

The Social Security Administration's Implementation of Reporting Information to the National Instant Criminal Background Check System

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Office of Audit Report Summary

Objective

To answer questions from Congress regarding the Social Security Administration's (SSA) proposed reporting of individuals to the National Instant Criminal Background Check System (NICS) and how this relates to SSA's Representative Payment Program.

Background

The President signed the *NICS Improvement Amendments Act of 2007* (NIAA) into law on January 8, 2008. The NIAA amended the *Brady Handgun Violence Prevention Act* (Brady Act) under which the Attorney General established the NICS. The Brady Act requires that Federal Firearms Licensees contact the NICS before they transfer a firearm to an unlicensed person. The purpose is to determine whether State or Federal law prohibits the unlicensed person from possessing a firearm.

On January 16, 2013, the President issued a memorandum directing the Department of Justice to provide agencies guidance regarding the identification and sharing of relevant Federal records and their submission to the NICS.

On May 2, 2016, Congress wrote to the Office of the Inspector General with specific questions about the information SSA proposed to provide NICS.

Conclusions

SSA proposes to report to NICS individuals who, among other things, are age 18 or older, meet or medically equal one of the Mental Disorder Listing of Impairments, and who have a representative payee. However, the *Notice of Proposed Rulemaking* detailing SSA's proposal closed for public comment on July 5, 2016, and SSA informed us that it received 90,920 comments. As of August 2016, the Agency was still evaluating the comments and had not made a final decision as to what it will *actually* report to NICS.

If the beneficiary has a mental impairment, the Agency's policy is to develop for capability only if there is an indication that the beneficiary's impairment prevents him/her from managing or directing someone else to manage his/her benefits.

Supervisors do not need to sign off on most representative payee determinations. However, certain representative payee selections require management approval—for example, the selection of an individual as payee who was previously not selected because of past poor performance.

Training on representative payee determinations is part of required training for SSA employees who make these types of determinations. However, additional training is needed based on Office of the Inspector General, SSA, and Institute of Medicine reports.