Red Flaggers aren't your archetypical criminal. Convicted felons and some categories of violent misdemeanants, including those convicted of domestic violence or subject to a domestic violence protective order, [are already prohibited](#) from having guns by state and/or Federal laws. Same goes for persons [who have been formally adjudicated](#) as mentally defective (click [here](#) for a Federal gun law summary then scroll down for the state law chart.) Red Flaggers, on the other hand, are neither fully "criminal" nor fully "crazy." Indeed, their marginal status is precisely why gun seizure laws have come to be. And while the process is conceptually simpler than civil commitment, what's required to use these "obscure" laws may be [far from trivial](#):

Do I think [the law] when it was written, when it was drafted, and how it had been utilized pre-Sandy Hook—was effective? No, I don't believe it was effective. Why? It was an obscure statute. It was something that was labor-intensive. It was

something that required an affiant, a co-affiant, supervisor's review, State's attorney's office review, and approval and a judge's signature and then, of course, execution on that warrant....(p. 196)

That sentiment, expressed by a former cop, was ridiculed by a police "administrator" who insisted what the entire Red Flag process could be easily accomplished "within a few hours' time":

I mean, most of it is a [three to five] line narrative. You know, "We got a report of a guy wanted to commit suicide. I showed up, he was sitting in the corner with a loaded .357. He said to me, he wanted to commit suicide. I talked to him and he put it down...." The judge's phone rings at two o'clock in the morning, it's us, and one of us drives over there with a warrant. He reviews it, signs off on the bottom of it, we go back and we take all the guns. In the meantime, officers are sitting at the location where all the guns are, and securing it...We get the warrant signed, we go back to the house and we collect everything related to the gun....

These words perplexed your blogger, who spent more than a few hours on the street (albeit, in pre-Red Flag days.) Tying up a beat for hours may be theoretically possible in some places, on a very slow day. One can't imagine trying to do it in smaller cities, where an entire "shift" might mean three cops, or in larger jurisdictions when there's been a shooting or other violent crime and calls are coming in.

There's an even more vexing issue, which neither journal article probed. Prompted by the June 28 [murder of five employees](#) at an Annapolis newspaper, Maryland enacted a Red Flag law, which took effect on October 1. As we mentioned in [Part I](#), on November 5, in the same Maryland county, an officer shot and killed the subject of a seizure order who got into a wrestling match with the cop's partner over a gun.

Stirring up potentially dangerous people is, well, potentially dangerous. Yet Red Flag laws may never meet their goal of preventing a mass shooting unless their use is vastly expanded. But doing it legally *and* safely calls for robust levels of police staffing, with tactical units readily available to lend a practiced hand. Even then, the environment in which cops work is notoriously [chaotic](#). No matter the precautions, crank things up and someone *will* get hurt, or worse, and sooner rather than later. Red Flag laws may be "obscure" for a very good reason.