

treat mental illness. Geller's article contributes to stigma, which may be the major deterrent to treatment and recovery.

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Editor:

Recent papers by Price and Norris¹ and by Simpson² in the *Journal* have highlighted important concerns related to federal gun control legislation intended to limit possession and sale of guns by certain classes of people, including persons with psychiatric disabilities. The most recent legislation, the National Instant Criminal Background Check System Improvement Amendments Act of 2007 (hereafter, NICS Act),³ was passed in the aftermath of the Virginia Tech tragedy and will force states to comply with now-mandatory reporting of “denied persons.” The law is designed to utilize both a carrot and a stick to encourage automated compliance: The former by way of federal grant funds, the latter by way of penalties taken out of the Omnibus Crime Control bill funding currently provided to states.⁴

Regardless of the merits or concerns that individuals might raise in a discussion about this public policy directed at people who experience mental illness,⁵ there is one aspect of this new legislation that should be made widely known to psychiatrists and other mental health professionals in the United States and that should require little debate: The 110th Congress' use of offensive language to refer to the people at whom the policy is directed.

In the NICS Act, which was signed into law by President Bush on January 8, 2008, the U.S. Congress used the term “mental defective” no fewer than eight times to refer to individuals who have experienced various court adjudications related to mental health problems.

The term “mental defective” was first introduced into the U.S. Code by the Gun Control Act of 1968⁶ and reaffirmed in the Brady Handgun Violence Prevention Act of 1993.² The term “adjudicated as a mental defective” is defined in the Code of Federal Regulations as:

(a) A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

- (1) Is a danger to himself or to others; or
- (2) Lacks the mental capacity to contract or manage his own affairs.

(b) The term shall include—

- (1) A finding of insanity by a court in a criminal case; and
- (2) Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.⁷

The purpose of the NICS Act was to encourage automated electronic reporting by the states to the NICS of denied persons and the various prohibited categories to which they belong. The denied categories include: felons, fugitives, unlawful users of controlled substances, illegal aliens, and any person who “has been adjudicated as a mental defective or who has been committed to a mental institution.”⁸ The FBI is now requesting that states make this information available in a format in which individuals must be coded as belonging to one of the several categories of denied persons, including “mental defective.”

The 110th Congress, in its efforts to amend the existing gun control elements of the U.S. Code, had an opportunity also to amend plainly demeaning and offensive language and failed to do so. That the U.S. Congress in the 21st century would support continued reference to citizens of our country in this frankly shocking manner represents a glaring oversight and insensitivity on the part of the Congress that must be challenged by all professional mental health organizations in their efforts to advocate on behalf of patients and to promote the battle against stigma in public life.

A solution to this language problem would be relatively straightforward. Congress should amend these statutes further by: deleting the term “adjudicated as a mental defective” and replacing it with the term “the subject of a mental health adjudication” in 18 U.S.C. § 922; deleting the term “adjudicated as a mental defective” and replacing it with the term

“mental health adjudication” in 27 C.F.R. § 478.11; and deleting the term “or has been committed to any mental institution” from 18 U.S.C. § 922, which is also objectionable and unnecessary, as it contributes no further meaning beyond the listing of mental health adjudications articulated in 27 C.F.R. § 478.11.

An Action Paper encouraging such action was passed at the American Psychiatric Association (APA) Assembly in its meeting in Washington, D.C., May 2–4, 2008. The paper, which directs interactions with Congress to make these changes, now goes to the Board of Trustees for consideration of adoption as policy.

We encourage readers of the *Journal* to contact their Congressional representatives to voice their concerns about this demeaning language and ask that it be corrected with deliberate dispatch. In the meantime, readers may also wish to contact their relevant state officials to ask that individual states not use the term (or code for) “mental defective” in the required reporting, but instead request that a new code be developed for “individuals who have been the subject of the mental health adjudications listed in 27 C.F.R. § 478.11” or simply “mental health adjudications.” The FBI has expressed its willingness to work with states about their concerns regarding this new reporting mechanism.

The goals of respect and dignity cannot be met by succumbing to offensive language—even in the bureaucratic exchange of electronic spreadsheets.

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7. 27 C.F.R. § 478.11 (2007)
8. 18 U.S.C. § 922 (d) and (g) (2005)