

United States Senate

Senator Tom Coburn, MD
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October 16, 2007

Gordon H. Mansfield
Acting Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Acting Secretary Mansfield,

I know that we are in complete agreement that our veterans deserve the best healthcare and mental health treatment possible and that, in so doing, there should be no threat that they will lose their Constitutional rights in the process. Earlier this year I was informed that the VA submitted the names of some 83,000 veterans to the Department of Justice's National Criminal Instant Background Check System (NICS) in 1998. I was shocked to learn that veterans who had served their country could have their Second Amendment rights jeopardized in this way.

I have subsequently learned that this was not an isolated incident and it has happened on numerous other occasions. In fact, the VA continues to send the names of approximately 1,000 additional veterans to the Department of Justice every month. The Congressional Research Service estimates that this has resulted in approximately 140,000 Veterans being added to the list in total.

This situation is concerning to me as the vast majority of these veterans have committed no crime but, should they continue to own a firearm, they could unknowingly be in violation of 18 U.S.C 922 (g)(4) and can be prosecuted under 18 U.S.C. 924 (a)(2). This could result in fines and up to a ten year prison sentence. Also, this determination, as well as the forwarding of veterans' information to the Department of Justice, would come before these veterans have been given their right to appeal to the Board of Veterans' Appeals, the Court of Appeals for Veterans Claims, or the Federal Circuit.

Your General Counsel's office has stated that this determination and the forwarding of names to the DoJ has nothing to do with whether the veteran has been adjudicated to be a "danger to him/herself or others." The only determining factor is whether a Veteran can manage his or her own financial affairs. I am concerned that, by placing these 140,000 veterans' on the NICS list, veterans have been permanently barred from purchasing or possessing any kind of firearm by your agency and, of further alarm, without notifying them of their placement on the list.

I am certainly understanding of the fact that some veterans could be debilitated to the point that such cataloguing is necessary, but we should ensure this process does not entangle the vast majority of our combat veterans who simply seek to readjust to normal life at the conclusion of their tours. I am troubled by the prospect of veterans refusing necessary treatment and the

benefits they are entitled to. As I'm sure you would agree we cannot allow any stigma to be associated with mental healthcare or treatment of Traumatic Brain Injury.

I look forward to working with you to restore the rights of those veterans who have been unfairly added to the NICS list, and I respectfully request that you share with me your plans to prevent the release of more veterans' names without due process.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Coburn". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tom A. Coburn, M.D.
United States Senator