



2nd Amendment Committee of the Lehigh Valley Tea Party

Mental Health Checks for Gun Owners

Introduction

The purpose for issuing a statement on any given topic is to make it clear to the public in general, where this committee stands on that issue, and to provide a unified voice when committee members speak on behalf of the committee.

Statement on Mental Health Checks for Gun Owners

While this committee believes that government should be a partner in helping to keep firearms out of the hands of the mentally incompetent, we require that denying a person his natural right to keep and bear arms must come only after competent adjudication in a court of law.

We recognize that gun control advocates have the ultimate goal of disarming Americans, and that since public opinion against them is rather high, they are willing to nibble away at the issue by outlawing certain types of firearms and certain classes of individuals until they reach the point that almost no guns are legal and almost no one can legally own one. Toward that end, they are advocating legislation at Federal and State levels that would prohibit firearm ownership by people with minor anxiety issues, grief issues, PTSD/PTS, and perhaps even simple old-age on the basis that these people are a danger to themselves, or to the safety of others.

The typical legislation proposed, allows a sole mental health professional to make a determination that a person is a 'danger' without any notice whatsoever to the person charged, and without opportunity for due process. This committee considers this type of act a clear violation of individual rights, and therefore, stands vehemently opposed to any such legislation.

Since 1968, federal law has barred the possession or acquisition of firearms by anyone who "has been adjudicated as a mental defective or has been committed to any mental institution." Under current federal law, states are required to report adjudicated mental defectives to the National Instant Criminal Background Check System (NICS). In fact, during the period of 2004 to 2011, there were 1.2 million such reports¹.

Because government's police power is limited to protecting society from people who have committed criminal acts, not criminal thought, the state must not deny any individual his rights based on possible future actions unless that person has had the full benefit of reasonable and competent adjudication and has been found mentally defective. If a mental health professional determines that an individual who has not been adjudicated could possibly be an imminent threat to himself or others, the individual in question should be referred to the appropriate authorities where due process will be served in determining the individual's mental fitness. Further, the individual's rights must be preserved throughout the determination process.

1. *Source: Congressional Research Service: R43040 "Submission of Mental Health Records to NICS and the HIPAA Privacy Rule"*