

United States Senate

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March 11, 2024

The Honorable Denis McDonough
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Ave., NW
Washington, DC 20420

Dear Secretary McDonough,

I write today to ask the Department of Veterans Affairs (VA) to begin immediately collecting, and making publicly available, anonymized data that captures the number of veterans determined by the Department to be mentally incapacitated, mentally incompetent, or to be experiencing an extended loss of consciousness as a person who has been adjudicated as a mental defective (mentally incompetent), who should have been referred to the National Instant Criminal Background Check System (NICS) under the law and practice as it existed prior to the enactment of the *Consolidated Appropriations Act, 2024*, the number of veterans who harm themselves or others with a firearm, and the total number of victims killed or harmed. Unfortunately, I believe the public reporting of such anonymized data will demonstrate the sad reality of the dangers of upending this critical public safety tool.

NICS was established through *The Brady Handgun Violence Prevention Act of 1993*, and requires Federal Firearms Licensees (FFLs), among others, to conduct background checks on gun transactions to prevent prohibited persons from obtaining a firearm. Over 90% of Americans believe that background checks are a commonsense solution to gun violence and 30 years of law have demonstrated that background checks save lives. However, Section 413 of the *Consolidated Appropriations Act, 2024*, disrupts this precedent by requiring a separate judicial finding of dangerousness; yet at the same time, Section 413 does not create such a judicial review process, nor does it appropriate the VA additional resources to seek these judicial determinations.

As we know, veterans are at increased risk of suicide, and access to a firearm increases both the odds of suicide attempts and fatal suicides when it is attempted. In fact, according to the VA, “in 2021, 6,392 Veterans died by suicide, which was an increase of 114 suicides compared to 2020. When looking at increases in rates from 2020 to 2021, the age- and sex-adjusted suicide rate among Veterans increased by 11.6%, while the age- and sex-adjusted suicide rate among non-Veteran U.S. adults increased by 4.5%. Veterans remain at elevated risk for suicide.”¹ In the

¹ VA Suicide Prevention, Office of Mental Health and Suicide Prevention, *2023 National Veteran Suicide Prevention Annual Report* (November 2023), <https://www.mentalhealth.va.gov/docs/data-sheets/2023/2023-National-Veteran-Suicide-Prevention-Annual-Report-FINAL-508.pdf>

context of such compelling data, I am truly saddened that the desires of the gun lobby superseded data, 30 years of law and practice, and the concerns of gun safety groups.

I strongly believe adopting this provision leaves veterans, their families, and our communities in danger. Section 413 is also the first significant roll back of existing gun safety measures following the passage of the *Bipartisan Safer Communities Act*, which makes it feel even more disappointing. I intend to work tirelessly to remove this harmful provision in future appropriations bills; however, in the meantime the collection and public reporting of the referenced data is necessary to fully understand the impact of this dangerous provision.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Murphy", is centered on the page. The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Christopher S. Murphy

United States Senator