



Written by [Raven Clabough](#) on February 28, 2013

Push for Involuntary Detention of Mentally Ill Continues

The *New York Times* [reports](#) that advocates are seeking to make changes to mental health laws that would give agencies the power to detain those believed to be mentally ill and potentially dangerous. Citing the case of Andre Thomas, a man who had shown signs of needing mental health treatment but was unable to be detained and eventually killed his wife and two children, the *New York Times* attempts to make the case for involuntary detainment of the mentally ill.



Texas Appleseed, a nonprofit advocacy organization, issued a report last year that asked lawmakers to change the existing mental health code that allows those who voluntarily enter facilities in search of mental health care to leave if they wish.

Susan Stone, a psychiatrist who led the Texas Appleseed Project to study and recommend the reforms, explains, "It was last fully revised in 1985, and clearly the mental health system has changed dramatically since then."

The *New York Times* reports, "The Appleseed report's recommendations include eliminating provisions in the code that call for law enforcement to obtain a warrant to detain someone in a mental health crisis and adding explicit laws that allow officers to confiscate firearms from people who become dangerous as a result of their mental condition."

It also recommends a standard one-page intake form for law enforcement officials to complete when taking someone to a mental hospital. Currently, those forms vary from state to state.

But lawmakers assert that changes to the code will likely not happen in this legislative session as it requires legislative studies that have not yet been undertaken.

Some state lawmakers are attempting to make changes to state laws regarding the mentally ill. Representative Jose Menéndez of San Antonio has filed House Bill 245, which would permit hospitals to detain mentally ill and dangerous patients for up to 24 hours.

"I'm putting it in the hands of E.M.S. or emergency room professionals to make the call to say this person is a danger to himself or others," Mr. Menéndez said.

Similar policies have been adopted in New York City, which has begun a [program](#) to round up the city's mentally ill and ensure they are taking their court-ordered medications. The *New York Post* reports that police will be armed with a list of the most-wanted mentally ill and a tracking system, and will force those deemed ill to go to a hospital.

The new policy comes as a result of two recent subway deaths in which the victims were pushed onto the train tracks by mentally ill suspects.

The *Washington Times* reports:

The arrest warrants the police are pursuing do not mean the targets are wanted for crimes, but



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rather for avoiding court-ordered mental-health treatment, according to the *Post*. Police in the city's Real Time Crime Center are tasked with the roundup using advanced technology. Once tracked down, the suspects then will be forcibly taken by detectives to hospitals for treatment.

A handful of police officers are currently assigned to the new policy, which began a few weeks ago.

Hospital officials are anxious to see such a provision adopted, as they often find themselves in a difficult position. If they detain an individual believed to be dangerous against that individual's will, they face liability, but if they release a potentially dangerous individual who commits a crime, they also risk a lawsuit.

"Physicians are trained to determine whether patients meet the criteria for an emergency detention," Stacy Wilson, associate general counsel for the Texas Hospital Association, wrote in an e-mail. "A law that permits physicians to initiate an emergency detention would ease the burden on law enforcement and would help protect patients, their treating physicians and facilities, as well as the community."

However, some civil libertarians are [opposed](#) to these policies, asserting they are a violation of individual civil rights.

According to Judge Andrew Napolitano, involuntary detention of those whom some believe will commit a crime is "clearly unconstitutional."

"We do not have a system of government that lets the government predict who's going to do the wrong thing and arrest them before they do it," Napolitano explains. "The police should be there to keep us safe, the MTA should operate subways and subway platforms that are safe, but you can't arrest groups of people because of what some 1 or 2 amongst their number are likely to do. That's what they did in Eastern Europe and we overthrew those governments."

Napolitano contends that American citizens have a Second Amendment so that "we can protect ourselves" from individuals believed to be dangerous.



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