

Testimony before the House Appropriations CJS Subcommittee  
Rep. Carolyn McCarthy  
4/2/09

- Thank you Chairman Mollohan, Ranking Member Frelinghuysen, and Members of the Commerce, Justice, Science Appropriations Subcommittee.
- I appreciate your allowing me to testify today in support of including full funding in the Fiscal Year 2010 Commerce Justice Science Appropriations bill under the Department of Justice Community Oriented Policing Services to implement H.R. 2640, the NICS Improvement Amendments Act of 2007, Public Law Number 110-180.
- I thank the Committee for including \$10 million for NICS Improvements in FY09. This is a good start but there is More needed to truly make a difference.
- H.R. 2640 was signed into law on January 8, 2008, after having passed both the House and Senate unanimously.
- I know the budget is tight, Mr. Chairman, but fully funding this program is so important because currently the National Instant Criminal Background Check System, or NICS, is deeply flawed.
- NICS is a national database system that flags individuals precluded under current law from purchasing and possessing firearms.
- MILLIONS of criminal records are currently missing from the databases that make up NICS due to funding restrictions and technology issues at the state level.
- Many states have not automated individuals' records concerning mental illness, restraining orders, or misdemeanor convictions for domestic violence.
- Simply put, NICS must be updated on the state level so that it can properly function on the federal level.

- This point is underscored by the circumstances surrounding the shootings at Virginia Tech in 2007 and also with what occurred at First Baptist Church in Merryville Illinois this year.
- Both of those shootings remind me of a similar shooting that took place in my district at Our Lady of Peace Church in Lynbrook NY in 2002.
- Peter Troy purchased a twenty-two caliber semi-automatic rifle. He had a history of mental health problems and his own mother had a restraining order against him as a result of his violent background.
- 4 days later, Mr. Troy walked into Our Lady of Peace Church in Lynbrook New York and opened fire, killing Reverend Lawrence Penzes.
- It was illegal for him to purchase a gun, but for many reasons he was able to slip through the NICS system.
- Unfortunately, flaws in the NICS system allowed his record to slip through the cracks and he was able to purchase two handguns, and used them to brutally murder THIRTY TWO individuals.
- He passed a Brady background check because NICS did not have the necessary information.
- Sadly, this same scenario happens every day.
- The NICS Improvement Amendments Act requires all states to provide NICS with the relevant records needed to conduct effective background checks.
- It is the state's responsibility to ensure this information is current and accurate. They must update their records to ensure violent criminals do not have access to firearms. And then, they must share the information with NICS.

- However, I recognize many state budgets are already overburdened.
- This law provides grants to states to update their records and provide those records to NICS.
- States will receive the funds they need to make sure relevant records are up-to-date.
- The NICS Improvement Amendments Act of 2007 corrects the primary flaw and will prevent thousands of individuals precluded from purchasing firearms from doing so.
- Approximately NINE-HUNDRED AND SIXTEEN THOUSAND individuals were precluded from purchasing a firearm for failing a background check between November 30, 1998, when NICS began operating, and December 31, 2004.
- During this same period, nearly FORTY NINE MILLION Brady background checks were processed through NICS.
- These numbers prove that NICS works and will continue to work. However, since NICS is only as good as the information it contains, we must ensure that NICS has the most up-to-date records to stop criminals, those adjudicated as mentally ill, and those under a restraining order from purchasing firearms.
- It has been estimated that approximately 40 million records are missing from the various databases that make up NICS.
- By providing this funding, we will move one step closer to bringing the records of millions of barred individuals into NICS.
- This law imposes no new restrictions on gun owners and does not infringe on the 2<sup>nd</sup> Amendment rights of law-abiding citizens. It simply makes improvements to a program that saves lives.
- The NRA, Brady Campaign, Mayors Against Illegal Guns, and a number of towns and cities have supported full funding for NICS.

- I respectfully request that you include \$375 million in the Fiscal Year 2010 Commerce Justice Science bill under the Department of Justice Community Oriented Policing Services in order to fully fund the NICS Improvement Amendments Act of 2007.
- On another matter, Mr. Chairman, I wanted to express my continued, strong opposition to the provision in the bill known as the “Tiahrt Amendment”. I support fully eliminating the Tiahrt Amendment language. Short of this, I support efforts to continue to improve the language so that law enforcement can have the tools it needs to fully investigate and prosecute gun crimes.
- Trace data is how you find the straw purchases and problematic gun dealers. It is time that ATF be able to fully share crime gun trace data to work hand-in-hand with state and local law enforcement. That full partnership could help stem the flow of illegal guns into Mexico – and it could deter illegal gun trafficking into American cities as well.
- Thank you for your time and I would be happy to answer any questions you may have.