



Written by [Joe Wolverton, II, J.D.](#) on January 8, 2014

Obama to Prevent “Dangerous” People From Owning Guns

Once again, President Barack Obama has demonstrated that he considers his will to be the supreme law of the land and he alone will decide who is allowed to buy a gun.

In [an executive “Fact Sheet” issued January 3](#) by the White House, the president purports to establish new guidelines for “keep[ing] Guns out of Potentially Dangerous Hands.”

What President Obama — a former part-time law professor — seems not to understand is that every time he issues some executive order, presidential finding, or “fact sheet,” he is exceeding the constitutional limits on his power and thereby violating his oath of office.

First, [Article I, Section 1 of the Constitution](#) grants federal lawmaking power exclusively to the Congress. Regardless of the word he uses to describe it, any time the president “tweaks” a law or issues an executive order covering something other than the narrow limits allowed to such directives, he is making law. He is uniting in his hands all the power of the executive and the legislative branches, thus becoming our Founders’ very definition of a tyrant.

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Next, there is the particular usurpation on display in this latest edict.

As is the custom of the federal government, President Obama sets up his eradication of rights as a last resort effort to protect the people of the United States from themselves. He writes: “Today, the Administration is announcing two new executive actions that will help strengthen the federal background check system and keep guns out of the wrong hands.”

There are several serious constitutional problems in this first sentence. First, there is the separation of powers issue described above. That is, the president is not constitutionally authorized to take “executive actions” that encroach upon rights protected by the Constitution — in this case, the right of the people to keep and bear arms.

Furthermore, the Second Amendment could not be clearer as to the limit on the power of any branch or agency of the federal government when it comes to reducing the scope of that most fundamental right. The [Second Amendment](#) reads in relevant part: “the right of the people to keep and bear arms, shall not be infringed.”

“Shall not be infringed.” Not “should not be infringed” or “shall not be infringed except.” The mandate is clear: The right to possess and use firearms is a right whose enjoyment may not be restricted by the federal government.

On January 20, 2009 and again on January 21, 2013, Barack Hussein Obama [swore an oath to God](#) that





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he would do the very thing he almost never does — adhere to the Constitution.

This situation regarding this latest despotic decree is worse than he would make it appear. For example, he purports in this “Fact Sheet” to be taking aim at the obtaining of guns by the mentally ill:

Too many Americans have been severely injured or lost their lives as a result of gun violence. While the vast majority of Americans who experience a mental illness are not violent, in some cases when persons with a mental illness do not receive the treatment they need, the result can be tragedies such as homicide or suicide.

Remarkably, even for one as adept at double-speak as President Obama, the attempt to deprive the “mentally ill” of their rights is wrapped in the comforting blankets regularly handed out by the nanny state.

President Obama not only assumes the right to determine who is and is not “mentally ill,” but he simultaneously robs those very people of their independence, placing them involuntarily under the protection of the government that robbed them of their rights to begin with.

The most egregious violation of the Constitution comes in a single sentence appearing a few paragraphs down in the “Fact Sheet.” The president declares,

At the same time, the Administration is committed to making sure that anyone who may pose a danger to themselves or others does not have access to a gun.

There again, President Obama has [marched right over the Rubicon](#), declaring war on the Constitution and the timeless liberties it protects.

In two sentences, the president has given himself not only the power to declare a citizen “mentally ill” (and thus ineligible for the exercise of their right to keep and bear arms), but also the authority to withhold that same right from anyone he deems dangerous.

One can only imagine how President Obama would exercise such immense power, particularly when he covers that iron fist with the velvet glove of protecting the innocent.

Fortunately, one need not imagine how the president would wield his presumed authority over the possession of firearms. On April 26, soon after Governor Sam Brownback (R-Kan.) signed a law preventing enforcement within his state of several federal firearms restrictions, Attorney General Eric Holder [sent the governor a letter](#), warning him that the Obama administration considers state attempts to protect the Second Amendment “unconstitutional” and that federal agents will “continue to execute their duties,” regardless of state statutes to the contrary.

In that light, it seems easy to predict how the president (or any of his armed agents of the Departments of Justice, Homeland Security, FBI, etc.) would react to anyone branded as a danger who dares attempt to refuse to be denied his constitutionally protected right to keep and bear arms.

Then, in another open attack on the Constitution in his “Fact Sheet,” President Obama orders the Department of Justice and the Department of Health and Human Services (HHS) to “help address” state failures to administer effective background checks aimed at weeding out the whackos from owning weapons.

In the first directive, the feds will require state agencies to provide additional data to D.C. on those who submit to background checks prior to purchasing a gun. In fact, the edict empowers Justice and HHS to determine “what information should be made accessible” by the state licensing agencies to the federal



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government.

As part of this first order to the states, President Obama grants HHS the right to redefine the federal statute setting out the meaning of “committed to a mental institution.” To no one’s surprise, the definition will now be expanded to include “involuntary inpatient as well as outpatient commitments.”

There are a couple of constitutional problems with this paragraph, as well. First, what the president calls “clarifying” a statute is in reality rewriting a law. Whether it is ObamaCare or the Second Amendment, the president seems not to understand that when one rewrites a law he makes a new law and that, again, is not an executive prerogative. Second, and perhaps most chilling, is the fact that now, the federal government will categorize as crazy, thus ineligible for gun ownership, anyone who is forcibly admitted to an inpatient or outpatient mental health facility or treatment program.

And, any state wishing to retain the federal funding that keeps all of them afloat will be required to submit personal data on these persons to HHS and the Justice Department, thereby giving the feds the evidence they need to mark an applicant as one of “the wrong people.”

Given the recent [attacks by the IRS on conservative organizations](#), there is little wonder which people will be on the “wrong” side of the president’s new guidelines.

In the second command, the president revokes the right to privacy, ordering states to disregard statutory health information privacy restrictions (HIPAA, specifically) when it comes to collecting and sharing the medical history of those who apply to purchase a firearm. Again, the order reaffirms the president’s determination to disarm undesirables (i.e., “dangerous” people), saying that HHS:

is now issuing a proposed rule to eliminate this barrier by giving certain HIPAA covered entities an express permission to submit to the background check system the limited information necessary to *help keep guns out of potentially dangerous hands*. [Emphasis added.]

Next, it is critical to note that this new directive covers not just the suspected “mentally ill” who undergo a background check, but anyone who submits to this unconstitutional federal requirement of a background check.

Finally, amid all the unconstitutional, oath-violating provisions of this new executive assault on the right of citizens to keep and bear arms, there is this last one: “While the President and the Vice President continue to do everything they can to reduce gun violence, Congress must also act,” the “Fact Sheet” reads.

There is nothing — nothing legal, nothing constitutional — that the president, vice-president, or Congress can do to infringe upon the irreplaceable rights guaranteed by the Second Amendment.

Unless We, the People, and our elected representatives on Capitol Hill and in state legislatures begin erecting “[barriers against the encroachments of the national authority](#),” we will find ourselves robbed of our liberty — involuntarily locked up in a mental hospital for being “dangerous” — our property, and all our rights, including the right to be armed.

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