

## **MSD Overview (Slide Two)**

### **The Parkland Shooting**

On February 14<sup>th</sup>, 2018, Nikolas Cruz entered Marjorie Stoneman Douglas High School with a rifle case and a backpack. He had been expelled from the school a year before. He passed a school employee in a hallway stairwell. The employee did not question what was in the case, attempt to detain him or call the office. Five other school employees encountered Cruz. None of them radioed in a red alert. He appeared in stairwells, in hallways and finally in classrooms. One school staff reported his presence on campus but did not confront him.

The Broward County Sheriff Deputy on duty at the school that day did not enter the building to assist. Other Sheriff's deputies who responded did not enter the school. Seventeen children and school staff died that day as a result.

Cruz was well known to Local law enforcement, school administration and the FBI. The FBI was well aware of Cruz' threats via social media yet they never interviewed him. School administration had been dealing with Cruz over a three-year period finally expelling him. He never faced legal consequences for his actions in school because of the Obama era/socialist policies that were in place and the desire to keep their school crime stats low. Local Law enforcement had encountered Cruz no less than 39 times. Some of his offenses included direct threat to a person with a gun and actually holding a gun to another person's head.

Through all of this no one bothered to reach out to Cruz and assist him even though there were multiple opinions from the mental health community and Child Protective Services that he needed assistance, Baker Act, etc. The FBI had all the evidence they needed to detain and question Cruz, assess his mental health state, provide him the care needed and remove his gun purchasing rights. Local law enforcement never followed through by prosecuting serious offenses that would have put Cruz on the offender list and excluded him from purchasing firearms.

Had Cruz faced legal consequences for any of these actions rather than be ignored, he very likely would have received the mental health he so desperately needed. But one thing is without doubt, had these three agencies all directly connected with Cruz, responded in appropriate ways, this incident would not have happened.

These agencies are responsible for the deaths of those kids and school staff.

## Knee jerk Reaction

The politics over this incident began immediately. Democrat/socialists did not waste a minute. Democrats desperate to deflect blame from their policies began immediate damage control via the media. Within 24 hours gun control groups across the state were calling for stricter gun control laws. Democrats, being the parasites they are, began using the victims themselves to promote their agenda. Marco Rubio was shouted off the stage by a bunch of kids-led by democrats. The capitol was shut down by a pack of kids skipping school, paid for by democrats. The Republican legislature in Florida caved immediately and began chanting the chorus along with the democrats.. “We have to DO something!”

Conservatives, gun owners and gun rights advocates had no voice in the conversation. RINO's took full advantage of an opportunity they had been waiting for.....

The Senate Rules Committee, including \_\_\_\_\_ Authored the bill and filed it on 2/21/18.

On March 9, 2018, three weeks after the shooting, then Governor Rick Scott signed the Marjorie Stoneman Douglas Act into law. In an unprecedented move the law was authored, passed in both houses and signed into law within three weeks. We both have our doubts about the law being written during this period. Both of us believe that the law was already written piecemeal by democrats who were waiting for such an incident, made quite predictable by Obama era policies in Florida schools.

SB7026 covers two major areas, School Security, and Gun Rights/Seizure Policies. Along with other measures including buildings, mental health grants, etc. the cost for this bill was 400,000,000 over the already approved state budget, which has gone primarily into the hands of liberals. We will likely never know where most of this money has and will be spent. School security physical measure requirements were outlined in the act and school district leaders were given options of what type of human security they would have available to protect the students. Sheriff's offices were given the option to implement a guardian program for which they would receive a grant.

No conservatives or gun rights advocates were approached about the funding for this bill.

An investigative team was formed and after a year of “investigation” the body's first and top priority for school safety was having armed personnel on school grounds, which of course was highly criticized by the left.

## **School Security**

The bill required that schools improve physical security by doing things like adding fences, door locks, training etc. County school board were given the OPTION of how they would handle armed security on property. Volunteers state-wide came forward. The Polk School superintendent opted to have certain school staff armed who had duties other than full time teachers, i.e. coaches, etc., while at the same time complaining about not having the money to do so, even though there were grants awarded for these purposes. Supervisor Byrd opted out of having unpaid volunteers for this purpose.

They were trained using the standards of the guardian program developed by Sheriff Judd. Polk County Schools as expected did the least legally that they were required to provide armed protection for Polk County kids.

## **Gun Policy**

### **Removal of ownership Rights**

In addition to school security, SB7026 outlines several gun control measures. One restricting 18-20 years from purchasing long guns (their handgun purchasing right has already been removed by our legislators and not corrected by Republicans).

### **RPO/Gun Seizure Laws**

The other has to do with Risk Protection Orders which gives law enforcement and a judge the right to remove your weapons without due process or prior warning. The removal is based upon the claim of someone that you have acted or spoken in a threatening manner either to yourself or someone else.

## **Are Libs Satisfied?**

The question now is whether these measures have satisfied libs that schools are now safe. The truth is school security never mattered to libs. This is evidenced by the fact that School District Leaders have many options on how they can provide security at the schools under their jurisdiction. They simply wanted more controls over gun rights in Florida. This election season they are now pushing to allow claimants to approach a judge and asking for a RPO seizure rather than going through levels of law enforcement. They are also attempting to get a Constitutional Amendment question attached to the election in 2018. The language is not clear but the objective is to remove all “assault style” weapons from the hands of Florida Citizens. It is being challenge by Ashley Moody in Florida Supreme Court. Libs will never be satisfied until we completely lose our gun rights.

## **Constitutional Problems Created by MSD (Slide Three)**

### **School Security and Gun Policy should be separate**

School security should be separate from measures that affect all gun owners across the state. There is no way to justify creating more stringent standards for gun owners in multiple jurisdictions when it is evident that certain areas have higher crime rates, fail to serve the students in their areas adequately and fail to address serious breaches of law that other areas of the state would address quickly and efficiently. Each jurisdiction is different, has different populations, leadership and policy practices. It is these differences that dictate whether incidents such as MSD are even likely to occur. It is a mistake to try and apply statewide mandates to people in a jurisdiction with 1,000 residents and a jurisdiction with 1,000,000, both areas having different policies, leadership and politics that will affect how laws are written and carried out.

### **Solution Proposals**

#### **Separate School Security and Gun Policy.**

The MSD Act should be converted to strictly a school security measure. All gun control issues should be dealt with separately by the Florida legislature. The current RPO and other bills should be repealed and/or re-written to appropriately address threats to public safety with the highest considerations given to the rights of law-abiding gun owners.

#### **Provide proper security measures and hold legal authorities responsible for failure to protect our kids.**

We are mandated to place our children in the hands of the government every school day, therefore they should be culpable if they fail to protect our children. If the government mandates that our children be placed in their care during the day for education, then they, by definition, have taken the responsibility for ensuring the safety of the children in their care. The school should be providing armed security, (as outlined in the Marjorie Stoneman Shooting Investigation/Report and Recommendations) assessing and managing threats. Law enforcement should also be held responsible if they are present on school campus unless they are barred from acting in such a situation. When they fail to keep our children safe, they should be held liable.

Law enforcement either wishes to protect the public or it does not. If law enforcement wants to hold to its position on not being mandated to act, as they did in Broward County, then schools should keep hired or volunteer staff and security monitoring activity and walking the grounds of the schools and place appropriate physical barriers around the school property. Law enforcement should not participate in case of a shooting incident or have no say in what happens during an active shooter situation.

School security measures properly implemented will likely result in more mass shootings occurring on school campus. It is recorded fact that shooters seek gun free zones where they know there will be no one to stop them and avoid areas where they know they will meet resistance.

#### **Due Process....the RPO portion of MSD is loosely written at best.**

While we understand the need for some sort of emergency process, it is clear that Baker Act, Injunctions, etc. cover many areas that are addressed by the language in MSD. Major Constitutional problems arise

when we understand that there is no due process for law abiding citizens in RPO seizure cases and that "Threat" can literally mean anything at this point

Although the Polk Policy is multi-layered and attempts to provide every protection to the law abiding and reasonable gun owner, other jurisdictions may not be concerned for the rights of law-abiding citizens. Polk County RPO policy would be a good model to start with in setting base laws for RPO seizure policy.

In current RPO language, citizens who have weapons seized must prove their innocence rather than the court proving their guilt, culpability, showing evidence of a threat, etc., which removes and directly violates the due process rights guaranteed to American citizens in the Constitution.

### **Proposed Solutions:**

**The meaning of threat should be clearly defined** as to what is and what is NOT considered threatening behavior. For instance, walking around your backyard with a pistol on your hip, should not necessarily be considered threatening behavior.

**Consideration should be given to those who have gone through the process of CC, taken the appropriate training and have no criminal record.** Those who have taken the appropriate steps, should receive a hearing BEFORE weapons are removed and the claimant should also be under examination. Claimants examined before seizure of weapons will greatly reduce the chances of false claims of threat coming against law abiding citizens. The LE agency asking for seizure should have to show clear evidence in such cases that there is a need for removal.

**Highest priority should be given to PROTECTING the rights of citizens.** The removal of due process in this or any other law serves as an intimidating factor for law abiding citizens who choose to own weapons and do so according to law and many times go beyond what the law requires to own, carry and use firearms. Most average citizens do not have the means to fight such an order, hire a lawyer, go through mental health evaluations or whatever other requirements the court may order. There is no guarantee that the government will cover any of these costs for people without means. Most people will not argue the removal of their weapons (2<sup>nd</sup> Amendment), Due Process (4<sup>th</sup> Amendment) because they do not have the monetary means, the ability to take time off their job to appear in court, etc. This is nothing less than harassment by our own government upon our citizens

### **Further separation of Citizens from their gun rights.**

MSD law removes the right of 18-20 year olds to purchase long guns. In the Parkland situations Cruz purchased a long gun for the shooting he was planning. Because he was not on any criminal database, he bought the gun legally. Legislators foolishly reasoned that young adults then should not be able to purchase long guns. They already cannot purchase handguns. It is summarily wrong to remove a Constitutional rights from 18-20 year olds who are otherwise considered adults in our state. If they have the rights and responsibilities of adults in one area, they should have them in all. If they are too irresponsible then we should also remove rights from them such as voting, signing of contracts, entering the military, etc.

### **Proposed Solution**

The legislature should decide whether 18-20 year olds will be considered adults or not. If they are deemed responsible enough to be tried as adults, enter the military and vote, then they should have all rights and responsibilities afforded adults in Florida, including purchasing and owning any weapon they wish within the law that applies to all adults in Florida.

### **Intimidation of citizens from asserting first amendment rights**

The potential for abuse of this law by people who have “enemies” is obvious. The most frightening aspect is the possibility of “untouchable” politicians who don’t want competition for their seat, a person speaking out at a town hall, all of a sudden deeming that person a “threat”. They can contact law enforcement and have heavy influential weight.

Using such tactics against a private citizen can have a chilling effect on using one’s right to first amendment expression to speak their mind when talking to a representative at a meeting or town hall. It can have a chilling effect on a citizen who wishes to run against an incumbent if they believe the incumbent will stoop to such tactics. The average citizen does not have huge resources to fight such tactics, but every incumbent politician has resources and influence at his/her disposal that do not affect their personal resources.

At this point anyone can lodge a claim against a citizen who they know owns firearms. An angry ex-spouse, a neighbor, etc. If the person happens to be a friend or influence promotion/election efforts etc. of the responding law enforcement individual/agency or judge it is easy to see how a claim could get through and an innocent person could have weapons seized.

### **Proposed Solution:**

**Clearly define what can and cannot be deemed threatening language or behavior**, i.e. a threat of harm to a person or persons. One example: Political speech or views should not be considered threatening. The MSD should clearly outline what is and is not considered threatening language.

### **Damages to the innocent victim of weapons seizure**

The person who has weapons seized must prove their innocence, a violation of Constitutional rights. They must do so at their own expense, even though their rights have been violated. Lawyers, mental health counselors, other proof costs the respondent hundreds to thousands of dollars easily and time spent gathering documents of proof to present at the hearing, missed work hours, damage to one’s reputation, etc. There is no guarantee that any of these expenses will be reimbursed by government, it is not addressed in the language of MSD. These factors can be discouraging to people who are considering or already do own weapons....this amounts to intimidation to practice the second amendment right to bear arms and the legal allowance in Florida to carry concealed weapons.

The law does not respond if the respondent is the victim of a crime during the time he/she is without self-protection during the seizure period whether or not the person is innocent....the MSD says nothing about such a situation. If the findings at the two week hearing find that removal was not necessary, the government should be liable for weapons removal in the first place.

The law does not guarantee that weapons will be properly cared for while in the custody of law enforcement. There is no discussion in MSD of what is to be done to address damages incurred by the respondent if property is returned damaged. If there is no requirement, valuable, inherited, antique pieces will not be cared for, stolen, etc. If the LE agency is not held liable for the care of these items, they will not properly care for them.

Justice for wrongdoers is not equal in the MSD Act language. Those who make false claims can be charged with a first-degree misdemeanor. Those who have had weapons seized can be charged with a third degree felony if even one bullet is found (or planted) in their home post seizure....have the effect of ruining their life. It is a simple matter for a corrupt cop, an angry estranged spouse, etc. to take and hide some ammo, a magazine, etc somewhere in the residence and then report to law enforcement later that they have located these items.

### **Proposed Solution:**

**Those who have weapons wrongfully seized should be fully reimbursed by government** for legal expenses, mental health evaluations they may take as proof, any hours of work they miss, fired from job due to seizure damages to reputation, etc.....i.e. from state victims fund, etc. Entities that aided in the wrongful seizure should be held to account and required to answer for their decisions, since the seizure is a violation of Constitutional rights on multiple fronts.

**If the person is a crime victim during the time of a wrongful seizure, the government through state victims funds, etc. should have to pay damages** to the person, pay any medical bills, mental health bills, etc. that the victim of the crime incurs including damage to property, time spent pursuing prosecution of the case etc.

**RPO language should clearly outline how seized weapons are to be handled and cared for while in custody.** There should be clear evidence of each weapon taken, condition of each weapon, types and count of ammunition etc. Both parties should be given possession of this photo and written evidence upon seizure and the judge/file should also have a copy. Damages should be paid directly to the owner of the weapons should the weapons fall into any type of disrepair, be stolen or missing, custodian should be held legally accountable for such losses and all payment should come from the custodial agency to the victim.

**Justice for any wrongdoing on the part of either party should be equitable.** The effect of a gun seizure on an individual can effectively ruin the person's life, devastate their finances, cause job loss, eviction from a rental, etc. If a false claim is made, something that has potential devastating consequences for the wronged party, then a misdemeanor charge is not appropriate. The charge should be a third-degree felony and reparations to the damaged person, with all rights suspended until all reparations and legal requirements have been met measures like these will serve to prevent for the most part false allegations against an innocent person.

### **RPO Policy in Polk County (Slide Four)**

Members of the WH912 have visited Sheriff Judd on several occasions to discuss concerns over the RPO Law. He has staunchly defended his guardian program which we support. He has also issued an RPO policy that he believes provides the best chance to avoid wrongful seizures under current law. The point

to make about the Sheriff is he states he acts within existing law and would likely change RPO procedure willingly with changes that occur this legislative season. It is also well known that Polk County now leads the state in RPO Weapons seizures. The Sheriff is insistent that in these cases seizures are most definitely needed.

### **The Plan and how you can help (Slide Five)**