

Chair Latz, Vice Chair Mohamed, and Members,

Gun violence continues to be a pressing issue in our state and across the nation. Many laudable proposals have been brought before this working group for consideration, but I am concerned that our criminal code does not adequately handle nonfatal or attempted shootings.

Law enforcement handles many cases where gunshots are fired in a public place, but through sheer luck nobody is struck by gunfire. These attempted shootings undoubtedly have the effect of causing terror among the people in the vicinity of the gunfire and are done without regard for the safety of others. In many of these cases, Minn. Stat. § 609.66 Subd. 1a (2) or (3) are used for prosecution, but these statutes understate the gravity of the crime. In fact, these statutes are coded as severity levels two and one¹, which only presume prison time if a defendant has a 6+ criminal history score². Consider the below-listed court cases:

73-CR-20-5421: Defendant walks into a crowd of fifty people at a memorial service in a public park and fires multiple rounds into the air. The defendant would be convicted of reckless discharge in a municipality with the conviction deemed a gross misdemeanor.

73-CR-24-1317: Defendant and another male engage in a gunfight in the parking lot of the St. Cloud library. Fifteen spent casings were recovered by law enforcement, and the defendant was later arrested after being found in possession of a machine gun. The reckless discharge in a municipality charge was dismissed, but the defendant was convicted under Minn. Stat. 624.713 Subd. 1(2), with the mandatory minimum sentence imposed.

73-CR-21-8346: Defendant discharged a firearm multiple times at different locations. In one instance, the shots fired by the defendant penetrated an apartment building, with a round being recovered inside a unit of the apartment building. The gunshots occurred between 2:14 AM and 3:08 AM, when it is more likely than not that the unit would be occupied. The defendant would be convicted of reckless discharge in a municipality, with the conviction deemed a misdemeanor. The defendant ultimately violated his terms of release multiple times, and court records indicate that he has a warrant out for his arrest.

The common theme between these events is that the gunshots posed a risk of bodily harm or were likely to cause terror among others; in all these incidents, the suspect either knew, or had reason to know that there was a risk of that occurring. Contrast the above-listed cases with the following:

¹ https://www.revisor.mn.gov/court_rules/sg/id/5b/

² 2025 Minnesota Sentencing Guidelines, Standard Grid

73-CR-24-2611: Defendant was showing his rifle to a friend, when he accidentally discharged the rifle while attempting to clear it, striking the victim.

Probation may be appropriate for reckless discharges that are a result of clearing a firearm or some other innocuous reason, but there clearly is a separate category of gun crime that is inappropriate to be charged and sentenced in the same manner. **I ask that the working group and the senate at large propose legislation that penalizes the discharge of a firearm in a public place where it is reasonably foreseeable that the discharge could cause bodily harm or terror to another.**

State law already recognizes that reckless discharges directed at occupied motor vehicles or people deserve harsher treatment. Certainly, Minn. Stat. § 609.66 Subd. 1e(a)(2), which covers drive-by shootings towards occupied vehicles, buildings, or people is set at severity level eight, while the same behavior directed at an unoccupied vehicle or building is set at severity level three. The distinction appears to be that there is a foreseeable risk of bodily harm when shooting at an occupied vehicle/building or a person, which accounts for the difference in severity levels. I believe that this same logic should be applied to discharges of a firearm in public places where bodily harm or terror is foreseeable regardless of if the suspect was in a motor vehicle or not.

The legislature would be justified in providing for harsh penalties based on terror alone. The Mayo Clinic states that “post-traumatic stress disorder (PTSD) is a mental health condition that's caused by an extremely stressful or terrifying event — either being part of it or witnessing it.”, a definition that can include gunfire. PTSD may cause substantial disruption to the life of the victim and their loved ones, and while the criminal code does not fully consider prolonged mental distress when defining levels of harm, it is certainly reasonable for it to be a consideration of the legislature when proscribing certain acts.

No single provision will fix gun violence in Minnesota, nor the United States, but by addressing this gap in the criminal code, we can hopefully provide justice and protect the public from physical and mental harm. Maintaining public safety is one of the most important roles of the state, and this proposed law would aid in that role.

Respectfully,

Andrew Walker
Benton County