



Written by [Rebecca Terrell](#) on July 28, 2014

Published in the July 28, 2014 issue of [the New American](#) magazine. Vol. 30, No. 14

Playing Mind Games With the Second Amendment

Are you one of the more than 40 million Americans who suffer from depression or anxiety? If so, then hold on to your guns, because a trip to your doctor for relief could strip your constitutionally protected right to keep and bear arms.

In typical Machiavellian fashion, President Barack Obama is using public safety as an excuse to violate federal law, pry into your personal medical records, and add your name to a federal database tracking individuals with diagnoses of mental illness. Obama originally announced his intent on January 16, 2013, when he signed 23 executive orders purportedly intended to curb gun violence. One of them aims to “address unnecessary legal barriers, particularly relating to the Health Insurance Portability and Accountability Act [HIPAA], that may prevent states from making information available to the background check system.” Notice that the president regards your medical privacy rights as “unnecessary legal barriers.”

How does this affect your gun rights? Federal law contains a mental health prohibition, disqualifying certain people with psychiatric diagnoses from owning guns. The Federal Gun Control Act of 1968 forbids possession of firearms by anyone judged “as a mental defective,” and it vaguely defines that term as a person identified by “lawful authority” to be a danger to himself or others, or to be lacking in mental responsibility. The act allows government officials to rob “mental defectives” of their gun rights, which can only be restored by a long and costly court process.

Like other ambiguously written laws, this one is easily abused. “Mental defective” is already liberally applied to anyone the government deems as being incapable of managing his own affairs. “The problem is growing,” said Larry Pratt, executive director of Gun Owners of America (GOA). He told *The New American*, “We have learned that if a fiduciary has been appointed for any reason, that is being used as a predicate for grabbing guns.” The National Rifle Association reported in April, “Under existing federal regulations, a person who experienced a temporary reaction to a traumatic event or who has trouble handling household finances may well be treated the same as a violent psychopath.”

But Obama intends to make this dangerous law worse. Characteristically, he’s avoiding what he obviously considers another “unnecessary legal barrier,” vowing in his January State of the Union address to pursue his anti-gun agenda “with or without Congress.” True to his word, the Department of





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Health and Human Services (HHS) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) delivered a one-two punch in January, each proposing bureaucratic dictates designed to broadly expand the federal mental health prohibition.

HHS proposes modifying HIPAA so healthcare providers can turn private patient information over to the National Instant Criminal Background Check System. NICS is an FBI database established under the Brady Handgun Violence Prevention Act of 1993. GOA calls it the “government’s gun blacklist.” It is worth noting that the HIPAA Privacy Rule already includes provisions whereby healthcare professionals may warn family, caregivers, and/or law enforcement “regarding threats of serious and imminent harm made by the patient.” In some cases it mandates “duty to warn” reporting. Ironically, this information about the Privacy Rule is available on the HHS website and amounts to admission by the agency that its new regulation is completely unwarranted in terms of public safety.

The ATF rule would augment the definition of “mental defective” to include anyone determined by any federal, state, local, or military court to be either “mentally unstable” or an “irresponsible person,” and could even apply without a court order to those receiving outpatient treatments. Commentary published May 2 in Los Angeles’ *CityWatch* points out that “there is no definition of the term ‘irresponsible,’ leaving it up to a variety of bureaucrats and institutions to add anyone to NICS.”

Announcing the proposed regulation, Attorney General Eric Holder made the Orwellian claim, “It is emblematic of the Justice Department’s broader commitment to use every tool and resource at its disposal to combat gun violence and prevent future tragedies while respecting the Constitutional rights to which all Americans are entitled.” Holder did not explain how *all* Americans’ rights are respected when *some* have their rights violated.

Neither HHS nor ATF officials returned calls inquiring about the current status of the proposed rules. It is not known when either will be finalized.

Victimizing Veterans

However, many U.S. soldiers know exactly what the outcome of Obama’s new rules will be. “More than 150,000 law-abiding veterans have already lost their constitutional rights — with no due process whatsoever — because they consulted a VA therapist about a traumatic incident in Iraq, Afghanistan or the Balkans,” GOA stated in testimony opposing the proposed HHS regulation. Precedent set during the Clinton-Bush era allows Veteran Administration psychiatrists to turn their patients’ names over to NICS. GOA Legislative Counsel Michael Hammond told *Human Events* in 2013, “By virtue of a psychiatrist report, guns may be confiscated.”

In reality, a doctor’s note is not necessary. Consider the case of Anthony Bontempo, a 27-year-old Florida Army veteran who called the Veterans Crisis Line late one evening in 2012 when he was drinking heavily and having suicidal thoughts. Instead of the counseling he expected, Bontempo got a visit from local police who placed him in a psychiatric ward for evaluation. Despite the fact that Bontempo had no court ruling as a “mental defective,” police also confiscated all the weapons in his house without a warrant.

According to the August 19, 2013, *Daytona Beach News-Journal*, “He did not meet the criteria for involuntary treatment,” so the hospital released Bontempo the following day. However, police unlawfully demanded a court order before they would return his guns, including his grandfather’s



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irreplaceable World War II Japanese Arisaka rifle. Eight months later, after a lengthy lawsuit filed on his behalf by the gun-rights group Florida Carry, Inc., a judge ordered the city to return Bontempo's private property, and only then did police acquiesce.

John Whitehead of the Rutherford Institute tells a more chilling story of another veteran, 26-year-old Brandon Raub, a decorated Marine who earned a diagnosis of mental illness simply for posting his views about government corruption on his Facebook page. Secret Service and FBI agents showed up one day at his home, where they interrogated him about his online posts and arrested him without stating a charge or reading his Miranda rights. They forcibly held him in a VA psychiatric ward where, Whitehead said, he was "labeled mentally ill for subscribing to so-called 'conspiratorial' views about the government." Police intended to hold him for a month, but seven days after his arrest a U.S. circuit court judge ordered his immediate release because the government had no case.

Whitehead reported that Raub is one of thousands of veterans monitored by the Department of Homeland Security under its "Operation Vigilant Eagle," a program that targets veterans and other "extremists" who dare to "voice their concerns about the alarming state of our union and the erosion of our freedoms." Whitehead opined:

That the government is using the charge of mental illness as the means by which to immobilize (and disarm) these veterans is diabolically brilliant. With one stroke of a magistrate's pen, these service men are being declared mentally ill, locked away against their will, and stripped of their constitutional rights. Make no mistake, these returning veterans are being positioned as enemy number one.

However, veterans are not government's only target. New York's newest gun-grabbing law, the Secure Ammunition and Firearms Enforcement Act of 2013, or SAFE Act, provides a litmus test for Obama's proposed federal standards. Under SAFE, New Yorkers' firearms may be confiscated against their will if they seek mental healthcare services or take a psychiatric medication.

Last year, New York State police revoked a firearms license and seized guns that belonged to David Lewis of Amherst because they mistakenly identified him as taking an anti-anxiety prescription med. Once they realized their error, Lewis got his guns and license back. But the experience exposed the state police in a gross violation of his privacy rights. On the New York Association of Psychiatric Rehabilitation Services website, Lewis' attorney, Jim Tresmond, accused the state "of creating a 'clandestine HIPAA unit' within the Division for Criminal Justice Services, charged with examining New York residents' medical records without warrant."

California is set to rival New York with gun-control discrimination against the mentally ill. State lawmakers have proposed a bill restricting firearm purchases by individuals who are merely *suspected by laymen* of having mental health issues. "Family members, partners and friends would have the ability to alert law enforcement if they believe someone poses a threat to themselves [*sic*] or others," reports the May 27 *Los Angeles Times*. "Law enforcement officers would then be able to petition a judge to grant a restraining order that could prohibit possession or purchase of a gun."

The bill is California's knee-jerk reaction to Elliot Rodger's murderous rampage in May at the University of California at Santa Barbara. Little attention is given to the fact that Rodger used a knife to kill three of his victims and ran over another four people with his car, but media harp on his extensive history of mental illness and the firearms that he used to kill four people, including himself. He legally owned those guns in a state ranked number one for the strictest gun control laws in the country by the Brady



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Campaign to Prevent Gun Violence and the Law Center to Prevent Gun Violence.

The usual demands for increased gun control following such a heinous crime resound in the media. Rodger's heinous crime raised the expected hue and cry from mass media for stricter gun control. All drugs used to treat mental conditions bear U.S. Food and Drug Administration (FDA) black box warnings about their horrifyingly common side effects of aggression and suicidal/homicidal behavior.

However, it was Rodger himself who spelled out the solution to the problem of mass murderers, and it has nothing to do with tougher gun laws or mental health therapy. In the 141-page "manifesto" he wrote, meticulously planning the massacre, he made it "clear that he feared someone with a gun could stop him before he was able to kill a lot of people." He even rejected certain areas because of the number of armed policemen who would likely be present. Dr. John R. Lott, Jr. made this point at FoxNews.com, remarking that the campus where Rodger chose to launch his deadly assault "is essentially a gun-free zone."

The DSM

The newly proposed HHS and ATF regulations are poised to turn most of the country into a gun-free zone as well, a simple feat considering the modern epidemic of mental illness. Recent years have witnessed an enormous increase in both the number of loosely defined psychiatric diseases and individuals diagnosed with them. Psychiatric diagnoses are based solely on a subjective judgment of the diagnosing physician and are labeled according to disorder monikers approved by the American Psychiatric Association (APA) in its *Diagnostic and Statistical Manual of Mental Disorders* (DSM). Now in its fifth edition, this book has changed remarkably since first published in 1952, when it included homosexuality as a "sociopathic personality disturbance." Homosexual activists forced that diagnosis to be expunged in 1974, illustrating psychiatry's susceptibility to political pressure and cultural bias.

"There are no objective tests in psychiatry — no X-ray, laboratory, or exam finding that says definitively that someone does or does not have a mental disorder," wrote psychiatrist Allen Frances in 2010 for *Psychology Today*. Frances, who chaired the task force responsible for DSM's fourth edition, notes, "What is diagnosed as mental disorder is very sensitive to professional and social contextual forces."

Now that DSM includes 312 approved diagnoses, including hoarding, caffeine withdrawal, and Internet gaming disorder, there are few people, including children, who could not be diagnosed with mental illness and reported to NICS. Writing for ABC News in 2011, psychiatrist Stefan Kruszewski offered the example: "Virtually anyone at any given time can meet the criteria for bipolar disorder or ADHD. Anyone."

In 2011, there were 6.4 million children diagnosed with ADHD (attention deficit hyperactivity disorder), and the Centers for Disease Control and Prevention reports a sharp upward trend in this number annually. The National Institute of Mental Health describes a similar development in childhood bipolar disorder. If Obama gets his way, every child labeled with one of those diagnoses could be reported to NICS and lose his Second Amendment-guaranteed rights once he reaches the age of majority.

Communist Psychiatry

Is Obama exploiting the fluidity and proliferation of psychiatric diagnoses to forward his anti-gun agenda and disarm the populace? He wouldn't be the first to do so. Political psychiatric abuse is a



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common tactic of dictatorial regimes, notorious for their systematic use of this volatile science to stifle opposition.

“Historically seen, using psychiatry as a means of repression has been a particular favorite of Socialist-oriented regimes,” wrote Robert van Voren in his 2010 article “Political Abuse of Psychiatry — An Historical Overview,” published in *Schizophrenia Bulletin*. Years of controversy over this oppressive practice in the USSR gave birth to the International Association on the Political Use of Psychiatry (IAPUP) in 1980, of which van Voren was a founding member. IAPUP investigations revealed that the USSR had incarcerated roughly one-third of its political dissidents in psychiatric hospitals, using medicine to repress, intimidate, and torture. The transforming agent of Soviet psychiatry was Dr. Andrei Snezhnevsky, who coined the diagnosis “sluggish schizophrenia” and applied it to people with symptoms such as “reform delusions,” “struggle for the truth,” and “perseverance.” According to Carl Gershman, writing in the scientific journal *Society* in 1984, the term was so hazy that virtually anyone could meet the criteria for diagnosis. Anyone.

During its first two decades IAPUP, now known as the Global Initiative on Psychiatry (GIP), investigated similar accusations of oppressive exploitation in a vast array of countries: Romania, Czechoslovakia, Yugoslavia, Eastern Germany, Hungary, Bulgaria, South Africa, Chile, Argentina, Cuba, and The Netherlands. GIP reports an apparent decline in psychiatric-political abuse in recent years, except in the People’s Republic of China where, according to van Voren, the exploitation seems “to be even more extensive than in the Soviet Union in the 1970s and 1980s.”

Since the early days of Chinese Communism, the government has charged dissidents with “counterrevolution,” declared them to be “not responsible” and forcibly committed them in a system of maximum-security forensic hospitals known as Ankang. The practice is still alive and well, though the accusation of counterrevolution has given way to “the less politically sounding charge of ‘endangering state security,’” according to Dr. Robin Munro, research director of the *China Labour Bulletin* and a prolific writer on the history of Chinese political misuse of psychiatry. He testified before Congress, protesting that country as host for the 2008 Olympic Games due to unrestrained human rights abuses.

In a 2005 report on the Ankang, Munro relates the case of Wang Wanxing, who spent more than 13 years in forensic psychiatric hospitals in retribution for unfurling a banner in Tiananmen Square on the third anniversary of the 1989 student protests. Officials released him in 1999 under pressure from international human rights organizations. But when they discovered he was planning a press conference with foreign journalists, police immediately threw Wang back in the Beijing Ankang where he would spend six more terrifying years being tortured and forcibly drugged.

China’s first mental health act came into force in 2013 after its adoption of the UN Convention on the Rights of Persons with Disabilities. However, the international activist organization Human Rights Watch (HRW) condemns the new law for, among other shortcomings, failing to prevent involuntary, arbitrary detention such as Wang’s. HRW said people can still be forcibly committed to psychiatric hospitals merely on the opinion of psychiatrists. “The law does not provide any further details or definitions on what constitutes risk, or how serious risk must be to justify forcible measures,” reports HRW.

Disturbingly, these same criticisms can be leveled at U.S. gun control law, and especially at Obama’s new proposals. Even more alarming is the fact that the Chinese scenario could easily play out in the



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United States, except instead of being locked up in a psych ward, any U.S. citizen deemed “irresponsible” by merit of a concocted APA diagnosis could have his guns confiscated in the name of ensuring public safety.

Violence and Mental Illness

Official misuse of psychiatry is particularly scandalous since it exploits an erroneous public perception that mental illness causes violence. Harvard University reported in 2011 that 60 percent of Americans think schizophrenia makes people more likely to hurt others, while 32 percent think major depression is a common source of aggression.

On the contrary, research consistently shows that mental illness does not usually spawn violence. In February 2013, the University of Washington’s Alcohol & Drug Abuse Institute (ADAI) published results of a meta-analysis investigating the relation of substance abuse and mental illness to gun violence. It reported a significant association between gun crime and alcohol or drug use, but no such correlation with mental illness. Surprisingly, researchers also identified no relation between diagnosed mental illness and suicide, though alcohol and drugs — both illicit and prescription — are correlated with self-harm.

Furthermore, it revealed a noteworthy link regarding victims of violence. ADAI reported that people with mental illness are between five and nine times more likely than the general population to be murdered. Findings from a 2012 study published in *The Lancet* agree. Adults with disabilities “are at higher risk of violence than non-disabled adults,” and the report called those with mental illness “particularly vulnerable.” Yet Obama’s proposed rules invalidly profile those with mental illness as perpetrators rather than victims of crime.

A few of the studies cited in the ADAI analysis disagree with the conclusion that mental illness is unrelated to gun violence. They found instead a disproportionate number of firearm suicides and homicides linked to psychiatric problems. However, these studies failed to make an important distinction about whether the precipitating factor in such cases is mental illness, substance abuse, or adverse effects of psychiatric medication. As stated earlier, all prescription drugs used to treat mental illness carry an FDA black box warning about frighteningly common, life-threatening side effects of suicidal and homicidal behavior. Judging from ADAI’s overall conclusion, likely culprits in mental illness-related gun violence are psych meds and substance abuse.

Writing for the Rand Corporation in January, senior behavioral scientist Terry Schell noted, “By comparison, gender, geographic region and race are all better predictors of gun violence than mental health.” Schell also affirmed the inability of current science to correctly predict which psychiatric patients will commit violent acts. “As a field, we are not able to identify individuals who are likely to use guns against others on the basis of their mental health,” he wrote, “nor do we have any evidence-based treatments to reduce the likelihood of violence.”

Following the Fort Hood, Texas, shooting in April, forensic psychiatrist Dr. Thomas Grieger, a litigation consultant for the U.S. Military Courts Martial, confirmed these claims in an NPR interview. “Acts of extreme violence and acts against yourself,” he explained, “are so infrequent that it really becomes almost impossible to predict when any individual or situation is going to escalate to that.”

Regardless, mental health prohibitions to gun ownership have done nothing to reduce rates of suicide



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or homicide. So say attorneys Lawrence Gostin and Katherine Record in their 2011 editorial “Dangerous People or Dangerous Weapons: Access to Firearms for Persons with Mental Illness,” published in the *Journal of the American Medical Association*. Though they argue for tighter gun control, they point out an important distinction by condemning current laws for regulating people rather than things. They state that this poses a gross violation of individual rights and threatens public safety. Health-based exclusions can deter individuals from seeking appropriate treatment, turning healthcare providers into agents of the state. They can also discourage people from patronizing licensed gun dealers, who must fully disclose their customers’ personal information to NICS. Furthermore, Gostin and Record acknowledge, “Research shows that unless a person with mental illness also has a comorbid substance abuse or has a history of violence, he or she is no more likely to be violent than anyone else, even if recently discharged from an institution.”

Lessons From History

Is Obama aware that mental illness is no harbinger of gun violence? If not, his ignorance is inexcusable since he is framing public policy based on it. Regardless, he is traitorously violating the Constitution he swore to uphold, taking advantage of erroneous public opinion and tragic public ignorance of history to destroy a fundamental right. “When people are denied the right to keep and bear arms it is the first major step toward the top-down control of the people by their government,” said Arthur R. Thompson, CEO of The John Birch Society. “At that point the criminals rule the neighborhood and the capital. They always will charge that those who desire personal arms are maniacs.”

Government-imposed gun control is nothing new. Sir William Blackstone (1723-1780) was the renowned English jurist whose *Commentaries on the Laws of England* played a formative role in United States law and greatly influenced our nation’s Founding Fathers. In remarks on the British hunting laws of his day, he wrote “that the prevention of popular insurrections and resistance [*sic*] to government by disarming the bulk of the people is a reason oftener meant than avowed by the makers of the forest and game laws.”

Blackstone’s protégé, Virginia state judge St. George Tucker, wrote a U.S. version of the *Commentaries* in 1803. He included a brief but comprehensive exposition on the importance of preserving the Second Amendment inviolate. It is a vital lesson Americans must heed or else condemn themselves to repeat the errors of the past:

The right of the people to keep and bear arms shall not be infringed, and this without any qualification as to their condition or degree.... This may be considered as the true palladium of liberty.... The right of self-defense is the first law of nature; in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Whenever standing armies are kept up, and the right of the people to keep and bear arms is, under any color or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.



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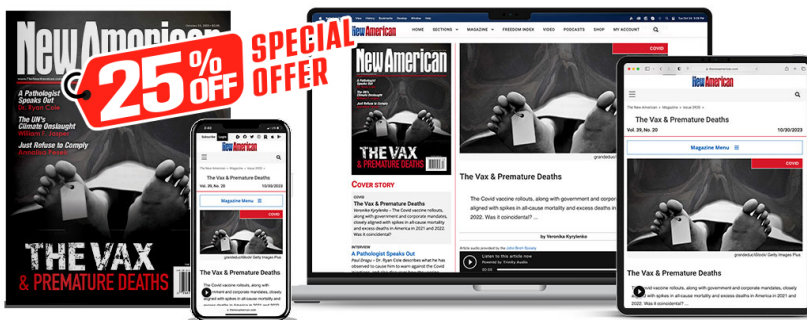
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