



Written by [Joe Wolverton, II, J.D.](#) on March 4, 2018

## Trump: Take the Guns BEFORE Due Process

In a series of steps that have caught even his most ardent supporters off-guard, President Donald Trump has announced plans to disarm many Americans without the least regard for constitutional limits on his power or on the rights of citizens.

Despite having proclaimed himself a friend to the National Rifle Association and a proponent of the Second Amendment, Trump has gone farther and farther down the road toward disarmament.



Most of the policies promoted by the president seem to stem from the clamor by some to protect the innocent from armed violence of the sort that occurred at a Parkland, Florida high school on February 14.

What follows are a few of President Trump's statements on how he will carry out his plan to prevent future armed atrocities. Sadly, these proposals, without exception, would violate not only the Constitution, but also his own oath of office, an oath he swore in the name of God, to "preserve, protect, and defend the Constitution of the United States."

First, on February 28 during a meeting on school and community safety attended by Democratic and Republican lawmakers held at the White House, Trump promised to "essentially, write [bump stocks] out" with an executive order. He informed the collected congressmen that they wouldn't have to worry about passing legislation to ban bump fire stocks, declaring, "The lawyers" are working on this executive order "right now."

"Shortly," Trump add, regarding the availability of the after-market accessory, "that'll be gone."

What's gone are several sections of the Constitution.

Article I, Section 1 of the Constitution grants all legislative power to a Congress. All legislative power. That is to say, the Congress is the only branch of the federal government granted power by the states to make laws that govern the union.

An executive order issued and carried out as if it were law is nothing more or less than a despotic decree, the command of a king, rather than a law made with the consent of the governed.

Second on this list of surprising statements made by President Trump comes from the same meeting mentioned above.

The president proclaimed in front of some of his own party members, who seemed stunned, and Democrats, who seemed delighted, that he would demand lawmakers on Capitol Hill pass sweeping legislation. The *New York Times*, which also must have been delighted, reported that "this comprehensive gun control legislation ... would expand background checks to weapons purchased at gun shows and on the internet, keep guns from mentally ill people, secure schools and restrict gun sales for some young adults."

The *Times* continued, "He even suggested a conversation on an assault weapons ban."



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With such expansive plans to grab guns, one wonders what difference there is between a Republican chief executive and one from the Democrat Party.

Next, and perhaps most pernicious and actionable, President Trump, during an exchange between himself and Vice President Mike Pence, said he considered the courts an unnecessary delay in the disarmament of a “crazy man.”

Lest anyone believe that *The New American* is taking the president’s words out of context, what follows is the relevant part of the [transcript of the president’s statement](#) as published on the White House website:

THE VICE PRESIDENT: Well, the category you spoke about, Mr. President — the gun violence restraining orders. And they’re called — California, actually, has a version of this. And I think, in your meeting with governors earlier this week, individually and as a group, we spoke about states taking steps.

But the focus is to literally give families and give local law enforcement additional tools if an individual is reported to be a potential danger to themselves or others. Allow due process, so that no one’s rights are trampled. But the ability to go to court, obtain an order, and then collect not only the firearms, but any weapons in the possession of that individual.

THE PRESIDENT: Or, Mike, take the firearms first and then go to court, because that’s another system. Because a lot of times, by the time you go to court, it takes so long to go to court, to get the due process procedures.

I like taking the guns early, like in this crazy man’s case that just took place in Florida. He had a lot of firearms. They saw everything. To go to court would have taken a long time. So you could do exactly what you’re saying, but take the guns first, go through due process second.

“Take the guns first, go through due process second.” That’s what President Trump thinks is the best way to prevent crimes committed with firearms.

I think the Founding Fathers saw things a bit differently, as is evidenced by the Fifth Amendment:

“No person shall...be deprived of life, liberty, or property, without due process of law....”

No person — not no sane person or no person who passes federal muster — shall have his property taken without due process of law.

Due process as a check on monarchical power was included in the Magna Carta of 1215. This list of grievances and demands codified the king’s obligation to obey written laws or be punished by his subjects. Article 39 of the Magna Carta says: “No freemen shall be taken or imprisoned or disseised [dispossessed] or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or by the law of the land.”

Over the years, the Magna Carta was occasionally revised and amended. In 1354, the phrase “due process of law” appeared for the first time. The Magna Carta as amended in 1354 says: “No man of what state or condition he be, shall be put out of his lands or tenements nor taken, nor disinherited, nor put to death, without he be brought to answer by due process of law.”

This fundamental restraint on the royal presumption of the power to seize a man’s property on command of the king was incorporated by our Founders in the Bill of Rights in the Fifth Amendment, as quoted above.



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In *The Federalist*, No. 84, Hamilton explained:

The practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny. The observations of the judicious [William] Blackstone in reference to the latter, are well worthy of recital: "To bereave a man of life, says he, or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole nation."

Next, consider this powerful statement made by Hamilton's fellow *Federalist* author John Jay, written by him in a letter to those in government who would take the property of a man without due process:

It is the undoubted Right and unalienable Privilege [sic] of a Freeman not to be divested, or interrupted in the innocent use, of Life, Liberty or Property, but by Laws to which he has assented, either personally or by his Representatives. This is the Corner Stone of every free Constitution, and to defend it from the Iron Hand of the Tyrant of Britain, all America is now in arms; every Man in America being most deeply interested in its Preservation. Violations of this inestimable Right, by the King of Great Britain, or by an American Quarter Master; are of the same Nature, equally partaking of Injustice; and differing only in the Degree and Continuance of the Injury.

Couldn't be much clearer than that.

Finally, President Trump shows that not only does he not consider fidelity to his oath of office to be important, but he shows that, on a more pragmatic level, he doesn't know on which side his political bread is buttered.

In the White House meeting on February 28, during an exchange with Senator Patrick J. Toomey (R-Penn.), the president asked Toomey whether the bill the senator sponsored after the Sandy Hook school shooting included a provision which would increase the age limit for buying certain types of weapons.

Here's the transcript of the remarks taken verbatim from the White House's website:

SENATOR TOOMEY: We didn't address it, Mr. President, but I think —

THE PRESIDENT: You know why? Because you're afraid of the NRA, right?

It is relevant and important at this point to recall just how generous the NRA was to then-candidate Trump during his run for the Oval Office.

In that race, the NRA spent more than it ever had on elections: over \$36 million, according to the Center for Responsive Politics.

Trump himself was far and away the biggest recipient of NRA donations, counting over \$21 million from the organization in his campaign coffers.

It merits mention that on March 1, Chris Cox, the executive director for the NRA's Institute for Legislative Action (the group's lobbying arms), took to Twitter to offer support for the president. Cox tweeted:

I had a great meeting tonight with @realDonaldTrump & @VP. We all want safe schools, mental health reform and to keep guns away from dangerous people. POTUS & VPOTUS support the Second Amendment, support strong due process and don't want gun control.

Who is to be believed: President Trump speaking for himself or an NRA spokesman putting words in the president's mouth? If the president truly felt this way, why has he not said so publicly? (Of course, in



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fairness to the NRA spokesman, it is possible the president spoke differently during his meeting with him. Nevertheless, if that is the case, the NRA should certainly be pointing out the contradictions.)

Our last quote below is a warning from history going back to 560 B.C. Should the people of the United States submit to the disarmament of any American without due process of law, then it will be said of them, as the great Greek lawgiver Solon lamented to his fellow Athenians, after they allowed the tyrant Peisistratus to take their weapons so as a means to prevent increasing violence:

If now ye suffer grievously through cowardice all your own,

Cherish no wrath against the gods for this,

For you yourselves increased the usurper's power by giving him your weapons in his hands,

And now, therefore, as his servants you must do as he commands.

*Photo of President Trump: AP Images*



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