

## **TESTIMONY of Dr. Michael Gyda**

**Re: Behavioral Health, Second Amendment Rights, and Other Gun Related Issues**

**Senate Judiciary Hearing**

September 24 and 25, 2019, Hearing Room 1, North Office Building, Harrisburg, PA

Madam Chair Senator Baker and Members of the Senate Judiciary Committee:

The apparent call for this hearing has been in response to the actions of a few, allegedly mentally disturbed individuals across the nation who acted out presumably psychotic behavior using a firearm. The political community, being what it is today, and in a knee-jerk response, feels compelled to continue to irrationally call for the widespread – and let me remind you – unconstitutional, further infringement on The Second Amendment to the United States Constitution, based solely on the cries of a relative handful of people prompted to act as a front in order to obscure the tyrannical desires of a few extraordinarily wealthy and powerful individuals who will stop at nothing in their quest for absolute control over the population. This is not only entirely unacceptable, it is overtly illegal, infringing not only upon The Second Amendment, but at least three additional Amendments within the Bill of Rights which protect the indisputable, unalienable rights of all free men from government interference (*See Appendix*).

### **Extreme Risk Protection Order Legislation and Mental Health Issues**

First, through its prescribed Extreme Risk Protection Order (ERPO) proposal, the state would unconstitutionally over-reach into the private, personal lives of its citizens as well as their protected, private health concerns in matters for which it is both unqualified and prohibited, in order to confiscate personal property without due process or justified probable cause, presuming guilt until proven innocent.

By my count, the above ERPO “legislation” flagrantly violates at least the Second, Fourth, Fifth, Eighth and Ninth Amendments of The Bill of Rights – those unalienable rights of all free men, which, by definition, can NOT BE RESTRICTED OR TAKEN AWAY BY ANY OTHER MAN OR GOVERNMENT (*See Appendix*). How a group of “lawmakers”, many who are experienced legal professionals as well as duly sworn to uphold The Constitution of the United States of America, could concoct such preposterous proposed legislation while fully anticipating that it would (A), go unchallenged, and (B), be upheld by the Courts should it unimaginably be passed into law, is not only utterly bewildering, it is treasonous.

Neither the State, nor any family member, friend, acquaintance, neighbor or other individual not so credentialed, licensed and qualified to practice psychiatric medicine, is capable of rendering any diagnosis, recommendation or treatment with respect to the mental health of another. Moreover, said acts would amount to practicing medicine without a license, a crime punishable by fine, imprisonment, or both in Pennsylvania (*Medical Practice Act of 1985, No 112, S39*). But yet, the proposed ERPO “legislation” actually incorporates this very, criminal act as forming the basis for a government authority to then illegally seize the property of another without due process and without a crime ever being committed, said property being further and specifically protected from taking by a government authority per the Second Amendment, and with the accused presumed guilty until proven innocent. Incredible as it sounds, it could not be more obvious that the proposed legislation has been written as if The Constitution of the United States simply did not exist.

To further compound the egregious over-stepping of the line between a private matter versus a government matter, had any of the sponsors of these ERPO Bills stopped to consider the additional, potentially grave implications such accusations, whether unfounded or sound, could have on the accused, and/or how the event itself could

potentially cause an individual to react – especially if the accused does suffer from some organic mental health concern? Such an allegation, along with its set of serious and protracted legal ramifications, could certainly be enough to metaphorically ‘break the camel’s back’ and actually cause a violent act where the probability was high that, *but for*, such an act would never have been executed. These are situations which are far beyond the purview of the State, and are best handled as a private family matter, together with the appropriate healthcare practitioners, and the responsible storage and accessibility of firearms and other dangerous articles in the home. Policing the private lives of its citizens is neither the responsibility, nor the jurisdiction of the State while no valid laws have been broken.

Furthermore, part of this legislation includes penalties for individuals who knowingly and/or falsely bring an ERPO action against an innocent person. That the Sponsors of said Bills clearly recognized not only the distinct possibility, but also the ease with which such legislation is rife for abuse, is further testament to the unconstitutionality of the instant legislation. The legislators were quick to implicate other ordinary people who, for instance, might avail an ERPO action in order to exact revenge on his fellow man. Interestingly, however, the Sponsors stopped short of any mention of the unquestionable potential for abuse such a statute could have at the disposal of government authorities, which would undoubtedly be put to the test not long following the passage of such incompetent legislation. In that instance, any legal remedy afforded the unjustly accused will be of little consequence, resulting in not only an embattled and utterly devastated innocent victim of the State, but in addition, be expected to survive a costly and protracted legal fiasco of horrific proportions.

Finally, the Sponsors of ERPO legislation have myopically focused their undivided attention on the “potential crazed shooter”, and in so doing, completely overlooked the most significant, almost exclusive root cause of such violent behavior by individuals in

society – bullying. In almost every instance of what are referred to as “mass shootings”, and whether or not the actor had a history of mental illness and was clinically determined to pose a threat to themselves or others, chronic, relentless, unsanctioned bullying was deemed to be the underlying cause – from school shootings through shootings at the workplace and beyond. Even though bullying, intimidation and aggressive harassment are well within the jurisdiction of the State, and can readily be recognized and duly punished, the Sponsors of the proposed ERPO legislation are, for some inexplicable reason, turning a blind eye in acknowledging this root cause, giving the individuals responsible for the eruption of the repressed violence in others who are not as strong – i.e., the bullies – *carte blanche* throughout the process, and choosing to focus their undivided attention on an unrelated issue: outlawing guns. Simply putting an abrupt and early end to such anti-social behavior as bullying will, unquestionably, result in a significantly marked decline of such revengeful acts of violence when compared to removing one tool from the chest full of tools that belongs to someone about to explode (discussed further below).

I truly hope that at this point in my testimony, no Committee Member or other lawmaker finds a need to read any further in order to be convinced of the absurdity and unconstitutionality that all of this proposed “legislation” represents.

## **The Second Amendment to the United States Constitution**

With respect to the Second Amendment (or any other Amendment within the Bill of Rights), understand that said Bill of Rights does NOT represent the rights of individuals as *conferred* by the government. The Bill of Rights represents only the AFFIRMATION by the government of the natural, God-given, UNALIENABLE rights of individual free men – rights that the government recognizes, acknowledges and concedes as superseding any intervention devised by man, and for which NO government or man has the power to limit or eradicate.

THE MOST IMPORTANT RIGHT as protected by The Bill of Rights, the right which protects and assures that all of the other unalienable rights of free men remain unalienable, is The Second Amendment...

...the right of the PEOPLE to keep and bear arms SHALL NOT BE INFRINGED.

...SHALL NOT BE INFRINGED.

...SHALL NOT BE INFRINGED.

ANY arms, at ANY time: Any arms available to the government's militia should also be accessible by the people (The SCOTUS is in error). Otherwise, a gross imbalance of power would exist, favoring the government, and rendering the true intent of the Second Amendment meaningless. This is a debate, however, for another time.

The message could not be more clear. These four, simple words require no further interpretation, and, by these very words, unmistakably indicate that said right is NOT open to debate.

Why is it, then, when some isolated tragedy occurs where a gun is involved, does it incite such a boisterous outcry by a relatively small number of irrational fanatics to immediately ban all firearms? As just one, of countless, analogous examples of mass human tragedy at the hands of a few, when, on September 11, 2001, a handful of Muslim extremists hijacked four aircraft and murdered THOUSANDS of innocent people at once, not a single firearm anywhere to be found, using the aircraft as their weapon of choice, why did these very same fanatics subsequently remain silent regarding an immediate ban on aircraft? After all, it was the aircraft that murdered all of those innocent people, correct? Because, any person of average intelligence understands that calling for a ban on airplanes

is absurd, would do nothing to address the issue of terrorism and jihad, and would unfairly infringe on the ability of all law-abiding citizens to move about freely.

So, too, through analogous reasoning, is it equally absurd to suggest that a ban on guns will address the problem of violence at the hands of the mentally ill, as restricting law-abiding citizens of their protected right to keep and bear arms is not remotely connected to the underlying issue of mental illness, and such a ban would only unfairly punish the innocent and infringe on the ability of law-abiding citizens to exercise their Second Amendment right – a right that is explicitly protected from any infringement. Moreover, rescinding the right of its citizens from keeping and bearing arms renders the population of free men now extremely vulnerable not only to the common violent criminal in society who remains unmoved by any law, but more importantly, to the evolution of a rogue, tyrannical government capable of enslaving the population. To claim such an event could never occur, I present North Korea as just one of several fine examples of such a government. The Founding Fathers were not naïve. First, they had enough of a despotic King, and second, they were all quite cognizant of how tyranny can easily develop when a sovereign nation's citizens are suddenly rendered helpless and unable to protect themselves from harm. It can therefore be reasoned that the only logical explanation for why United States government officials would, under such opportunistic circumstances, choose to dismantle The Constitution of The United States and rescind the unalienable rights of free men, in direct opposition to the demands of the majority and the sworn oath of which they embraced, is because said government officials wish to advance tyranny and despotic rule. If there is some alternate, valid explanation for such behavior in direct conflict with American ideals, by all means, the floor is open.

To further claim the legislation is designed to reduce or eliminate violence and human suffering, I ask: when will it finally be understood that it is an *impossible* task to attempt to legislate away such human behavior? *Homo sapiens* are a very creative species.

Ban guns, a car will do; Ban cars, a semi would substitute nicely; ban semis, a knife will work; Ban knives, a fork works just fine; Ban forks, a pencil will suffice, etc, etc, etc, until every modern convenience known to mankind having a potential to be used as a weapon is eventually banned due to the perverted actions of a few, where, at which point, society reverts to a cave dwelling people, and the killing escalates to unparalleled proportions using rocks and clubs fashioned from fallen trees. Benjamin Franklin once wisely stated "Those who would give up essential Liberty to purchase a little temporary safety, deserve neither Liberty nor safety." Attempting to continue to legislate safety to the point where every man is shackled and bound is simply un-American, and, quite frankly, unconstitutional. For those who are adamant about having their government smother them and spoon feed their every thought and action, for those who are happy to surrender their liberty and their rights as free men to their government, there are outbound flights on a daily basis departing from numerous points within the United States to Europe and beyond. If the right to keep and bear arms is so offensive and reprehensible, the offended have the right to emigrate, but they do NOT have the right to suppress or take away the Constitutionally protected Rights of others. As true Americans, we refuse to negotiate another word. The Constitution and its Bill of Rights is the supreme law of this land, and so, for the dissenters, you have the remainder of the globe in which to relocate. Good luck, and good riddens.

It was no accident that the Founding Fathers positioned this specific Amendment at the top of the Bill of Rights – it was placed as such to emphasize its importance with respect to the peoples' ability to keep its government – a government originally prescribed to be BY THE PEOPLE, FOR THE PEOPLE – in check. To ensure that its “government” could never become powerful enough to turn tyrannical; to ensure that neither its government, nor any individual or group, could inflict harm against a citizen without just cause and without retribution; and to ensure that the PEOPLE retained the ability to protect their remaining unalienable rights from being usurped by a rogue government, having an

organized militia at its disposal. Contrary to popular Socialist belief, the Founding Fathers did NOT write the Second Amendment because the deer were coming.

Moreover, any proposed mandatory, collective databases maintained by a government agency for the purpose of tracking its free, law-abiding citizens, solely on the basis of its citizens legally purchasing and keeping firearms, again, an unalienable right bestowed upon all free men by their Creator or by nature itself and explicitly recognized and protected by The Second Amendment, is thus, by logic and reasoning, unconstitutional and therefore illegal. Such a practice, by definition, relegates free men to men now under constant observation and suspicion by a government authority, no longer free in life, liberty or the pursuit of happiness, dangling atop the slippery slope of the eventual loss of all Civil Liberties.

In summation, none of the rational arguments presented herein are novel, but what accounts for the utter ignorance with which said arguments are received remains an enigma. Any proposed legislation being discussed at these hearings, or any such similar proposed legislation hereafter, represents, without question, a brazen assault on The Constitution of The United States – a clear and indisputable act of treason.

Both myself, and the majority of Pennsylvanians, simply refuse to no longer sit back and be stifled by the oligarchy for any reason, but especially so when the taking away of our unalienable rights are at stake.

Respectfully submitted,



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# Appendix

## The Preamble to The Bill of Rights

**Congress of the United States**, begun and held at the City of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty nine.

**THE** Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.

**RESOLVED** by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz.

**ARTICLES** in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

**Note:** The following text is a transcription of the first ten amendments to the Constitution in their original form. These amendments were ratified December 15, 1791, and form what is known as the "Bill of Rights."

### Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

### Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

## **Amendment IV**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## **Amendment V**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

## **Amendment VI**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

## **Amendment VII**

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

## **Amendment VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## **Amendment IX**

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

## **Amendment X**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

<https://www.archives.gov/founding-docs/bill-of-rights-transcript>