

Congress of the United States
Washington, DC 20515

January 14, 2011

The Honorable Gene Dodaro
Comptroller General of the United States
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Comptroller Dodaro:

We are requesting an audit of the National Instant Criminal Background Check System (NICS), established by Public Law 103-159 and updated by the NICS Improvement Amendments Act of 2007, P.L. 110-180. As you know, federally licensed firearms dealers use NICS to determine whether an individual is disqualified by law from possessing a firearm. In 2007, Congress enacted reforms to ensure that the records of those determined legally unfit to possess a firearm are complete and transmitted to the NICS database in a timely fashion. The law provides for grants to states to upgrade their electronic databases, incentives for states to transmit electronic records to NICS, penalties for states that do not comply, and requirements for keeping the system up-to-date, including the removal of obsolete or erroneous records. It also provides financial incentives for states to develop "relief from disabilities" procedures for persons who had lost the right to possess a firearm because of a mental health adjudication or commitment but who are later determined not to present a danger to public safety.

As you know, in the wake of the recent tragic attack on Representative Gabrielle Giffords, which claimed the lives of six individuals and wounded 13 others, there are questions about how the accused attacker, widely believed to be mentally ill, was able to purchase a firearm legally. While the suspect was not adjudicated mentally deficient or committed to a mental institution, and therefore not legally prohibited from purchasing a firearm for mental health reasons, questions remain, such as the extent to which he may have been unlawfully using drugs (another federal prohibitor). In any event, this terrible tragedy underscores the importance of keeping NICS up-to-date. As the *Wall Street Journal* reported, 0.74 percent of NICS denials are based on mental health reasons as opposed to 73 percent based on criminal history. In addition, the National Center for State Courts reported that about twice as many mental health records should be included in NICS as the system currently holds.

NICS is only as good as the information it receives from state and federal sources. As authors of the legislation and proponents of keeping firearms from those who cannot safely and legally possess them, we want to ensure the NICS Improvement Amendments Act is being properly administered and enforced. In light of this, we ask you to investigate the following:

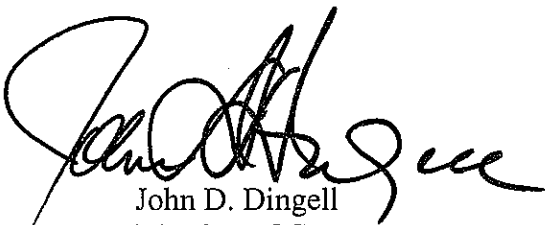
- How have the improvements to NICS as specified under P.L. 110-180 been implemented?
- Has there been a significant improvement in the efficiency and efficacy of NICS?
- Does the level of funding annually appropriated by Congress meet the demands of the program?

- Are states and local units of government transmitting information in a timely and accurate manner? If not, why not? If not, which states are not in compliance?
- Do states have sufficient incentive to ensure timely and accurate record transmittal? If not, why not?
- What challenges do states face in transmitting mental health records to NICS?
- Are states adequately apprised of what sort of state commitments or adjudications and what sort of information pertaining to unlawful drug use are reportable under federal prohibited person standards?
- To what extent are states currently providing reportable information on unlawful drug use to NICS, and what challenges do states face in providing that information?
- How many states have been found to have implemented "relief from disabilities" procedures in compliance with the NIAA? Which states have implemented this procedure and which have not?
- In those states that have compliant relief procedures, how many people have applied for relief and how many applications have been granted or denied?
- Is NICS being timely and accurately updated with information on approved applications for relief?
- Is NICS being timely and accurately updated by removal of obsolete or erroneous state records?

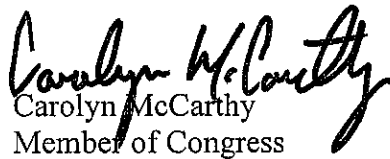
In addition, if there is other information that is relevant to the administration and enforcement of the NICS Improvement Amendment Acts of 2007, please include it in your investigation.

Thank you for your attention to this matter. This information will be useful as we consider policy on public safety. We look forward to working with you on this assignment and request that you provide an initial response by February 7, 2011. Should you have any questions, please contact Erica Fein (Dingell) at (202) 225-4071, Michael Grogan (McCarthy) at (202) 225-5516, or Emily Ghan (Capps) at (202) 225-3601.

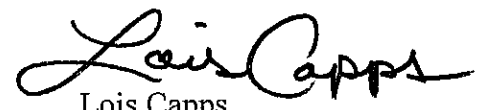
Sincerely,



John D. Dingell
Member of Congress



Carolyn McCarthy
Member of Congress



Lois Capps
Member of Congress