

Our Country's Gun Issue is not Mental Health

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After the murder of seventeen people at Marjorie Stoneman Douglas High School in Florida, the debate has centered on the seemingly binary choice between restrictions on firearms, or focusing on mental health issues. As Florida spends less per person than almost all other states and US territories, funding for additional mental health services are well overdue. However, with all issues regarding disabilities, to consider all persons with mental illness as dangerous, is a stigma that will prevent treatment and wellness. Furthermore, the threat of the police having the discretion to send persons who they believe are acting abnormal to psychiatric facilities is a scary throwback to the Soviet-era use of using psychiatric incarceration in Gulags to rid the streets of undesirables.



Increased scrutiny of those with mental health issues will lead to stigma, deters help-seeking behaviors, and result in increased suicides.



It is much more likely that a person who lives with mental illness will be a victim of a crime than a perpetrator of a crime. Further, 62% of all firearm related deaths in the United States were suicides. From 2011 to 2015, out of the 169,395 firearm deaths in the US, 105,183 were suicides. Mental illness that may result in violent behaviors, such as antisocial personality disorders or psychosis, only constitute a very small percentage of such deaths. Further, out of the approximately 200,000 involuntary examinations in Florida per year, **56%** of the exams were initiated based on harm to self only, 21% were based on harm to self and others, and only 5.08% were based on harm to others only.

These numbers are difficult to comprehend in the abstract. Over 100,000 Floridians per year are involuntarily sent to a psychiatric facility for examination and treatment because of potential suicidal idealization. Over 100,000 persons in the United States shot themselves to death in a five year period. Currently, persons who have been voluntarily or involuntarily committed cannot legally purchase guns.

Other than persons harming themselves with firearms, there is a much higher correlation between substance abuse and violent behavior. As such, I am a huge advocate for increased funding for mental health and substance abuse care; however, such protections will have no effect on persons with antisocial personality disorders that are violent, as there is an extremely low percentage of such persons who are involuntarily institutionalized as they do not appear to meet the statutory requirements for an imminent danger, and they do not engage in help seeking behavior, as would a person who is depressed or suffering from substance abuse.

If a person owns or would want to own a weapon, or currently suffers or may suffer in the future from depression, anxiety, or substance abuse, threatening their ability to own a weapon will only reduce the ability to obtain help when needed, and will further add to the suicide epidemic by firearm that we currently have in the United States.

Lowering the standards for police to involuntarily send persons for psychiatric evaluation will result in rampant violations of Fourth Amendment rights

Police are not mental health counselors and they do not want to be mental health counselors. In order to hold a person for involuntary examination at a psychiatric facility, the following criteria must be met:

(1) CRITERIA.—A person may be taken to a receiving facility for involuntary examination if there is reason to believe that the person has a mental illness and because of his or her mental illness:

(a) 1. The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; or

2. The person is unable to determine for himself or herself whether examination is necessary; and

(b) 1. Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or

2. There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

Holding or arresting a person for a psychiatric examination must be done under the same standard as a criminal arrest, which means that the officer must have probable cause to believe that the person satisfies the criteria. In recent comments by law enforcement, the push is to reduce the standard in (b)(2), and allow the police to detain a person for psychiatric treatment that does not substantiate a sufficient and imminent threat.

In 2016, Arnaldo Rios-Soto, a 26-year-old Autistic Man with an intellectual disability was playing in the street with a truck. His caretaker, Charles Kinsey shouted that Arnaldo was autistic, he was holding a truck, and Kinsey was his



caretaker. Notwithstanding this information, the officers surrounded Kinsey and Rios-Soto, and one officer, aiming at Rios-Soto, shot Kinsey. Subsequent to the shooting, the officers held Rios-Soto for three hours and interrogated him multiple times. As their defense in the lawsuit, the city of North Miami contends that they had probable cause to hold Mr. Rios-Soto for a baker act, as they believed that his intellectual or developmental disability was a

mental illness, and that his behavior with a truck was going to cause serious harm to himself or others in the near future.

In 2017, a six-year-old from Jacksonville was sent to a Baker Act facility for 72 hours because he threw a tantrum in his class. As a matter of common sense, a kindergartener cannot cause serious bodily harm to himself or others, and there are parents or other services that can assist him. Notwithstanding that, he was traumatized by being placed in a psychiatric facility.

Police do not receive the same training as a mental health professional in determining what a mental illness includes, and are not in a position to evaluate the level of danger posed by an individual with a mental health condition. As such, by giving them the tools to arbitrarily hold a person because they believe that the person is a risk, without behavior that demonstrates a risk of *serious* harm, invites a violation of that individuals Fourth Amendment rights to be free from an unreasonable seizure.