

# Public Health Impacts of Restoring Gun Access for Users of Illicit Drugs

**HOPKINS JUDICIAL HEALTH NOTE:**

***UNITED STATES V. DANIELS***



JOHNS HOPKINS  
BLOOMBERG SCHOOL  
of PUBLIC HEALTH

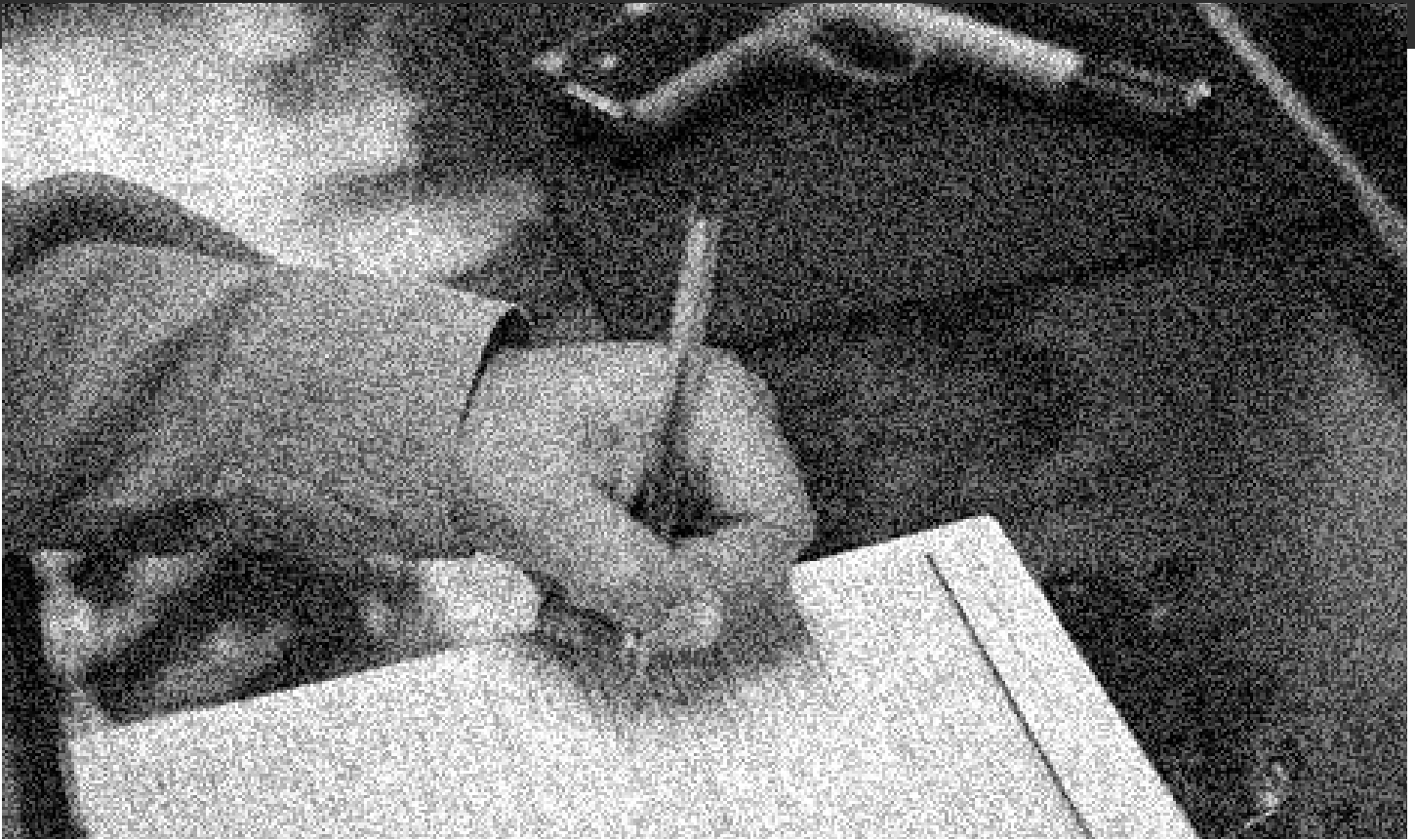
**Bloomberg American  
Health Initiative**

## ***Synopsis***

*United States v. Daniels* challenged a longstanding federal law that prohibits users of illegal substances from possessing firearms. The U.S. Fifth Circuit Court of Appeals reversed a lower court ruling that convicted Daniels of possessing a firearm while using cannabis. This case raises important questions about the relationship between cannabis use, other controlled substances, violent behavior, and the broader implications for public health and equity.

An analysis of the best available evidence found strong links between substance use and access to firearms as common risk factors for male-perpetrated intimate partner violence. There is also strong evidence connecting substance use to risky firearm behaviors, including increased gun carrying and firearm-related violence among adolescents and young adults. However, the equity implications of this case are less clear. While some studies show that “recreational marijuana laws” have reduced cannabis possession arrests, others reveal that Black and other minoritized communities continue to be disproportionately arrested, charged, and convicted of cannabis-related offenses. This raises questions about whether reducing the potential for cannabis-related charges in firearm possession cases will meaningfully improve equity for these communities, which are often disproportionately targeted by law enforcement.

Evidence-based strategies, such as Firearm Purchaser Licensing, or permit-to-purchase laws, Domestic Violence Protection Orders, and Extreme Risk Protection Orders, offer proven approaches to regulating firearm ownership. Promoting the adoption and robust implementation of these policies can help mitigate the potential negative health and equity impacts of this case.



Recent Supreme Court decisions have created uncertainty about the constitutional interpretation of current federal and state gun laws and have the potential to weaken these laws, reducing barriers to gun ownership and increasing gun access to more Americans.

*United States v. Daniels* challenged a long-established federal law, § 922(g)(3), that prohibits users of illegal substances from possessing guns. The U.S. Fifth Circuit Court of Appeals reversed a lower court ruling that convicted Daniels of possessing a gun while using cannabis. This court ruled the federal law unconstitutional as it applied to this case. This case raises questions about the association between cannabis and other controlled substance use and violent behavior, and implications for public health and equity. This decision may have bearing on future challenges to firearm regulation, including long-standing laws like § 922(g)(3), as courts consider what traits make an individual sufficiently dangerous to be legally prohibited from possessing a firearm.

### ***Methods Summary***

The Health in All Policies Initiative research team developed this health note to identify the health and equity impacts of gun possession in the setting of regular cannabis and other controlled substance use. It is timely with respect to other upcoming and recently decided firearm-related court decisions, such as *Bruen and Rahimi*, and cannabis policy reform.

This judicial health note addresses the lack of public health discourse in the case's legal arguments and synthesizes evidence on the risks of firearm possession in the setting of cannabis use as well as other controlled substances. The analysis involved the team hypothesizing pathways between the ruling, health determinants, and health outcomes. They then conducted an expedited literature review using a systematic approach to minimize bias and identify recently published studies to answer each of the identified research questions. A subject matter expert and advisory committee reviewed the draft note and provided feedback. A detailed description of the methodology and important legal context of *United States v. Daniels* is in the appendix.

## **Summary of Hopkins Judicial Health Note Findings: Access to Firearms in the Setting of Illicit Substance Use Can Lead to Increased Gun Violence**

This health note focuses on peer-reviewed evidence and public health data related to associations between controlled substance use and firearm violence in varying cohorts, communities, and contexts. While there is strong evidence, for instance, to support an association between alcohol intoxication and gun violence<sup>1</sup>, less is understood about the association between cannabis use and gun violence, including both the impact of active intoxication and chronic use. This research identified evidence of a significant relationship between cannabis use and violence. However, available evidence on the health impacts of firearm access within the context of controlled substances, such as cannabis, is limited. Certain cohorts in the U.S. population appear to be at particular risk of firearm violence in the setting of substance use and firearm possession, as outlined below.

- **There is a fair amount of evidence that cannabis use is associated with increased violence, including preliminary findings that demonstrate dose-dependent relationship.**<sup>2</sup>
- **There is strong evidence that substance use and access to firearms are common risk factors in male perpetration of intimate partner violence.**<sup>3</sup> **There is strong evidence that presence of a firearm in the setting of intimate partner violence increases the risk of female homicide.**<sup>4</sup>
- **There is strong evidence demonstrating a relationship between substance use and risky firearm behaviors in adolescents and young adults.** These behaviors range from increased gun carrying to firearm violence, and in some studies, suicide.<sup>5</sup>
- **There is mixed evidence demonstrating a relationship between substance use, including cannabis, and gun-related behaviors such as possession, carrying, and use.**<sup>6</sup> While several studies did not show a link between substance use and gun-related behaviors, including gun ownership and gun-carrying, other studies did.<sup>7</sup>

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<sup>1</sup>M C. C. Branas, S. Han, and D. J. Wiebe, "Alcohol Use and Firearm Violence," *Epidemiol Rev* 38, no. 1 (2016), <https://doi.org/10.1093/epirev/mxv010>.

<sup>2</sup>L. Dellazizzo et al., "Violence and Cannabis Use: A Focused Review of a Forgotten Aspect in the Era of Liberalizing Cannabis," *Front Psychiatry* 11 (2020), <https://doi.org/10.3389/fpsy.2020.567887>.

<sup>3</sup>J. C. Campbell et al., "Risk factors for femicide in abusive relationships: results from a multisite case control study," *Am J Public Health* 93, no. 7 (Jul 2003), <https://doi.org/10.2105/ajph.93.7.1089>; Camille A. Clare et al., "Risk factors for male perpetration of intimate partner violence: A review," *Aggression and Violent Behavior* 56 (2021/01/01/ 2021), <https://doi.org/https://doi.org/10.1016/j.avb.2020.101532>, <https://www.sciencedirect.com/science/article/pii/S1359178920302366>.

<sup>4</sup>Campbell et al., "Risk factors for femicide in abusive relationships: results from a multisite case control study."

<sup>5</sup>B. Dong, "Developmental Comorbidity of Substance Use and Handgun Carrying Among U.S. Youth," *Am J Prev Med* 61, no. 2 (Aug 2021), <https://doi.org/10.1016/j.amepre.2021.02.015>; T. R. Simon et al., "Gun Carrying Among Youths, by Demographic Characteristics, Associated Violence Experiences, and Risk Behaviors - United States, 2017-2019," *MMWR Morb Mortal Wkly Rep* 71, no. 30 (Jul 29 2022), <https://doi.org/10.15585/mmwr.mm7130a1>; N. M. H. Pontes and M. Pontes, "Sex differences in the relationship between prescription opioid misuse and gun and other weapon-carrying behaviors," *Drug Alcohol Depend* 221 (Apr 1 2021), <https://doi.org/10.1016/j.drugalcdep.2021.108596>.

<sup>6</sup>D. Chen and L. T. Wu, "Association Between Substance Use and Gun-Related Behaviors," *Epidemiol Rev* 38, no. 1 (2016), <https://doi.org/10.1093/epirev/mxv013>.

<sup>7</sup>Chen and Wu, "Association Between Substance Use and Gun-Related Behaviors."

- **There is a fair amount of evidence that communities with higher levels of economic distress experience higher levels of firearm violence<sup>8</sup>, with substance use a significant risk factor.<sup>9</sup> Black men and people of color are at increased risk of firearm victimization in these communities.<sup>10</sup>**

### ***What are the potential health effects of the U.S. v. Daniels ruling?***

Expanding firearm access could lead to increases in violent incidents involving guns, including homicides and suicides.

### **An emerging field of research documents the relationship between cannabis use and violence.**

To the extent that the Daniels ruling increases access to firearms for individuals who regularly use cannabis or have cannabis use disorders, there may be a subsequent increase in violent incidents involving firearms or perceived threats of violence in the context of cannabis use. Meta-analyses, though based on heterogeneous studies, have consistently shown an association between cannabis use and violence.<sup>11</sup> Violence was generally measured as physical violence, such as sexual aggression, aggravated assault, robbery, and fighting.

- A meta-analysis of cannabis use and violence in adolescents and young adults demonstrated a moderate association. This relationship remained significant following adjustment for sociodemographic variables and other confounders, including other substance use. Findings suggested a dose-dependent relationship.<sup>12</sup>
- Another meta-analysis of U.S. adolescents and young adults (ages 11–21 years old) demonstrated 45% greater odds of perpetrating physical dating violence by cannabis users.<sup>13</sup>
- A moderate association is also noted between cannabis use and violence perpetration by individuals with severe mental disorders such as schizophrenia, schizophreniform disorder, schizoaffective disorder, delusional disorder, bipolar disorder, and major depression. It remained significant after adjustment for sociodemographic variables, other substance use, and presence of psychiatric disorders.<sup>14</sup>
- The potential causes of increased violent behavior among cannabis users require further study, but the mechanisms may be neurobiological.<sup>15</sup> study, but the mechanisms may be neurobiological.

<sup>8</sup> A. M. Polcari et al., “Social Vulnerability and Firearm Violence: Geospatial Analysis of 5 US Cities,” *J Am Coll Surg* 237, no. 6 (Dec 1 2023), <https://doi.org/10.1097/xcs.0000000000000845>; J. P. Schleimer et al., “Neighborhood Racial and Economic Segregation and Disparities in Violence During the COVID-19 Pandemic,” *Am J Public Health* 112, no. 1 (Jan 2022), <https://doi.org/10.2105/ajph.2021.306540>.

<sup>9</sup> Oluwasegun A. Akinyemi et al., “The Distressed Communities Index: A Measure of Community-Level Economic Deprivation and Rate of Firearm Injuries in Maryland,” *The American Surgeon*<sup>TM</sup> 89, no. 12 (2023), <https://doi.org/10.1177/00031348231191243>, <https://journals.sagepub.com/doi/abs/10.1177/00031348231191243>; J. Friedman et al., “Structural vulnerability to narcotics-driven firearm violence: An ethnographic and epidemiological study of Philadelphia’s Puerto Rican inner-city,” *PLoS One* 14, no. 11 (2019), <https://doi.org/10.1371/journal.pone.0225376>.

<sup>10</sup> Akinyemi et al., “The Distressed Communities Index: A Measure of Community-Level Economic Deprivation and Rate of Firearm Injuries in Maryland.”; Friedman et al., “Structural vulnerability to narcotics-driven firearm violence: An ethnographic and epidemiological study of Philadelphia’s Puerto Rican inner-city.”; Owen S. Henry et al., “Disadvantaged Neighborhoods Continue to Bear the Burden of Gun Violence,” *Journal of Surgical Research* 293 (2024/01/01/ 2024), <https://doi.org/https://doi.org/10.1016/j.jss.2023.09.002>, <https://www.sciencedirect.com/science/article/pii/S0022480423004018>. Schleimer et al., “Neighborhood Racial and Economic Segregation and Disparities in Violence During the COVID-19 Pandemic.”

<sup>11</sup> Dellazizzo et al., “Violence and Cannabis Use: A Focused Review of a Forgotten Aspect in the Era of Liberalizing Cannabis.”

<sup>12</sup> Ibid.

<sup>13</sup> R. M. Johnson et al., “Marijuana use and physical dating violence among adolescents and emerging adults: A systematic review and meta-analysis,” *Drug Alcohol Depend* 174 (May 1 2017), <https://doi.org/10.1016/j.drugalcdep.2017.01.012>.

<sup>14</sup> Dellazizzo et al., “Violence and Cannabis Use: A Focused Review of a Forgotten Aspect in the Era of Liberalizing Cannabis.”

<sup>15</sup> Ibid.

## **Risk of intimate partner violence (IPV) and IPV homicide increases in the setting of firearms and substance use**

Strong evidence shows that substance use and firearm access are a dangerous combination in homes where intimate partner violence occurs. The presence of both increases the risk of IPV incidents and perceived risk of mortality, while firearm access alone increases the risk of mortality during those incidents.<sup>16</sup> To the extent that the *U.S. v. Daniels* ruling increases firearm access for individuals who regularly use controlled substances, morbidity and mortality rates – especially for females and children – in IPV settings may increase.

- Substance use—including alcohol and drug use—and access to firearms were found to be common risk factors in the perpetration of intimate partner violence, according to a review of 87 articles looking at male perpetration of intimate partner violence.<sup>17</sup> A national longitudinal study of adolescents and young adults ages 15 to 26 years found that cannabis use, especially consistent cannabis use and particularly throughout adolescence, was most predictive of IPV victimization or perpetration. The study, however, did not look at use of guns in IPV.<sup>18</sup> Another study examining IPV in Cincinnati, Ohio found that incidents involving weapons (including firearms as well as knives and fists) were more likely to be perpetrated among individuals with substance use issues than those that did not involve weapons.<sup>19</sup> This study did not specify whether substance use refers to alcohol, drugs, or both.
- There is strong evidence that presence of firearms in the home where IPV occurs increases the risk of homicide more than sevenfold.<sup>20</sup> Furthermore, IPV survivors, when asked what factors they associated with a risk of being killed by their abuser, named firearm access and drug use by the abuser as two of four main factors.<sup>21</sup>
- Alcohol and substance use, including cannabis use as well as co-occurrence of alcohol and cannabis use, by both partners are risk factors for intimate partner violence in some studies.<sup>22</sup> A meta-analytic review that examined data from 285 studies found that problematic drug use was significantly related to IPV perpetration and victimization, with no significant differences in impact between different types of drugs used.<sup>23</sup> Alcohol and cannabis use have also been shown to be risk factors for adolescent dating violence.<sup>24</sup> A study looking at past charges or convictions of legal handgun purchasers in California to determine risk of future intimate partner violence arrests found that a history of cannabis and other drug-related charges indicated the greatest risk of future intimate partner violence arrests.<sup>25</sup>

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<sup>16</sup> Clare et al., “Risk factors for male perpetration of intimate partner violence: A review.”

<sup>17</sup> Ibid.

<sup>18</sup> J. M. Reingle et al., “The relationship between marijuana use and intimate partner violence in a nationally representative, longitudinal sample,” *J Interpers Violence* 27, no. 8 (May 2012), <https://doi.org/10.1177/0886260511425787>.

<sup>19</sup> Batya Y. Rubenstein et al., “Shifting the Service Referral Paradigm Using Community-Based Second Responders: Examining Weapon Use in Intimate Partner Violence,” *Journal of Family Violence* 36, no. 5 (2021/07/01 2021), <https://doi.org/10.1007/s10896-020-00246-1>, <https://doi.org/10.1007/s10896-020-00246-1>.

<sup>20</sup> Campbell et al., “Risk factors for femicide in abusive relationships: results from a multisite case control study.”

<sup>21</sup> Laura Johnson et al., “Do You Believe Your Partner is Capable of Killing You? An Examination of Female IPV Survivors’ Perceptions of Fatality Risk Indicators,” *Journal of Interpersonal Violence* 37, no. 1-2 (2022), <https://doi.org/10.1177/0886260520916273>, <https://journals.sagepub.com/doi/abs/10.1177/0886260520916273>.

<sup>22</sup> D. M. Capaldi et al., “A Systematic Review of Risk Factors for Intimate Partner Violence,” *Partner Abuse* 3, no. 2 (Apr 2012), <https://doi.org/10.1891/1946-6560.3.2.231>; H. M. Foran and K. D. O’Leary, “Alcohol and intimate partner violence: a meta-analytic review,” *Clin Psychol Rev* 28, no. 7 (Oct 2008), <https://doi.org/10.1016/j.cpr.2008.05.001>; Fleur L. Kraanen et al., “Prediction of intimate partner violence by type of substance use disorder,” *Journal of Substance Abuse Treatment* 46, no. 4 (2014/04/01/ 2014), <https://doi.org/https://doi.org/10.1016/j.jsat.2013.10.010>, <https://www.sciencedirect.com/science/article/pii/S0740547213002481>.

<sup>23</sup> Bryan M. Cafferky et al., “Substance use and intimate partner violence: A meta-analytic review,” *Psychology of Violence* 8, no. 1 (2018), <https://doi.org/10.1037/vio0000074>.

<sup>24</sup> K. J. Vagi et al., “Beyond correlates: a review of risk and protective factors for adolescent dating violence perpetration,” *J Youth Adolesc* 42, no. 4 (Apr 2013), <https://doi.org/10.1007/s10964-013-9907-7>.

<sup>25</sup> R. Pallin et al., “Prior Drug-Related Criminal Charges and Risk for Intimate Partner Violence Perpetration Among Authorized Purchasers of Handguns in California,” *J Interpers Violence* 37, no. 23-24 (Dec 2022), <https://doi.org/10.1177/08862605221078811>.





## ***Substance use is associated with risky firearm behaviors in adolescents and young adults***

- There appears to be a coexistence of various forms of substance use (analyzed here separately as smoking, alcohol, cannabis and hard drug use) and gun-carrying among youth and young adults. This was noted in data from 16 years of a longitudinal survey that followed a nationally representative sample of youth, starting at a mean age of 14 years and ending at 31. These behaviors were noted to decline sequentially among many over time.<sup>26</sup>
- Gun carrying is strongly associated with current cannabis use and history of illicit substance use among high school students, based on data from the CDC's Youth Risk Behavior Survey.<sup>27</sup> Gun carrying was more likely among youths with gun-related experiences, suicidal ideation, or substance use.<sup>28</sup>
- Another study found that prescription opioid misuse was significantly associated with increased risk of gun carrying by high school students, which is worth considering as the bounds of 922(g)(3) continue to be redefined and prescription opioids can be obtained legally.<sup>29</sup>
- A study that examined National Violent Death Reporting System toxicology reports of youth (ages 15-19 years old) and young adults (20-29 years old) who died by suicide between 2005-2015.<sup>30</sup> It found that 25% of youth suicide decedents and 24% of young adults tested for cannabis tested positive. Cannabis was the most common of all substances identified in youth decedents' toxicology reports and the second most common in young adults, after alcohol. Those who died by means considered more violent, including firearms, blunt force, or suffocation, were more likely to have cannabis in their system.<sup>31</sup>
- Drug and alcohol misuse at individual and neighborhood levels are both associated with increased probability of adolescent gun homicide.<sup>32</sup>

## ***Substance use is linked to gun-related behaviors***

Public discourse often cites mental health disorders and lack of access to care as causes of gun violence in the U.S., but several studies have found that substance use or substance use disorders are better predictors of violent behavior than psychiatric diagnoses. For example, individuals with schizophrenia or bipolar disorder are often only significantly more likely to commit acts of violence than individuals with no mental health diagnoses if they are also engaged in substance use.<sup>33</sup> Past violent behavior or conduct disorders are stronger predictors of future violence than a serious mental health disorder.<sup>34</sup> Therefore, focusing legal efforts on limiting gun access for individuals with psychiatric diagnoses is unlikely to reduce rates of violent incidents involving firearms.

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<sup>26</sup> Dong, "Developmental Comorbidity of Substance Use and Handgun Carrying Among U.S. Youth."

<sup>27</sup> Simon et al., "Gun Carrying Among Youths, by Demographic Characteristics, Associated Violence Experiences, and Risk Behaviors - United States, 2017-2019."

<sup>28</sup> Ibid.

<sup>29</sup> Pontes and Pontes, "Sex differences in the relationship between prescription opioid misuse and gun and other weapon-carrying behaviors."

<sup>30</sup> Namkee G. Choi, C. Nathan Marti, and Diana M. DiNitto, "Changes in post-mortem marijuana-positive toxicologies among youth suicide decedents, 2005-2015," *Children and Youth Services Review* 100 (2019/05/01/ 2019), <https://doi.org/https://doi.org/10.1016/j.chldyouth.2019.03.035>, <https://www.sciencedirect.com/science/article/pii/S0190740918311101>.

<sup>31</sup> Choi, Marti, and DiNitto, "Changes in post-mortem marijuana-positive toxicologies among youth suicide decedents, 2005-2015."

<sup>32</sup> B. C. Hohl et al., "Association of Drug and Alcohol Use With Adolescent Firearm Homicide at Individual, Family, and Neighborhood Levels," *JAMA Intern Med* 177, no. 3 (Mar 1 2017), <https://doi.org/10.1001/jamainternmed.2016.8180>.

<sup>33</sup> L. Ahonen, R. Loeber, and D. A. Brent, "The Association Between Serious Mental Health Problems and Violence: Some Common Assumptions and Misconceptions," *Trauma Violence Abuse* 20, no. 5 (Dec 2019), <https://doi.org/10.1177/1524838017726423>.

<sup>34</sup> Ibid.

- Opioid use mortality is associated with unintentional firearm use, and this was noted to increase over time.<sup>35</sup>
- Several studies found that substance use frequency was positively associated with firearm use.<sup>36</sup> Another study noted that having a diagnosed substance use disorder was a risk factor for threatening others with a gun.<sup>37</sup>
- Evidence around the relationship between substance use and gun-related behaviors is mixed. Some studies found a positive correlation between frequency of substance use with the probability of gun-related behaviors, but the evidence base around the connection to gun ownership or access is unclear.<sup>38</sup>

***Economically distressed and minoritized communities bear a disproportionate burden of gun violence, which is exacerbated in the context of substance and alcohol access.***

- Multiple studies demonstrate an association between firearm injury and increased levels of economic distress of either victims of gun violence or their communities.<sup>39</sup>
- Multiple studies have examined the relationship between history of drug use and risk of firearm violence in Black men, with mixed assessments and results.<sup>40</sup> History of substance use was demonstrated to be a risk factor for firearm assault injury or firearm homicide in three studies.<sup>41</sup> Five studies did not show an association between substance use and firearm violence in Black men<sup>42</sup>—two of these measured alcohol or drug use at the time of the violent incident.<sup>43</sup>

<sup>35</sup> Orion Mowbray and Mariam Fatehi, “Longitudinal trends in opioid-related mortality,” *Journal of Social Work Practice in the Addictions* 21, no. 2 (2021/04/03 2021), <https://doi.org/10.1080/1533256X.2021.1893965>, <https://doi.org/10.1080/1533256X.2021.1893965>.

<sup>36</sup> Chen and Wu, “Association Between Substance Use and Gun-Related Behaviors.”

<sup>37</sup> Hygiea Casiano et al., “Mental Disorder and Threats Made by Noninstitutionalized People With Weapons in the National Comorbidity Survey Replication,” *The Journal of Nervous and Mental Disease* 196, no. 6 (2008), <https://doi.org/10.1097/NMD.0b013e3181775a2a>, [https://journals.lww.com/jonmd/fulltext/2008/06000/mental\\_disorder\\_and\\_threats\\_made\\_by.1.aspx](https://journals.lww.com/jonmd/fulltext/2008/06000/mental_disorder_and_threats_made_by.1.aspx).

<sup>38</sup> Chen and Wu, “Association Between Substance Use and Gun-Related Behaviors.”

<sup>39</sup> Henry et al., “Disadvantaged Neighborhoods Continue to Bear the Burden of Gun Violence.”; Akinyemi et al., “The Distressed Communities Index: A Measure of Community-Level Economic Deprivation and Rate of Firearm Injuries in Maryland.”; Friedman et al., “Structural vulnerability to narcotics-driven firearm violence: An ethnographic and epidemiological study of Philadelphia’s Puerto Rican inner-city.”; Polcari et al., “Social Vulnerability and Firearm Violence: Geospatial Analysis of 5 US Cities.”; Schleimer et al., “Neighborhood Racial and Economic Segregation and Disparities in Violence During the COVID-19 Pandemic.”

<sup>40</sup> Lea A. Marineau et al., “Risk and Protective Factors for Firearm Assault Injuries Among Black Men: A Scoping Review of Research,” *Trauma, Violence, & Abuse* 25, no. 3 (2024), <https://doi.org/10.1177/15248380231217042>, <https://journals.sagepub.com/doi/abs/10.1177/15248380231217042>.

<sup>41</sup> P. M. Carter et al., “Firearm violence among high-risk emergency department youth after an assault injury,” *Pediatrics* 135, no. 5 (May 2015), <https://doi.org/10.1542/peds.2014-3572>; Hohl et al., “Association of Drug and Alcohol Use With Adolescent Firearm Homicide at Individual, Family, and Neighborhood Levels.”; Napaporn Kongkaewpaisan et al., “No place like home: A national study on firearm-related injuries in the American household,” *The American Journal of Surgery* 220, no. 6 (2020/12/01/ 2020), <https://doi.org/https://doi.org/10.1016/j.amjsurg.2020.04.030>, <https://www.sciencedirect.com/science/article/pii/S0002961020302270>.

<sup>42</sup> Hohl et al., “Association of Drug and Alcohol Use With Adolescent Firearm Homicide at Individual, Family, and Neighborhood Levels.”; Brianna M. Mills et al., “Prior Arrest, Substance Use, Mental Disorder, and Intent-Specific Firearm Injury,” *American Journal of Preventive Medicine* 55, no. 3 (2018/09/01/ 2018), <https://doi.org/https://doi.org/10.1016/j.amepre.2018.04.041>, <https://www.sciencedirect.com/science/article/pii/S0749379718318294>; C. A. Paris et al., “Risk factors associated with non-fatal adolescent firearm injuries,” *Inj Prev* 8, no. 2 (Jun 2002), <https://doi.org/10.1136/ip.8.2.147>; Veronica A. Pear et al., “Risk factors for assaultive reinjury and death following a nonfatal firearm assault injury: A population-based retrospective cohort study,” *Preventive Medicine* 139 (2020/10/01/ 2020), <https://doi.org/https://doi.org/10.1016/j.ypmed.2020.106198>, <https://www.sciencedirect.com/science/article/pii/S009174352030222X>; Joseph B. Richardson et al., “Risk factors for recurrent violent injury among black men,” *Journal of Surgical Research* 204, no. 1 (2016), <https://doi.org/10.1016/j.jss.2016.04.027>, <https://doi.org/10.1016/j.jss.2016.04.027>; D. J. Wiebe et al., “Mapping Activity Patterns to Quantify Risk of Violent Assault in Urban Environments,” *Epidemiology* 27, no. 1 (Jan 2016), <https://doi.org/10.1097/ede.0000000000000395>.

<sup>43</sup> Hohl et al., “Association of Drug and Alcohol Use With Adolescent Firearm Homicide at Individual, Family, and Neighborhood Levels.”; Wiebe et al., “Mapping Activity Patterns to Quantify Risk of Violent Assault in Urban Environments.”





- There is some evidence linking firearm homicides to community access to alcohol or drugs. One study found that high alcohol outlet density and high narcotic sales incidents are associated with increased odds of adolescent firearm homicide as compared to low alcohol outlet density or narcotic sales.<sup>44</sup>
- Because rural counties have higher firearm suicide and opioid overdose rates than urban counties, combining firearm and opioid prevention strategies in these settings could be an effective way to tackle “deaths of despair” in these settings.<sup>45</sup> Urban-adjacent rural counties, characterized by high drug death rates and opioid prescribing, were the counties at highest risk of firearm suicide among the rural clusters examined in one study.<sup>46</sup> These counties were noted to have higher veteran and Native American populations, and higher median home prices compared to the other rural counties included.

### **Children and youth, racial and ethnic minority communities, women, and veterans are most likely to be affected by this ruling**

To the extent that this ruling increases the supply of, or access to, privately owned guns and thereby increases rates of gun violence, children and youth may experience the greatest effects; they are exposed to and victimized by gun violence at alarming rates. Firearms were the leading cause of death among children and adolescents ages 1 to 19 in 2021. A CDC-funded study found that 1 in 4 youth in large cities live within a half mile of at least one gun-involved homicide in the past year.<sup>47</sup> Boys in the most disadvantaged communities, especially Black boys, were the most likely to be exposed to gun violence and experience depression.<sup>48</sup>

There is strong evidence that Black men in cities, residents of economically distressed urban communities, and areas with illicit narcotics markets face disproportionate levels of gun violence.<sup>49</sup> Individuals with mental health disorders, White and American Indian/Alaska Native adults and military veterans living in rural areas, and women who experience intimate partner violence are disproportionately likely to attempt suicide, and suicide attempts involving firearms are more likely to be lethal.<sup>50</sup>

<sup>44</sup> Hohl et al., “Association of Drug and Alcohol Use With Adolescent Firearm Homicide at Individual, Family, and Neighborhood Levels.”

<sup>45</sup> Bindu Kalesan et al., “Intersections of Firearm Suicide, Drug-Related Mortality, and Economic Dependency in Rural America,” *Journal of Surgical Research* 256 (2020/12/01/ 2020), <https://doi.org/https://doi.org/10.1016/j.jss.2020.06.011>, <https://www.sciencedirect.com/science/article/pii/S0022480420303942>.

<sup>46</sup> Kalesan et al., “Intersections of Firearm Suicide, Drug-Related Mortality, and Economic Dependency in Rural America.”

<sup>47</sup> “Summary of Initial Findings from CDC-Funded Firearm Injury Prevention Research,” updated July 2, 2024, 2024, accessed August 21, 2024, 2024, <https://www.cdc.gov/firearm-violence/php/funded-research-findings/index.html>; Nicole Kravitz-Wirtz et al., “Inequities in Community Exposure to Deadly Gun Violence by Race/Ethnicity, Poverty, and Neighborhood Disadvantage among Youth in Large US Cities,” *Journal of Urban Health* 99, no. 4 (2022/08/01 2022), <https://doi.org/10.1007/s11524-022-00656-0>, <https://doi.org/10.1007/s11524-022-00656-0>.

<sup>48</sup> S. A. L. Buggs et al., “Heterogeneous effects of spatially proximate firearm homicide exposure on anxiety and depression symptoms among U.S. youth,” *Prev Med* 165, no. Pt A (Dec 2022), <https://doi.org/10.1016/j.ypmed.2022.107224>.

<sup>49</sup> Polcari et al., “Social Vulnerability and Firearm Violence: Geospatial Analysis of 5 US Cities.”; Schleimer et al., “Neighborhood Racial and Economic Segregation and Disparities in Violence During the COVID-19 Pandemic.” Henry et al., “Disadvantaged Neighborhoods Continue to Bear the Burden of Gun Violence.”; Akinoyemi et al., “The Distressed Communities Index: A Measure of Community-Level Economic Deprivation and Rate of Firearm Injuries in Maryland.”; Friedman et al., “Structural vulnerability to narcotics-driven firearm violence: An ethnographic and epidemiological study of Philadelphia’s Puerto Rican inner-city.”

<sup>50</sup> N. V. Mohatt et al., “A Systematic Review of Factors Impacting Suicide Risk Among Rural Adults in the United States,” *J Rural Health* 37, no. 3 (Jun 2021), <https://doi.org/10.1111/jrh.12532>; L. Brådvik, “Suicide Risk and Mental Disorders,” *Int J Environ Res Public Health* 15, no. 9 (Sep 17 2018), <https://doi.org/10.3390/ijerph15092028>. Jeongsuk Kim et al., “Characteristics of and Circumstances Associated With Female Intimate Partner Problem-Included Suicides: Analysis of Data From the National Violent Death Reporting System (2003–2019),” *Journal of Interpersonal Violence* 38, no. 17-18 (2023), <https://doi.org/10.1177/08862605231173436>, <https://journals.sagepub.com/doi/abs/10.1177/08862605231173436>.



The *United States v Daniels* ruling’s repercussions for equity are unclear. Decriminalizing certain types of substance use and contemporaneous gun possession could lead to reduced police activity in overpoliced communities and a subsequent decline in mental health harms, such as post-traumatic stress disorder, associated with increased contact with police.<sup>51</sup> One study found that “recreational marijuana laws”, while increasing cannabis use amongst adults, have resulted in decreased cannabis possession-related arrests by over 90%, and over a 95% decrease in possession arrests for adults 18 and older.<sup>52</sup> However, a report from the American Civil Liberties Union found that Black, and likely Latinx, communities continue to be disproportionately arrested for cannabis-related offenses, even though an increasing number of states have legalized or decriminalized cannabis possession in recent years.<sup>53</sup> It is therefore unclear whether reducing the potential for cannabis-related charges—in this case related to firearm possession—will improve equity for Black and other minoritized Americans who are most frequently targeted by law enforcement.

The potential association between cannabis use and violent behavior, however, could result in *Daniels* exacerbating health inequities through an increase in the supply of guns within communities that are disproportionately affected by gun violence, especially in the setting of widespread firearm possession and increasing legalization of cannabis use. Further studies to understand underlying mechanisms and sociodemographic impacts are warranted.

### ***Why do these findings matter for the United States?***

The U.S. has a significantly higher gun death rate than other socioeconomically similar nations. In 2021, the U.S. recorded its highest total number of gun deaths, with a rate of 14.6 per 100,000 people - the highest since the early 1990s, according to the Centers for Disease Control and Prevention.<sup>54</sup> Higher levels of gun ownership are strongly associated with higher firearm homicide rates in the U.S.<sup>55</sup> With 326 million privately-owned firearms as of 2019, the U.S. is home to the “largest stock of civilian-held firearms in the world.”<sup>56</sup> Four in 10 U.S. adults live in households with guns.<sup>57</sup>

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<sup>51</sup> J. L. Hirschtick et al., “Persistent and aggressive interactions with the police: potential mental health implications,” *Epidemiol Psychiatr Sci* 29 (Feb 5 2019), <https://doi.org/10.1017/s2045796019000015>; A. Geller et al., “Aggressive policing and the mental health of young urban men,” *Am J Public Health* 104, no. 12 (Dec 2014), <https://doi.org/10.2105/ajph.2014.302046>.

<sup>52</sup> Joseph Sabia et al., “Is Recreational Marijuana a Gateway to Harder Drug Use and Crime?,” *National Bureau of Economic Research Working Paper Series* No. 29038 (July 2021 2021), <https://doi.org/10.3386/w29038>, <http://www.nber.org/papers/w29038>.

<sup>53</sup> Ezekiel Edwards et al., *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform*, American Civil Liberties Union (New York, 2020), [https://assets.aclu.org/live/uploads/publications/marijuanareport\\_03232021.pdf](https://assets.aclu.org/live/uploads/publications/marijuanareport_03232021.pdf).

<sup>54</sup> John Gramlich, “What the data says about gun deaths in the U.S.,” *Pew Research Center*, 2023, <https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/>.

<sup>55</sup> M. Siegel, C. S. Ross, and C. King, 3rd, “The relationship between gun ownership and firearm homicide rates in the United States, 1981-2010,” *Am J Public Health* 103, no. 11 (Nov 2013), <https://doi.org/10.2105/ajph.2013.301409>.

<sup>56</sup> John Berrigan, Deborah Azrael, and Matthew Miller, “The Number and Type of Private Firearms in the United States,” *The Annals of the American Academy of Political and Social Science* 704, no. 1 (2022), <https://doi.org/10.1177/00027162231164855>, <https://journals.sagepub.com/doi/abs/10.1177/00027162231164855>.

<sup>57</sup> Katherine Schaeffer, “Key Facts about Americans and Guns,” *Pew Research Center*, July 24, 2024, <https://www.pewresearch.org/short-reads/2024/07/24/key-facts-about-americans-and-guns/>.

The impact of *U.S. v. Daniels* will largely depend on how courts interpret related future litigation and challenges. In the near term, this ruling may have effectively expanded gun ownership rights to U.S. adults who regularly use cannabis and other modern intoxicants unknown to the founders. A 2023 Substance Abuse and Mental Health Services Administration survey found that 46.2 million (18%) U.S. residents aged 18 or older had an alcohol or drug use disorder, and the rate of disorder was highest among 18- to 25-year-olds at 27.1%.<sup>58</sup> Cannabis was the most used illicit drug in 2023, with 36.5% of 18 to 25-year-olds and 20.8% of adults 26 and over reporting use in the previous year.<sup>59</sup> The same survey estimated that 7% of adults 18 and older—or nearly 18 million individuals—had a cannabis use disorder, with the highest prevalence amongst adults ages 18 to 25 at 16.6%.<sup>60</sup> We can extrapolate from data on gun ownership rates and the number of individuals with cannabis use disorders in the United States to estimate how many more U.S. residents might be eligible to own a firearm in the wake of this ruling. A 2023 Gallup poll found that 30% of U.S. adults personally own a gun.<sup>61</sup> Thirty percent of the 18 million adults who have a cannabis use disorder equates to approximately 5.4 million potential new gun owners.

Evidence suggests that the number of homicides involving firearms will rise with an increased supply of firearms, including those that are acquired legally.<sup>62</sup> If this decision sets a new precedent for future tests of as-applied challenges to § 922(g)(3), individuals who regularly use other controlled substances without historical analogues, potentially even those substances known to encourage violent or dangerous behavior, may have an opportunity to restore their access to firearms.

### **Implementation considerations for health**

The health implications of the *U.S. v. Daniels* decision for gun access among regular users of all types of controlled substances are unclear, as the legal ramifications for this decision depend on evolving jurisprudence and other parallel challenges to gun access restrictions. Although *Daniels* appears to have weakened § 922(g)(3), the Eighth Circuit Court of Appeals, as noted above, recently upheld the law as constitutional in its ruling on the facial challenge presented in *United States v. Veasley*.<sup>63</sup> Should *Daniels* become precedent for using the text, history, and tradition test to support future as-applied challenges to this law, the evidence of a relationship between gun access and gun usage—including in assault, suicide, and homicide—as well as the observed links between regular use of controlled substances and violent behavior when a gun is present, would indicate that firearm usage will increase.

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<sup>58</sup> Substance Abuse and Mental Health Services Administration, *2023 NSDUH Detailed Tables*, Department of Health and Human Services (July 30, 2024), <https://www.samhsa.gov/data/report/2023-nsduh-detailed-tables>. U.S. Department of Health and Human Services, “SAMHSA Announces National Survey on Drug Use and Health (NSDUH) Results Detailing Mental Illness and Substance Use Levels in 2021,” news release, 2023, <https://www.hhs.gov/about/news/2023/01/04/samhsa-announces-national-survey-drug-use-health-results-detailing-mental-illness-substance-use-levels-2021.html#:~:text=Drug%20Use%20and%20Substance%20Use,which%2052.5%20million%20people%20used>.

<sup>59</sup> Substance Abuse and Mental Health Services Administration, *Highlights for the 2023 National Survey on Drug Use and Health*, U.S. Department of Health and Human Services (2024), <https://www.samhsa.gov/data/sites/default/files/NSDUH%202023%20Annual%20Release/2023-nsduh-main-highlights.pdf>.

<sup>60</sup> Substance Abuse and Mental Health Services Administration, *2023 NSDUH Detailed Tables*.

<sup>61</sup> “Guns,” 2024, accessed April 23, 2024, <https://news.gallup.com/poll/1645/Guns.aspx>.

<sup>62</sup> Siegel, Ross, and King, “The relationship between gun ownership and firearm homicide rates in the United States, 1981-2010.”

<sup>63</sup> *United States of America v. Devonte Antonio Veasley*, No. 23-1114 (8th Circuit 2024). *United States v. Veasley*, No. 23-1114 (8th Cir. Apr. 17, 2024)

Implementation of evidence-based gun violence prevention policies including those that temporarily remove firearms from certain individuals may mitigate these effects.<sup>64</sup> For example, Extreme Risk Protection Orders (ERPOs), sometimes referred to as “red flag laws”, are one evidence-based policy available in some states that can disarm individuals who represent a threat to themselves or others. ERPOs are largely invoked to prevent suicide but can also be used to address risks of IPV and threats of mass shootings.<sup>65</sup>

Laws and programs that protect and provide support for individuals at the greatest risk of firearm victimization and suicide could mitigate the harms associated with increased gun access and supply that may result from the *Daniels* precedent. Funding for state and local programs that help to extract victims of IPV and their dependents from dangerous settings, and robust enforcement of IPV-related restraining orders could help to protect intimate partners and children. Regular mental health screenings and behavioral telehealth services for populations at the greatest risk of suicide, such as middle-aged and older men in rural areas where gun ownership is high and access to some health services is limited, will be critical.

Programs that screen individuals for risk factors associated with self-harm or interpersonal violence, or using standardized instruments that screen for violence, coupled with mental health and substance use abatement services, could mitigate the effects of increasing gun access for individuals who regularly use controlled substances. For example, a study that modeled outcomes of restricting gun ownership for 5 years after a drug-related misdemeanor conviction found a 1.6% reduction in homicide and 4.6% reduction in suicide rates.<sup>66</sup> Although individuals with diagnosed mental health disorders are not disproportionately prone to violent behavior toward others, certain mental health disorders are a risk factor for suicide. Furthermore, some disorders are associated with higher rates of gun violence when combined with substance use.<sup>67</sup> According to the Substance Abuse and Mental Health Services Administration, more than a quarter of adults with serious mental health issues also have a substance use problem.<sup>68</sup>

Additionally, there is evidence that interventions that reduce gun violence as it relates to the illegal drug trade are most effective when focusing on “violent actors” rather than the drug market in general.<sup>69</sup>

## **Appendix: Methodology**

### **How and why was this case selected?**

The Health in All Policies Initiative selected *U.S. v. Daniels* for judicial health note analysis due to its timeliness and compliance with health note screening criteria. The case meets the selection criteria because of the body of evidence regarding the association between marijuana use and violent behavior, the lack of public health discourse in the case’s court argument, and its relevance to two of five of the Bloomberg American Health Initiative focus areas—addiction and overdose, and violence.

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<sup>64</sup> “Gun Violence Solutions,” accessed November 5, 2024, <https://publichealth.jhu.edu/center-for-gun-violence-solutions/solutions>.

<sup>65</sup> Center for Gun Violence Solutions, *Research on Extreme Risk Protection Orders*, Johns Hopkins Bloomberg School of Public Health (February 2023), <https://publichealth.jhu.edu/sites/default/files/2023-02/research-on-extreme-risk-protection-orders.pdf>.

<sup>66</sup> Magdalena Cerdá et al., “Would restricting firearm purchases due to alcohol- and drug-related misdemeanor offenses reduce firearm homicide and suicide? An agent-based simulation,” *Injury Epidemiology* 9, no. 1 (2022/06/09 2022), <https://doi.org/10.1186/s40621-022-00381-x>, <https://doi.org/10.1186/s40621-022-00381-x>.

<sup>67</sup> Ahonen, Loeber, and Brent, “The Association Between Serious Mental Health Problems and Violence: Some Common Assumptions and Misconceptions.”

<sup>68</sup> “Mental Health and Substance Use Co-Occurring Disorders,” updated April 24, 2023, 2023, accessed April 23, 2024, <https://www.samhsa.gov/mental-health/mental-health-substance-use-co-occurring-disorders>.

<sup>69</sup> Anthony A. Braga, David Weisburd, and Brandon Turchan, “Focused Deterrence Strategies and Crime Control,” *Criminology & Public Policy* 17, no. 1 (2018), <https://doi.org/https://doi.org/10.1111/1745-9133.12353>, <https://onlinelibrary.wiley.com/doi/abs/10.1111/1745-9133.12353>.



## **Research methodology**

Once the case was selected for analysis, a research team from the Health in All Policies Initiative hypothesized connections, or pathways, between the ruling, health determinants, and health outcomes. These hypothesized pathways were developed using research team expertise and a preliminary review of the literature. The ruling was mapped to steps on these pathways and the team developed research questions and a list of keywords to search. The research team reached consensus on the final conceptual model, research questions, contextual background questions, keywords, and keyword combinations. The conceptual model, research questions, search terms, list of literature sources, and draft health note were peer-reviewed by one external subject matter expert. The expert also reviewed a draft of the health note. A copy of the conceptual model is available upon request.

The Health in All Policies Initiative developed and prioritized 11 research questions:

- To what extent does frequent cannabis use increase interpersonal violence in the home?
- To what extent does frequent use of other controlled substances increase interpersonal violence in the home?
- To what extent do intimate partner violence deaths and injuries caused by firearms also involve substance use?
- To what extent does frequent use of cannabis impact educational attainment?
- To what extent does frequent use of other controlled substances impact economic attainment?
- To what extent does educational and economic attainment in the setting of regular controlled substance use impact levels of violence in communities?
- To what extent do rates of gun ownership and gun usage affect community economic development?
- To what extent are law enforcement interactions in Black and other minority communities related to firearm possession combined with “unlawful” drug use?
- To what extent do gun violence homicides involve known substance use or abuse?
- To what extent do gun violence injuries involve known substance use or abuse?
- Are there different rates or risks of violence by unlawful users of controlled substances while they are intoxicated versus sober?

The research team next conducted an expedited literature review using a systematic approach to minimize bias and answer each of the identified research questions.<sup>70</sup> The team limited the search to systematic reviews and meta-analyses of studies first, since they provide analyses of multiple studies or address multiple research questions. If no appropriate systematic reviews or meta-analyses were found for a specific question, the team searched for nonsystematic research reviews, original articles, and research reports from U.S. agencies and nonpartisan organizations. The team limited the search to electronically available sources published between 2019 and 2024. The research team searched PubMed and EBSCO databases along with the following leading journals in public health, as well as sector-specific journals suggested by subject matter experts for this analysis to explore each research question: *American Journal of Public Health*; *Social Science & Medicine*;

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<sup>70</sup> Expedited reviews streamline traditional literature review methods to synthesize evidence within a shortened timeframe. Prior research has demonstrated that conclusions of a rapid review versus a full systematic review did not vary greatly. M.M. Haby et al., “What Are the Best Methodologies for Rapid Reviews of the Research Evidence for Evidence-Informed Decision Making in Health Policy and Practice. A Rapid Review,” *Health Research Policy and Systems* 14, no. 1 (2016): 83, <https://doi.org/10.1186/s12961-016-0155-7>.





Health Affairs; Journal of Injury and Violence Research; Injury Epidemiology; Injury Prevention; Behavioral Sciences & the Law; and Trauma, Violence, & Abuse.<sup>71</sup> For all searches, the team used the following search terms: marijuana, cannabis, gun violence, intoxication, violent behavior, controlled substance use, substance misuse, community violence, firearms, intimate partner violence. The team also searched the U.S. Centers for Disease Control and Prevention, U. S. Department of Justice, Pew Research Center, and RAND Corporation for additional resources outside of the peer-reviewed literature. After following the above protocol, the team screened 3,725 titles and abstracts,<sup>72</sup> identified 106 abstracts for potential inclusion, and reviewed the full text corresponding to each of these abstracts. After applying the inclusion criteria, 85 articles were excluded. Twenty-four additional sources were identified upon review of the included articles. A final sample of 46 articles, including 2 systematic reviews, 2 meta-analytic reviews, 1 scoping review and 1 review article, was used to create the health note. In addition, the team used 18 references to provide contextual information.

Of the studies included, the Health in All Policies Initiative qualitatively described and categorized the strength of the evidence as: not well researched, mixed evidence, a fair amount of evidence, strong evidence, or very strong evidence. The evidence categories were adapted from a similar approach from Washington State.<sup>73</sup>

**Very strong evidence:** the literature review yielded robust evidence supporting a causal relationship with few if any contradictory findings. The evidence indicates that the scientific community largely accepts the existence of the relationship.

**Strong evidence:** the literature review yielded a large body of evidence on the association, but the body of evidence contained some contradictory findings or studies that did not incorporate the most robust study designs or execution or had a higher-than-average risk of bias; or some combination of those factors.

**A fair amount of evidence:** the literature review yielded several studies supporting the association, but a large body of evidence was not established; or the review yielded a large body of evidence, but findings were inconsistent with only a slightly larger percent of the studies supporting the association; or the research did not incorporate the most robust study designs or execution or had a higher-than-average risk of bias.

**Mixed evidence:** the literature review yielded several studies with contradictory findings regarding the association.

**Not well researched:** the literature review yielded few if any studies, or yielded studies that were poorly designed or executed or had high risk of bias.

## Appendix: Legal Context

Recent U.S. Supreme Court decisions have created uncertainty about the status of federal gun laws. Key among these is the June 2022 decision *New York State Rifle & Pistol Association, Inc. v. Bruen*. The *Bruen* decision requires courts to determine if modern gun laws are consistent with the Second Amendment, either by its plain text or by historical analogues (other “relevantly similar” historical rulings).<sup>74</sup> This is referred to as the “text, history, and tradition test.”<sup>75</sup>

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<sup>71</sup> American Journal of Public Health, Social Science & Medicine, and Health Affairs were selected using results from a statistical analysis completed to determine the leading health research journals between 1990 and 2014 and in consultation with policing and criminal justice experts. Merigó, José M, and Alicia Núñez/ “Influential Journals in Health Research. A Bibliometric Study/” *Globalization and Health* 12.1 (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4994291/>.

<sup>72</sup> Many of the searches produced duplicate articles. The number of sources screened does not account for duplication across searches in different databases.

<sup>73</sup> Washington State Board of Health, *Health Impact Review of HB 2969* (February 19, 2016), <http://sboh.wa.gov/Portals/7/Doc/HealthImpactReviews/HIR-2016-05-HB2969.pdf>.

<sup>74</sup> *New York State Rifle & Pistol Association, Inc. v. Bruen*, No. 20-843 (Supreme Court of the United States June 23, 2022, 2022).

<sup>75</sup> *New York State Rifle & Pistol Association, Inc. v. Bruen*.



New interpretations of Second Amendment rights following *Bruen* have the potential to weaken these laws, reducing barriers to gun ownership and increasing gun access to more Americans. This is particularly noteworthy given the current levels of gun access and deaths in the U.S. More Americans die by gun deaths than any other similar socio-economically developed nation, and the per capita gun death rate has continued to increase annually in recent years. The number of gun deaths in 2021 was the highest recorded in the U.S., per the Centers for Disease Control and Prevention.<sup>76</sup> Gun ownership rates are strongly associated with higher firearm homicide rates in the U.S.<sup>77</sup> With 326 million privately-owned firearms as of 2019, the U.S. is home to the largest stock of civilian-held firearms in the world.<sup>78</sup> Four in 10 U.S. adults live in households with guns.<sup>79</sup>

*United States v. Daniels* is one such judicial ruling that was influenced by the *Bruen* decision and impacts access to guns. In 2023, the U.S. Fifth Circuit Court of Appeals reversed a lower court ruling that convicted Daniels of violating federal law § 922(g)(3), a law that prohibits unlawful users of a controlled substance from possessing a firearm. An “unlawful user” is defined as “someone who uses illegal drugs regularly and in some temporal proximity to the gun possession.”<sup>80</sup> This case focused on the defendant’s regular use of “marihuana,” referred to hereinafter as “cannabis.”<sup>81</sup> The U.S. Fifth Circuit Court of Appeals ruled federal law § 922(g)(3) unconstitutional as applied to Daniels’ case because the government failed to demonstrate a historical precedent for disarming individuals like Daniels, a nonviolent user of cannabis. While the court did not find the law unconstitutional, the opinion indicated that other applications would likely be found “deficient.”<sup>82</sup>

*United States v. Daniels* raises questions about the association between cannabis and other controlled substance use and violent behavior, and implications for public health and equity. This decision may have bearing on future challenges to firearm regulation, including § 922(g)(3), as courts consider what traits make an individual sufficiently dangerous to be legally prohibited from possessing a firearm.

The Founders considered dangerousness to be an important element in determining whether a person has the right to possess a firearm. Characterizing the dangerousness of firearm possession in the setting of chronic or acute use of controlled substances, including but not limited to cannabis, may be critical for future court rulings.

The current landscape of firearm law is murky and inconsistent across jurisdictions. The *Bruen* ruling arguably inspired a new round of challenges to § 922(g) – the section of U.S. Code that prohibits certain classes of the population from legally possessing, transporting, shipping, or receiving firearms – and changed the way the courts evaluate those challenges. A more recent ruling by the Eighth Circuit Court of Appeals, *United States v. Veasley*, upheld § 922(g)(3) against a facial challenge, or one that alleges the law is a violation of the Second Amendment.<sup>83</sup> The Supreme Court’s ruling on *United States v. Rahimi* in the summer of 2024 also addressed the issue of gun access and current federal law. It upheld federal law § 922(g)(8), which prohibits individuals with domestic violence restraining orders from possessing guns, against a facial challenge. Another case, *United States v. Connelly*, No. 23-50312 (5th Cir. 2024), further challenged the ruling when Paola Connelly, a non-violent marijuana user, was charged after El Paso police responded to a “shots fired” call at her home. Her

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<sup>76</sup> A Gramlich What the data says about gun deaths in the U.S..

<sup>77</sup> Siegel, Ross, and King, “The relationship between gun ownership and firearm homicide rates in the United States, 1981-2010.”

<sup>78</sup> Berrigan, Azrael, and Miller, “The Number and Type of Private Firearms in the United States.”

<sup>79</sup> Schaeffer Key Facts about Americans and Guns..

<sup>80</sup> *United States of America v. Patrick Darnell Daniels, Jr.*, No. 22-60596 (United States Court of Appeals for the Fifth Circuit 2023).

<sup>81</sup> In the 1930s, proponents of the newly repealed alcohol prohibition laws turned their sights to banning the substance previously referred to as cannabis. The term “marijuana” was strategically used to link the drug to anti-Mexican xenophobia. J. Tarricone, “Harry J. Anslinger and the Origins of the War on Drugs.” *Boston Political Review*, Sep 4, 2020, <https://www.bostonpoliticalreview.org/post/harry-j-anslinger-and-the-origins-of-the-war-on-drugs>.

<sup>82</sup> *United States of America v. Patrick Darnell Daniels, Jr.*

<sup>83</sup> *United States of America v. Devonte Antonio Veasley*.

husband had fired a shotgun at a neighbor's door and was arrested. Ms. Connelly admitted to occasionally using marijuana for sleep and anxiety, and was charged with violating 18 U.S.C. § 922(g)(3) for possessing firearms as an unlawful user of a controlled substance, among other charges.

### ***Expert Reviewer***

This document benefited from the insights and expertise of Tim Carey, J.D., Law & Policy Advisor at the Johns Hopkins University Bloomberg School of Public Health's Center for Gun Violence Solutions. Although he reviewed the materials and found the approach to be sound, neither Mr. Carey nor his institution necessarily endorse its findings or conclusions.

### ***Acknowledgments***

The Health in All Policies Initiative would like to thank Shobha Mehta, M.D., MPH, for her research contributions to this judicial health note. An advisory committee provided strategic guidance for the judicial health note pilot. Experts included: Lindsay K. Cloud, JD, Deputy Director, Center for Public Health Law Research at Temple University Beasley School of Law; Katrina Forrest, JD, Executive Director, CityHealth; Jeff Hild, JD, Senior Vice President, Advocacy American Academy of Pediatrics; and Andrew Twinamatsiko, JD, Director, Center for Health Policy & the Law, O'Neill Institute for National & Global Health Law, Georgetown University Law Center. Neither they nor their institutions necessarily endorse the findings or conclusions of this Judicial Health Note.