

NOT FOR PUBLICATION
UNTIL RELEASED BY THE
SENATE SPECIAL COMMITTEE
ON AGING

STATEMENT OF
COMMANDER GARY GOTHAM
BEFORE THE
SENATE SPECIAL COMMITTEE ON AGING
ON
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Mr. Chairman, Senators, ladies and gentleman, I want to thank you for the opportunity to come here today and speak about caring for my dad, Ivan K. Gotham and the tragic and lethal consequences of his mental health condition. I appear here today before the Senate Special Committee on Aging as a very humbled man. “Dignity” is defined in Webster’s dictionary as “*the quality or state of being worthy, honored or esteemed.*” It is a state of being that all of our elderly and aging senior citizens deserve.

My father’s death and the death of Deputy Brian Litz should cause us all alarm. It should serve as the an example and case study for looking at mental health and how dementia patients are treated or *not treated* within the Medicare system, health care services, police and the judicial system. I would not be here today if this was simply a statistical anomaly, an event to be discounted because it is outside the bell curve and standard deviation. In finding the error chain, we have focused on the events of 05-12 January 2004 when my dad was involuntary confined to a mental health hospital. (Refer to Incident Report 04000783 CAD Event 0401060809, Classification 1301 Baker Act, Self-Initiated, 01/05/2004).

On 5 January, at 2230 at night, my father’s life changed when he was involuntarily Baker Acted under Florida’s Mental Health statute. The police report states my dad was confused about his actions that night, but knew where he lived. He was on his way to a date and got lost, went to a house and it was not the correct house. The man that answered the door called the police. When the police found my dad, he was walking with his dog. He had left his car in the man’s driveway. His confusion about the events

caused the police to involuntarily Baker Act him. The officer stated to my brother that, “she really stretched the criteria in applying the law to my dad.”

He was taken to the Marion Citrus Mental Health (The Centers) facility and on the 6th was transferred to Springbrook Mental Health Hospital due to an issue with his Medicare coverage. Despite the 72-hour maximum stay for Involuntary Examination under the Florida Statue Section 394.463, he remained confined for 7 days and was released on the 12th under his own cognizance. The Florida Statute requires a hearing and court order to keep someone beyond the 72 hours for Involuntary Evaluation and hold him or her under Involuntary Placement; however, my dad did not have such a hearing. I contacted the elected public defender’s office in Herndon County, and they held no record of a hearing for my dad. He received no legal representation to discuss his civil rights and explain why he was being kept beyond the 72 hours. His diagnosis severe dementia and delirium - his only after care was a follow-up appointment with The Centers on 29 January. His only medication was for high blood pressure (Toprol XL 50MG, & Zestril 10 MG) and high cholesterol (Zocar 20 MG). It was not until 09 February that we began to understand everything that had happened to my dad.

My family was not aware of the involuntary hospitalization of my dad under the Baker Act until after he was shot and killed on 07 February. The family was not contacted nor notified that my dad was being held involuntarily. In addition, despite the medical care that he had received from October through December 2003, my dad was not

identified as suffering from dementia or delirium. He was not even referred for counseling but rather was treated with Paxil for depression.

Involuntary hospitalization under Chapter 394 The Florida Mental Health Act (The Baker Act) is meant for people suffering from serious mental health and/or individuals that will harm themselves, others or have indications of neglect. Florida has long struggled with Bi-Polar, Schizophrenia, and Alzheimer balancing protection of the public verses constitutional rights of citizens, even mentally ill citizens. The current reforms in SB 700/HB 463 are being lead by the Florida Sheriff's association to unburden law enforcement and strengthen mental health care services. We need look no further than the 1999 Florida Supreme Court Commission of the Baker Act though for its effects on the elderly (refer to Press Release and Executive Summary).

In the public release dated December 28, 1999, the Supreme Court Commission Study stated, "The Florida Supreme Court Commission on Fairness concluded that the Baker Act particularly impacts the state's elders, often in detrimental ways", ... "When Maxine Baker sponsored the Baker Act in the 1970s, her vision was to replace the century-old practice of institutionalization with community-based treatment programs. Though her efforts helped close many of the old psychiatric institutions, Florida has failed to develop an adequate system of community programs to meet the needs of its people," ... "Because of inadequate funding, hearings on petitions for involuntary placement are not always held within the time frames required by law, resulting in lengthier

detention,” ... “Abuse of the Baker Act for monetary gain commonly involves elderly in nursing homes,” ... “Some people detained under the Baker Act receive inadequate legal help, and some Baker Act hearings are so informal the detainees do not understand that their liberty is at stake.”

In the Executive Summary, the report states, “The Baker Act was designed to require the state Department of Mental Health to offer community services to most patients with mental illness, and reserve confinement only if the individual is dangerous to himself or others,” ... “Involuntary mental health examination and placement involve a balancing of individual rights with the state’s parens patriae authority and police powers,” ... “Public testimony before the Florida Legislature indicated that many elders fared poorly and some even died during or shortly after their hospitalization under the Baker Act,” ... “The Baker Act is still being used to confine older people, many of whom may simply be confused or unable to care for themselves,” ... “Obviously, an incorrect decision on the involuntary examination or placement of anyone, but particularly a vulnerable elder, can have disastrous effects.”

What matter most to my dad - liberty, freedom and most importantly dignity? He had given me, and many other people so many gifts throughout life; ensuring his dignity as he departed this earth was the smallest gift I could give him in return, but we were robbed of this familial responsibility. Respecting his freedom and liberty during the three

weeks from 12 January thru 07 February was our greatest challenge, he made it clear to all of us that he never wanted to be put in any kind of home, his home was in his house.

Prior to 12 January he had his share of physical problems, a heart attack in 2000, prostate cancer, a double aneurysm in November 2002 and the emotional fall out from the breakup of his second marriage of 25 years within the first month of the aneurysm. He had also emotionally suffered for the past 27 years from the tragic suicide of his high school sweetheart and wife of 30 years, my mother. He often told me that everyday he thought about how much he loved my mom and missed her. Suicide leaves carnage behind for the survivors to unburden themselves of and attempt to carry on. I always admired him for his strength in recovering from this.

Everything changed on February 07, 2004 when I lost my dad in an incredible turn of events that has crushed my life, my beliefs, and has saddened me to depths that no one should ever be burdened with. I have been overwhelmed with the feeling of being an orphan. It was a Saturday and my sister called that morning, upset and directing me to get in touch with my brother in Florida because my dad's phone was disconnected. It was around 11:30 AM when she called. I called my brother in Florida to talk over what we could do. He would see dad later that day, but we both felt we needed to have the Marion County Sheriff's office conduct a well-being check on him before Randy could get there. I recommended it because we had done it prior to this during the week of 12-17 January 2004. As I had done during the first call, I made sure that the dispatch knew that my dad had a gun in the house, was having physical as well as mental stability issues. I was

adamant that I wanted to know that the police officer conducting the well-being check was aware. I wanted to prevent a tragedy. The call went out from the dispatch at 12:07 PM and by 12:32 PM my father, 74 years old and failing in mental health in ways we did not comprehend shot and killed a Sheriff's Deputy, Brian Litz who was 36 years old. 42 minutes later in what is still shrouded in confusion, misunderstanding and lacking in truth, my dad, unarmed was shot and killed in a blaze of gunfire from police and SWAT at 1:17 PM. (Refer to Incident Report 04006553 CAD Event Classification 1701 Death, Homicide, 02/07/2004).

As a family with the help of neighbors and friends, we have pieced together the last six months of dad's life. In July he spent the month with me in Washington DC driving 1300 miles up in his RV from Florida to celebrate the 4th of July and his 74th birthday. I just returned from Operation Iraqi Freedom (OIF) and he wanted to welcome us home. I cannot tell you the pride that my dad had in his kids and in me for my 23 years of service in uniform with the Navy. I had checkout of the Pentagon 10 September 2001 and in October flew out of Dulles to Japan, he was the most scared he had ever been for my family and I knowing we would be flying. For the next 18 months I fought in Operation Enduring Freedom and Operation Iraqi Freedom supporting the Global War on Terrorism. We spoke all of the time about the September 11th terrorists attack. It was hard for him because he lived through the Japanese attacks on Pearl Harbor December 7th, 1941. We had a neighborhood party for his birthday, attended a baseball game with the local AAA Potomac Cannons and watched the fire works.

He returned to Florida and bought a house in Ocala. He spent Thanksgiving with a new female friend from Canada and my brother Randy and his fiancé. For Christmas I had bought him a stereo and he spent several days laughing about how much joy he had from music throughout his life, it was the happiest he had been since I returned. He bought a TV and hooked it up to watch DVDs. My brother and his fiancé saw dad the weekend after Christmas and his spirits were excellent. He sent his grand kids money for Christmas and a card for my birthday in January. He had recently been to the doctor for a routine checkup on his prostate cancer. He was being treated for a blockage in his ear. His primary care provider proscribed him Paxil due to his depression from the breakup of his marriage. In December he had some work done on one of his eyes. He had turned his left hearing aid into the doctor for repair in December. His physical health was in good shape and his recovery from the aneurisms was remarkable. He had redone his Living Will, his Last Will and Testament and a Power of Attorney for my Brother in December. We spoke about the 2004 Presidential elections and he drilled me about the President's decision to go to war in Iraq. We spoke about the democratic primaries and the issue of Drug Prescription and Medicare Reform. He remained lucid and engaging in our conversations.

I talked with my dad almost every day after I returned from Japan. He has been my best friend for years. I thank God that we had the most remarkable relationship beyond a father and son. We spoke on 31 December, New Year's Eve and again on New Year's Day. New Year's Eve is his wedding anniversary from his 2nd marriage. We all worry most about him during the holiday season. After loosing my Mom in 1977 in a

tragic death, the holidays are always hard for all of us. My birthday is on the 5th of January and I was not able to reach dad for the next week. It was the first time we had not spoke on my birthday as far back as I can remember. His neighbors, Carl & Mary, God bless them; let us know that dad had been in the Hospital for the past 7 days. Mary personally hounded the Springbrook Hospital to find out why they were keeping my dad beyond the allotted 72 hours for evaluation. Frantic calls in the family occurred to determine if anyone of us knew what had happened. I regained contact with him on 12 January, the day he got out of Springbrook – he was not my dad anymore. For the next 3 weeks we all encountered a troubled mental state with my dad. He was lucid at times and at others he spoke of events that were unreal. He was paranoid, spoke of having a discussion with Jesus, thought his second wife and stepdaughters had committed suicide, his sense of the reality had faded away.

Believing that something tragic had happened to my stepmother I contacted the county sheriff. She had not committed suicide. I called my stepsister and confirmed that our sisters were OK. When I tried to get my dad to listen, he felt betrayed; he felt that I did not trust him. In return calls to the police seeking help, I learned about the Well Being check. That first week I called and requested they check on him. It went well and they called from inside his house confirming that he was OK. But after the sheriff's left, again he returned to his unreal world. I was very concerned about the gun he kept in the house because I felt he might commit suicide. My brother Randy visited my dad and tried to get the gun out of the house. He even discussed the issue with the same deputy that had placed my dad under the Baker Act 05 January. My dad had a second incident with the

Sheriff on 24 January (Refer to Incident Report 04004142 CAD Event 0401240421, Classification 3311 Information, 01/24/2004). The deputy assisted my brother in providing contact information for Senior Services with the Department of Children and Family. We were trying to reach agreement with my dad that he would move up to my brothers in Jacksonville until he was stable again. Randy had contacted a lawyer to find out the mechanisms for us to take control over my father to get him some help. Before we could take these actions my father was killed.

There is no eloquence of words that can describe the depths of my personal grief, sorrow and guilt that I feel in the loss of Brian Litz and my father. My dad was still giving to his family, his country and the world; Brian was just starting his own remarkable journey in life. I knew my dad as a great man, an incredible father, a best friend - a legend. He handed down to me a Puritan Work Ethic – hard work, for God and country. Family, love, church, neighborly kindness, freedom, respect for our parents, teachers, the military, our leaders, our service providers in police, fireman, etc., these were the hallmarks of his teachings. He still cried during the national anthem when we went to baseball game 04 July 2003. I can't help but question the ability of the medical care and especially the mental health care system in providing appropriate care for my dad. If we had been notified of the involuntary placement, if he had been properly treated with follow-up care, if we had been there to take him home from the hospital, I know he would still be alive.

We are all searching for answers to understand these tragic events. My own quest for answers is to alleviate the tremendous guilt that I bear in the personal responsibility for the deaths of my dad and Brian. Some need to blame us, while others question the states ability to provide adequate care for the elderly and the frequent misuse of Florida's Baker Act with the elderly. I thank the Committee for this opportunity today.