

# Coalition FOR Smart Safety

GUN VIOLENCE IS NOT A MENTAL HEALTH ISSUE



Oct. 23, 2019

Senator John Cornyn  
517 Hart Senate Office Building  
Washington, DC 20510

Re: RESPONSE Act

Dear Senator Cornyn:

The undersigned members of the Coalition for Smart Safety write in response to the introduction of the RESPONSE Act. The Coalition for Smart Safety includes disability rights, civil rights, education, and privacy organizations working together to stop the false association of gun violence with psychiatric disability.

While we applaud the recognition that the federal government has a role to play in addressing the grave and complex issues surrounding mass violence, the undersigned oppose legislation that links efforts to reduce mass violence with mental health reforms. There is a need to expand and improve community mental health services, but legislation to address those issues should be separated from legislation to address gun violence; the two are not connected. The evidence has clearly and consistently shown that mental health disabilities are **not** predictors of gun violence.<sup>1</sup> We are concerned that, by focusing on mental health reforms, the RESPONSE Act will do little to limit future instances of mass violence, and will instead fuel prejudice, fear, and marginalization of individuals with mental health disabilities. It may also lead many people to avoid seeking needed services.

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<sup>1</sup> See, e.g., James L. Knoll IV & George D. Annas, *Mass Shootings and Mental Illness*, in GUN VIOLENCE AND MENTAL ILLNESS 81 (Dec. 2015), <https://psychiatryonline.org/doi/pdf/10.5555/appi.books.9781615371099>; Jonathan M. Metzl & Kenneth T. MacLeish, *Mental Illness, Mass Shootings, and the Politics of American Firearms*, 105 *American J. Pub. Health* 240 (Feb. 2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4318286/pdf/AJPH.2014.302242.pdf>, Eric B. Elbogen & Sally C. Johnson, *The Intricate Link Between Violence and Mental Disorder: Results from the National Epidemiologic Survey on Alcohol and Related Conditions*, 66 *ARCH. GEN. PSYCHIATRY* 152 (Feb. 2009), Heather Stuart, *Violence and Mental Illness: An Overview*, 2 *JOURNAL OF WORLD PSYCHIATRY* 121 (June 2003).

Studies have repeatedly shown that people with disabilities, including mental health disabilities, are far more likely to be victims of gun violence than perpetrators.<sup>2</sup> In fact, recent studies demonstrate that only 4% of gun violence is committed by people with mental health disabilities.<sup>3</sup> As the American Psychological Association’s CEO emphasized, “Blaming mental illness for the gun violence in our country is simplistic and inaccurate and goes against the scientific evidence currently available.”<sup>4</sup>

In addition to our overarching concern about the focus of the RESPONSE Act, whose aim is “to reduce mass violence,” on mental health reforms, we have specific concerns about some of the bill’s key provisions, including provisions regarding “behavioral intervention teams,” assisted outpatient treatment, and crisis stabilization and re-entry.

First, we are concerned about the provisions concerning “behavioral intervention teams,” which revise the Behavioral Intervention Guidelines Act of 2019 (H.R. 3539), introduced on June 27, 2019 and still pending before the House Energy and Commerce Committee. These provisions direct the Secretary of Health and Human Services to develop best practices for schools to “establish and use” behavioral intervention teams to address threats of harm. They appear to suggest that behavioral intervention teams should report any student behavior that could have “potential criminal implications” first to criminal authorities rather than initiating an in-school process to identify and address the root cause of this behavior. Training behavioral assessment teams to default to the criminal process rather than school-based behavioral assessment and intervention would do little to address violence in schools and would likely foster rather than prevent a violent school environment.<sup>5</sup>

Schools, educators, caregivers, and communities are in the best position to notice and address concerning student behavior. Experts agree behavioral interventions are most effective at

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<sup>2</sup> Sarah Kim, *The Dangers of the Mental Health Narrative when it Comes to Gun Violence*, Forbes (Aug. 7, 2019), [https://www.businessinsider.com/report-under-trump-far-right-violence-on-the-rise-in-the-us-2018-11?fbclid=IwAR1RVMzWXJ6tX\\_pv56HGwh94yL0NjFYN7HzS\\_2goAVCtPo4WSRPGuWKcDak](https://www.businessinsider.com/report-under-trump-far-right-violence-on-the-rise-in-the-us-2018-11?fbclid=IwAR1RVMzWXJ6tX_pv56HGwh94yL0NjFYN7HzS_2goAVCtPo4WSRPGuWKcDak).

<sup>3</sup> Jonathan M. Metz, *Mental Illness, Mass Shootings, and the Politics of American Firearms*, 105(2) Am. J. Pub. Health 240-249 (2015) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4318286>.

<sup>4</sup> American Psychological Association, *Statement of APA CEO on Gun Violence and Mental Health*, August 5, 2019, <https://www.apa.org/news/press/releases/2019/08/gun-violence-mental-health>.

<sup>5</sup> “[C]reating an unwelcoming, almost jail-like, heavily scrutinized environment, may foster the violence and disorder school administrators hope to avoid.” Catherine Y. Kim, *Policing School Discipline*, 77 Brook. L. Rev. 892 (2012), *citing* Matthew J. Mayer & Peter E. Leone, A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools, 22 Educ. & Treatment of Children 333, 349 (1999).

reducing behavioral problems when they incorporate educators' knowledge of their students, are non-punitive, and avoid removal from school.<sup>6</sup> The Department of Education has a variety of evidenced-based resources outlining effective discipline practices and strategies to address problematic behaviors in schools, emphasizing the need for positive behavior interventions and supports and finding that “[e]vidence-based, multi-tiered behavioral frameworks . . . can help improve overall school climate and safety.”<sup>7</sup>

Further, in July of this year, the United States Commission on Civil Rights published a report detailing how disciplinary measures in schools affect students of color and students with disabilities at higher rates than their peers.<sup>8</sup> By making the criminal process the frontline for student discipline, this bill will only serve to *increase* the number of students of color and students with disabilities in the juvenile justice system.

Second, we have grave concerns about the requirement that 10% of the federal mental health block grant to states be devoted to supporting and implementing “assisted outpatient treatment” (AOT), or involuntary outpatient commitment. Repeated studies have shown no evidence that mandating outpatient treatment through a court order is effective; to the limited extent that court-ordered outpatient treatment has shown improved outcomes, these outcomes appear to result from the intensive services that have been made available to participants rather than from the existence of a court order mandating treatment.<sup>9</sup> Indeed, RAND Health found that there was clear evidence that “alternative community-based mental health treatments can produce good outcomes for people with severe mental illness.”<sup>10</sup>

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<sup>6</sup> “Interventions, school-wide and individual, that use proactive, preventative approaches, address the underlying cause or purpose of the behavior, and reinforce positive behaviors, have been associated with increases in academic engagement, academic achievement, and reductions in suspensions and school dropouts.” U.S. Department of Education, “School Climate and Discipline” (last updated Jan. 4, 2017) <https://www2.ed.gov/policy/gen/guid/school-discipline/index.html#suspension-101>.

<sup>7</sup> *Id.*

<sup>8</sup> U.S. Commission on Civil Rights, “Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities” (July 2019) <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>.

<sup>9</sup> See Dr. Michael Rowe, *Alternatives to Outpatient Commitment*, 41 J. Amer. Acad. of Psychiatry and the Law 332 (Sept. 1, 2013), <http://www.jaapl.org/content/41/3/332.full.pdf+html> (describing the studies); M. Susan Ridgely et al., RAND Health, *The Effectiveness of Involuntary Outpatient Treatment* (2001), [http://www.rand.org/content/dam/rand/pubs/monograph\\_reports/2007/MR1340.pdf](http://www.rand.org/content/dam/rand/pubs/monograph_reports/2007/MR1340.pdf); Steve R. Kisely et al., *Compulsory community and involuntary outpatient treatment for people with severe mental disorders*, Cochrane Database of Systematic Reviews (Feb. 2012); Tom Burns et al., *Community treatment orders for patients with psychosis (OCTET): a randomised controlled trial*, 381 Lancet 1627 (May 11, 2013).

<sup>10</sup> Ridgely et al., *supra* note 9.

Third, we are concerned about the primary focus on long-acting injectable medication—which may not be appropriate for or desired by many individuals—as a strategy to promote crisis stabilization and community re-entry, and the lack of focus on meaningful engagement strategies or services such as supported housing, which is key to successful re-entry.

Because of these significant concerns, we urge you to modify the bill to focus on evidence-based strategies to address mass violence, to separate out mental health reforms from reforms targeted at mass violence, and to eliminate concerning mental health provisions such as those promoting the use of “AOT.” Our coalition stands ready to work with your office to address the concerns outlined in this letter.

Respectfully,

American Association of People with Disabilities

The Arc of the United States

Association of University Centers on Disabilities

Autistic Self Advocacy Network

Autism Society of America

Bazelon Center for Mental Health Law

Center for Public Representation

Coelho Center for Disability Law, Policy and Innovation

Connecticut Legal Rights Project

Council of Parent Attorneys and Advocates

Disability Rights Education and Defense Fund

Hon. Tony Coelho

Little Lobbyists

National Association of Councils on Developmental Disabilities

National Association of County Behavioral Health and Developmental Disability Directors

National Association of Rights Protection and Advocacy

National Association for Rural Mental Health

National Association of Secondary School Principals

National Association of School Psychologists

National Center for Learning Disabilities

National Center for Special Education in Charter Schools

National Council on Independent Living

National Disability Rights Network

National PTA

New York Association of Psychiatric Rehabilitation Services, Inc.