

February 28, 2019

The Honorable William Pelham Barr
U.S. Department of Justice
950 Pennsylvania Avenue N.W.
Washington, DC 20530-0001

Dear Attorney General Barr:

On November 5, 2017, a gunman walked into the First Baptist Church in Sutherland Springs, Texas and murdered twenty-six innocent men, women, and children. The attack was the deadliest mass shooting in an American place of worship and the deadliest shooting in the state of Texas.

This tragedy may have been prevented by a better working and more accurate National Instant Criminal Background Check System (NICS). Specifically, the gunman was able to legally purchase his firearms despite having a prior conviction for domestic violence. The conviction should have prevented him from legally purchasing a gun, but the Air Force failed to upload his conviction into the proper databases.

Following this horrific shooting, Congress passed the bipartisan Fix NICS Act. This law is an important step in updating our criminal background check system and ensuring that convicted criminals cannot purchase firearms.

The Fix NICS Act required a series of steps to be taken and set benchmarks to assess progress in correcting problems with the NICS database. It also requires the head of each agency or department to submit a semiannual certification to the Attorney General indicating if the agency is in compliance with the record submission requirements.

In addition, each agency must establish implementation plans within one year of the bill's enactment. These implementation plans are designed to ensure maximum coordination and automated reporting of appropriate records to the Attorney General, and must include benchmarks to allow the Attorney General to assess its implementation.

Finally, the Fix NICS Act directs DOJ to assist states that are not in compliance with grant eligibility requirements, and requires the Attorney General to establish implementation plans for each state and tribal government. The Attorney General is required to determine if the state is in compliance with the benchmarks contained in the implementation plan.

Since the enactment of Fix NICS, federal agency record submissions have increased by roughly 400%. Unfortunately, it has come to our attention that several agencies, including the Department of Defense and the Department of Homeland Security, have yet to comply in full with the Fix NICS reporting requirements. These missing records undermine the effectiveness of the NICS system and put innocent lives at risk. As the Department of Defense Office of the Inspector General (DOD OIG) Report shows, agencies must implement better policies to ensure they are reporting the necessary and appropriate records to the databases.

We write to request that you update us on the progress made in implementing the Fix NICS Act. Specifically:

1. How many records has each agency submitted since the enactment of the Fix NICS Act?
2. How many records does each agency estimate remain to be submitted to NICS?
3. What steps are you taking to ensure that agency records are accurately submitted in a timely manner?
4. Which agencies have submitted their semiannual certification indicating their compliance with the Fix NICS Act reporting requirements?
5. What barriers prevent your access to relevant state databases?
6. What technical assistance has the Department of Justice provided to state and tribal governments under the Fix NICS Act?
7. What training services has the Department of Justice provided to state and tribal governments under the Fix NICS Act?
8. Which states have applied for Bureau of Justice Assistance grants?
9. Which states have applied for Bureau of Justice Assistance grants but were denied?
10. Of the funds allocated to Bureau of Justice Assistance grants, how much went unused last year?
11. Which states that were previously ineligible for Bureau of Justice Assistance grants have now been brought into compliance since the passage of the Fix NICS Act?
12. Which state and tribal governments has the Attorney General developed implementation plans for?
13. Has the Department of Justice established an implementation plan with each US state? Did state officials cooperate in establishing those plans?

14. Has the Department of Justice set up adequate process to track progress towards annual benchmarks in each state?
15. What focus if any has Department of Justice placed on improving domestic violence records in the implementation plans? Has the Department of Justice created any new resources for states to use in ensuring timely, accurate, and complete submission of those records?
16. Have states begun to show progress towards better coordinating and automating their records?
17. Which states have the most significant reporting gaps, and how do the Fix NICS implementation plans for those states address those gaps? What resources will be expended to focus on improvement in those states?
18. Are any specific provisions of the Fix NICS Act proving particularly problematic or difficult to implement?
19. What efforts are being taken to correct erroneous or incorrectly reported records?
20. Please inform us of any other steps the Department of Justice has undertaken to implement the Fix NICS Act since enactment.
21. In its report on the investigation into the Sutherland Springs shooter, the DOD OIG examined whether to seek legislation to specifically include commander-issued no contact orders and Military Protective Orders as disqualifying factors for the purchase of a firearm. Is this something that the Department of Justice has considered?
22. Are there additional actions that the Department of Justice recommends to better ensure that prohibited persons cannot access firearms?

We believe that Fix NICS is an important step in making sure that criminals and other prohibited persons cannot gain access to firearms, and we look forward to your response on its implementation.

Sincerely,

JOHN CORNYN
United State Senator

CHRISTOPHER S. MURPHY
United State Senator

LINDSEY GRAHAM
United State Senator
Chairman, Judiciary Committee

DIANNE FEINSTEIN
United State Senator
Ranking Member, Judiciary Committee

TIM SCOTT
United State Senator

RICHARD BLUMENTHAL
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