

### The Veterans Disarmament Act DOES Change Federal Law

Those who want to claim that there is no "Veterans Disarmament Act" ignore, first of all, that up to 140,000 veterans have ALREADY BEEN DISARMED by using twisted interpretations of the federal code. That figure was released on August 1 by Congress' own research team -- the Congressional Research Service.

Furthermore, the so-called "school safety" bill that Senators Patrick Leahy and Chuck Schumer are pushing would LEGITIMIZE the very practice that began with President Clinton, when his administration began adding military vets onto the NICS roles. (The bill is numbered H.R. 2640 in the House and S. 2084 in the Senate.)

The fact is, this legislation rubber-stamps illegal regulations -- that have been issued by the BATFE -- which go far beyond current statutes. The net result is that Section 203(2) of S. 2084 ends up outlawing guns for millions of people (including veterans) who are not "currently prohibited" from owning guns.

BATFE's illegal regs can be found at 27 C.F.R. 478.11. These regs state that a person is permanently prohibited from owning a gun if "any lawful authority" (including a government psychiatrist, psychologist, or social worker) holds that he represents "any" risk to himself or others or is unable to manage his affairs. And in a letter of May 9, 2007, BATFE states that "any danger" -- not just a "substantial" or "imminent" danger -- is enough to make you a "prohibited person."

While this standard is INCONSISTENT with the existing federal code (see 18 U.S.C. 922(g)(4)), it would become the statutory law of the land if H.R. 2640 or S. 2084 is passed. This is because both bills hold that whatever BATFE regulations are pending at the time the legislation is passed into law would automatically have the force of statutory law.

Section 203(2) in the Senate bill -- and Section 3(2) in the House bill -- codifies rogue BATFE interpretations and makes them the statutory law of the land. Both sections state, "The terms 'adjudicated as a mental defective,' 'committed to a mental institution,' and related terms *HAVE THE MEANINGS GIVEN THOSE TERMS IN [BATFE] REGULATIONS* implementing section 922(g)(4) of title 18, United States Code, as in effect on the date of the

enactment of this Act." [Emphasis added.]

The history of this debate goes back to the 1968 Gun Control Act, which makes an individual a "prohibited person" if he is "adjudicated as a mental defective." That law did not make a person a prohibited person because he or she was merely diagnosed with post-traumatic stress disorder, Alzheimer's, ADHD, bipolar disorder, and so forth by a government psychologist or psychiatrist in the VA, Medicare, or the IDEA program. However, that would all change with the Veterans Disarmament Act, as it will CODIFY regulations that BATFE has issued.

One should also understand that two legal terms have been radically redefined in the Veterans Disarmament Act to carry out this vicious attack on veterans' gun rights.

One term relates to who is classified a "mental defective." Forty years ago that term meant one was so incapacitated that he was adjudicated "not guilty" in a court of law by reason of insanity. But under the Veterans Disarmament Act, "mental defective" has been stretched to include anyone whom a psychiatrist determines might be a tiny danger to self or others.<sup>1</sup>

The second term is "adjudicate." In the past, one could only lose one's gun rights through an adjudication by a judge, magistrate or court -- in other words, only after constitutional "due process." Adjudication could only occur in a court with all the protections of due process, including the right to face one's accuser. Now, adjudication in the Veterans Disarmament Act would include a "determination by a court, board, commission, or other lawful authority" (namely, government-sanctioned psychiatrists).<sup>2</sup>

Some supporters of the bill have argued that, under the rules of "*ejusdem generis*," the phrase "lawful authority" could not include individual psychologists, etc. There are two answers to this:

\* The first is that a significant portion of the nearly 140,000 veterans have had their names placed in NICS without a finding by any court or magistrate. And the problem is still going on today with other honorable veterans. We don't need for people to tell us that it couldn't happen, because it is happening -- tens of thousands of times.

\* The second is that, if "lawful authority" cannot be interpreted to mean individual psychologists, psychiatrists, etc., we presume then that Chuck Schumer and Carolyn McCarthy will have no problem with a GOA amendment providing that an "adjudication" can be made only by a court, magistrate, or other judicial branch authority offering due process.

GOA believes that the Clinton and Bush administration's actions in illegitimately turning over the names of roughly 140,000 veterans (suffering from PTSD, etc.) was an illegal act, which should be condemned, reversed, and prosecuted. It should not be rubber-stamped by legislation which would take this illegality and statutorily validate it and future similar illegal acts.

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<sup>1</sup> As stated above, the Veterans Disarmament Act stretches the definition of "mental defective" by codifying the BATFE regs which state that a person is permanently prohibited from owning a gun if "any lawful authority" (including a government psychiatrist, psychologist, or social worker) holds that he represents "any" risk to himself or others or is unable to manage his affairs. The [BATFE letter](#)

of May 9, 2007 makes this additionally clear, as they state that "any danger" -- not just a "substantial" or "imminent" danger -- is enough to make you a "prohibited person."

<sup>2</sup> Again, because the Veterans Disarmament Act codifies BATFE's regulations (at 27 C.F.R. 478.11), statutory law would now allow a person to be deemed as a "mental defective" from the "determination by a court, board, commission, or other lawful authority" -- in other words, no longer just by a court adjudication.

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