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TORT ASPECT OF NEGLIGENT FIREARMS STORAGE

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Abstract

Manufacturer and consumer can be held liable for negligent storage of firearms under tort law. Data indicates that many American gun owners improperly store their weapons, making them available to potentially deadly individuals who are not their legal owners. Suicides by firearm frequently outnumber killings by firearm each year in the United States. The ease with which household weapons may be obtained is a contributing factor in 90% of all unintentional shootings. Proper gun storage can help minimize the number of unintentional shootings that occur.

It is up to society to determine if the benefits of secure gun storage are adequate to outweigh the potential dangers. Author argues that locking guns up is the most effective and cost-effective technique to keep a gun away from unauthorized users, including criminals. The amount of time needed to lock and unlock a firearm is less than the time it takes to come to a complete stop at a red light. Too many gun owners buy, load, and store their firearms without contemplating how to use them. Manufacturers are making safe, quick-access storage devices that open or release instantly in full darkness. There is no known instance of a criminal harming someone because they could not acquire a pistol.

Introduction

Negligent storage of firearm, it is a common problem which prevails in all over the world but in US, situations are distressing as from 1972 to 2021 number of households which contains gun, varies from 40-50 %. In 2021 43% households contain firearms and in which 50% of handguns are stored unlocked, 30-40% of ammunitions are stored negligently in gun owning household. In us number of deaths from firearms is more than number of deaths of armed forces in wars

These unsecured firearms and guns involve many types of firearm tragedy like hundreds of children died in accidental shootings, many uses guns to commit suicide and many guns are stolen for various illegal purposes as around 45000-gun deaths were happened in US, 24000 people died by gun suicide and gun suicide remain constant from 1981 till 2020.

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In this paper we will be discussing about tort action that can be taken to reduce firearm related injuries and causes of negligent storage of firearms and the defenses taken by tortfeasors to prevent themselves from liability.

Case -When weapons are improperly maintained, children can access them and use them, or they can be stolen and used for evil events.

1) Stanley v. Joslin²

People who own weapons may be held legally responsible for the behavior of individuals who use such firearms. In the case of Stanley v. Joslin, (Tennessee Court of Appeals 1987), it was decided that a homeowner might be held accountable if they left a harmful instrument in a location where children could easily get it. A.30-30 rifle along with some ammo was discovered in a gun rack in that instance. Her sole move was to warn the child, who was just 14 years old at the time, not to touch the firearm.

Tort actions to reduce the firearm related injuries³

1) Negligence

It is the duty of the manufacturer and the consumer to store goods properly in safes so that it is not accessible easily in faulty hands. If they are not able to take of that duty properly and if those goods are stolen and if those stolen firearms violate the rights of people or cause damage to others, then we can hold the manufacturer and the consumer liable under the tort of negligence. This helps to reduce the number of injuries that are caused by firearms.

2) Absolute liability

Manufacturer can be held absolutely liable for defect in firearm storage

If the storage of firearms is faulty, and that issue results in damage, then we have the authority to hold the manufacturer absolutely responsible for the damage. Weapons are intrinsically dangerous items that have the capacity to do harm to a sizeable portion of the

² Stanley v. Joslin, 757 S.W.2d 328, 330 (Tenn. Ct. App. 1987)

³ Polston, Mary D., and David S. Weil. "Unsafe by Design: Using Tort Actions to Reduce Firearm-Related Injuries," 8 Stan. L. & Pol'y Rev. 13 (1997).

population despite the fact that they are not generally available. This is because of the nature of their restricted availability.

Causes of Negligent storage of firearm by consumer and manufacturer

Storage of firearms in such a manner that it is easily accessible to unauthorized users is case of negligence under tort law. Negligence is behavior that falls short of the legal minimum required to safeguard others from unjustified risk of damage.

Consumer

1) Adolescent suicides

The danger that might arise from weapons that aren't locked up is the possibility of teen suicides. Although forty-six persons commit suicide with weapons in every 24 hours in the United States, this fact is often overlooked in the heated public discussion over gun regulation. Suicides by firearm frequently outnumber killings by firearm each year, which comes as a shock to many people. There were 24,292 firearm suicides in the United States in 2020 and 17,323 homicides suicide in 2020.⁴

There is a mountain of data indicating that many American gun owners improperly store their weapons, making them available to potentially deadly individuals who are not their legal owners. Ten separate public health studies of how Americans store firearms present a gloomy picture of how seriously we take our obligation to protect the most lethal of all things. Hundreds of thousands of firearms, according to the research, are stored loaded and unlocked.

Statistics show that over half of all pistols are kept in unlocked locations. 3 About a third to a half of all gun-owning families keep ammunition in an unlocked location. The research' one glimmer of hope is that parents who possess weapons are more likely to keep them locked up than those who don't. Yet, millions of kids have easy access to loaded guns at home.

⁴ Statista Research Department & Jun 2, GUN OWNERSHIP IN THE U.S. 1972-2022 STATISTA, <https://www.statista.com/statistics/249740/percentage-of-households-in-the-united-states-owning-a-firearm/> (last visited Oct 24, 2023).

There are many sorts of gun tragedies that can occur if guns are not locked up. Each year, hundreds of American youngsters are killed in firearm accidents.

2) Accidental shooting

Each year, hundreds of youngsters are killed as a result of unintentional gunshots. The most recent year for which statistics are available is 2020, and that year saw 4440⁵ children and teenagers lose their lives as a result of unintentional gunshots. Accidents involving weapons ranked as the sixth biggest cause of unintentional death for children under the age of fourteen in the year 1994.⁶ 108 The ease with which household weapons may be obtained is a contributing factor in 90% of all unintentional shootings.

The scant information that we have shown that properly securing weapons can help minimize the number of unintentional shootings that occur.

Manufacturer

1) Mass killing

How much damage can be done by something as simple as sloppy gun storage. The careless storing of so many guns in such a large amount has the potential to inflict significant harm on the local populace. The number of people killed by guns and other types of weaponry has grown as a direct result of the ease with which lethal products like rifles, ammunition, and other similar items may be obtained. When it comes to the theft of many firearms at once, which might result in a higher amount of damage, a person's tort liability is increased.

Reasons for lack of proper firearms storage by consumers

As we have seen, there is a significant chance that firearms may get up in the hands of dangerous, unauthorized users who will use them to commit heinous acts, such as murder or serious bodily harm. However, we need to finish the risk-utility analysis to arrive at the judgement that hazardous gun storage is negligent conduct. It is now up to society to determine if the benefits of secure gun storage are adequate to outweigh the potential

⁵ Statista Research Department & Jun 2, GUN OWNERSHIP IN THE U.S. 1972-2022 STATISTA, <https://www.statista.com/statistics/249740/percentage-of-households-in-the-united-states-owning-a-firearm/> (last visited Oct 24, 2023).

⁶ A YEAR IN REVIEW - JOHNS HOPKINS BLOOMBERG SCHOOL OF PUBLIC HEALTH, <https://publichealth.jhu.edu/sites/default/files/2022-05/2020-gun-deaths-in-the-us-4-28-2022-b.pdf> (last visited Oct 24, 2023).

dangers. According to Judge Hand's methodology, we need to assess the likelihood of the danger times the severity of the risk against the burden placed on gun owners and society to eliminate the risk. Unsafe storage is not irresponsible behavior if the benefits of safe storage outweigh the costs. Those who seek to escape taking personal responsibility for their firearms' secure storage will be disappointed to learn that this is not the case. Unsafe gun storage poses a greater threat than it is worth to try to eliminate.

1) Financial burden

The owner must buy a secure storage equipment to store a weapon. Traditional trigger locks, advanced gun-locking systems, and gun safes and lock boxes are safe storage devices.

Simple trigger locks cost \$3. However, they are not secure storage. Traditional trigger locks might prevent child shootings and certain adolescent suicides, but not theft. Safe gun storage involves either a non-portable gun safe or lock box, a gun lock that cannot be removed without leaving the gun useless, or a pistol with customized weapon technology.

Consumers may buy several gun safes and lock boxes. An anchorable lock box for one handgun costs \$150, whereas huge, hefty safes for numerous firearms cost several hundred dollars.

An individual gun locking mechanism like a trigger lock that cannot be removed without disabling the firearm is the most effective and cost-effective technique to keep a gun away from unauthorized users, including criminals. This gadget is potentially technologically viable. Safe Lok provides a pistol grip or magazine locking mechanism that, according to the maker, "even with grips removed. \$60. Another firm provides a trigger lock on a security wire that may be attached to a non-portable home object to avoid theft and accidents.

2) Inconvenience in using locked guns

The amount of work, both physically and mentally, that is necessary to keep a gun safe is rather low. Even in the worst case, it is little more than a mild annoyance. Comparatively, the amount of time needed to lock and unlock a firearm is less than the amount of time needed to come to a complete stop at a red light, which is another common-sense safety regulation that the law compels us to comply with several times

each day. Only on rare occasions does the typical gun owner retrieve their firearm from its storage location. In the risk utility calculation, the weight that is given to the burden should be minimal or nonexistent.

3) Self defense

If guns are stored in safe than it will reduce their use when required.

After years of gun control debate, the author feels that differing perspectives on weapons' self-defense worth are the largest obstacle to consensus on most firearm regulation issues. Gun owners think guns will save them. Gun control activists believe the same firearms will hurt loved ones."

Self-defense concerns safe storage. Safe storage worries gun owners. "Locked, unloaded weapons offer far less security against assailants," stated pro-gun author John Lott in a Wall Street Journal op-ed "Locks would raise crime-related deaths significantly.

Secure storage does not interfere with self-defense for four reasons. First, most gun owners cannot defend themselves with badly maintained guns. Experts argue "'A gun isn't self-defense." Handgun self-defense requires practice and forethought. "Train yourself or, better yet, get your self-trained," a renowned firearms expert said in a home defense article. Too many gun owners buy, load, and store their firearms without contemplating how to use them. One acquaintance said her self-defense firearm is "somewhere in the closet." Self-defense training with a locked pistol may improve response times."

Second, manufacturers are making safe, quick-access storage. These devices open or release instantly in full darkness.

Third, even pro-gun writers advocate securing firearms to prevent theft "know. Experts Fourth, and perhaps most significant, despite John Lott's dramatic claim of a "greatly increased" death rate from crime involving properly maintained guns, there is no known instance of a criminal harming someone because they could not acquire a pistol. Even though fourteen states (including California, Florida, and Texas) ") criminalize negligent gun storage if a minor damage it. Despite poor results, firearm storage studies estimate 50% of handguns are secured. Is proof of secure gun storage hindering self-defense unreasonable?

Self-defense gun owners have nothing to fear from safe storage. Self-defense is their biggest threat. Safe storage does not hamper self-defense.

Conclusions

A common theme running across all studies is the need for improved gun storage. The ease of access and lethality of guns are factors in the high suicide and murder rates in the United States. More than half of all suicides and over 80% of all homicides include the use of a firearm. Guns have been largely overlooked in government and programmatic efforts to reduce homicide and suicide. To effectively prevent such tragedies, we must implement legislative measures that acknowledge the lethality of guns and address their availability, especially among those who are at an elevated risk for suicide or interpersonal violence.

Many tragic events may have been avoided if people had properly stored their firearms or only carried unloaded weapons.

As a result, the murky and unacknowledged arguments that wrongdoers use to absolve themselves of legal responsibility remain unaddressed.