



Written by [Bob Adelman](#) on June 13, 2016

Final Rules Disclosed for How Social Security Admin. Plans to Disarm Its Beneficiaries

Final rules on how the Social Security Administration (SSA) plans to prohibit its beneficiaries from owning firearms [were published in early May](#), but it took several weeks for observers parsing the 41-page document to realize its implications for the Second and Fifth Amendments.



It was sold as impacting, on an annual basis, only about 75,000 beneficiaries receiving disability benefits, or 0.11 percent of the 65 million people already receiving checks from the system. This was to counteract the initial impression that the new rules would prohibit more than four million citizens from owning firearms because of mental health issues. As expressed by Alan Zarembo, writing for the anti-gun *Los Angeles Times* a year ago, “The push is intended to bring the Social Security Administration in line with [other] laws regulating who gets reported to the National Instant Criminal Background Check Systems (NICS) ... which is used to prevent gun sales to felons, drug addicts, immigrants in the country illegally, and others.”

That “others” category was about to get much larger: Anyone who has named a “representative payee” to receive his or her benefits. Initially it was designed to follow the Veterans Administration, which places the names of anyone “adjudicated as a mental defective” with the only criterion being that that beneficiary has appointed someone else as a fiduciary or “representative payer” to receive his benefits for him or her.

In January the White House issued its executive orders “to reduce gun violence and make our communities safer,” which included this regarding the expansion of regulations by the SSA:

The Social Security Administration has indicated that it will begin the rule-making process to ensure that appropriate information in its records is reported to NICS [which] will cover appropriate records of the approximately 75,000 people each year who have a documented mental health issue, receive disability benefits and are unable to manage those benefits because of their mental impairment, or who have been found by a state or federal court to be legally incompetent.

Notably missing from the White House directive was any mention of due process required under the Fifth Amendment, or the Second Amendment rights about to be violated. The rules the agency was “developing” were buried deep in the 41-page document released for public review and comment.



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The key phrase containing the dangerous overreach by the agency — far outside the purview of Congress (the only law-making branch of the government allowed under the Constitution) — was this:

Under the proposed rule, we [SSA bureaucrats] would identify, on a prospective basis, individuals who received Disability Insurance Benefits under Title II of the Social Security Act ... or Supplemental Security Income (SSI) payments under Title XVI of the Act.

And just how would identification take place, exactly? On Page 19 the question is answered in part:

If we have information that the beneficiary has a mental or physical impairment that prevents him or her from managing or directing the management of benefits, we will develop the issue of capability.

And what is this “issue of capability”? That is found in a footnote at the bottom of page 19, referring one to the rules by which said SSA bureaucrat determines whether said beneficiary is capable of handling his or her own affairs, or not:

Does the individual have difficulty answering questions, getting the evidence or information necessary to pursue the claim, or understanding explanations and reporting instructions?

If so, do you think this difficulty indicates the beneficiary cannot manage or direct the management of [his or her] funds?

Presto! Rights under the Second and Fifth Amendments are suddenly and secretly obliterated. Notice is then sent to the beneficiary after the fact, with instructions as to how he or she might want to contest the decision. Meanwhile his or her name is now on the list at the NICS of persons ineligible to own firearms — currently at 13 million and growing daily.

It should be noted further that the rules are written in such a way as to include anyone receiving benefits from SSA, not just disability benefits. That would include a vast swath of seniors who may, for the sake of convenience, have named a fiduciary or “representative payer” to manage their checkbooks.

When the National Rifle Association (NRA) uncovered the plot, it published its warning: “Financial acumen, even if related to an underlying issue with sleep disturbances or inflated self-esteem, has no necessary relationship to a propensity for violence, and it’s not a sufficient basis to strip persons of their inalienable right to self-defense.”

At present, best estimates are that, under these rules, 177,000 veterans have already had their rights violated by having their names appear on the NICS watch list. Once Social Security’s new rules are implemented (the comment period closes on July 5), the total under the “other” category is likely to jump into the millions. After all, what is to keep an agency from making its own rules without congressional interference or concerns about constitutional abrogation?

The Founders were right: The very definition of tyranny is the combining of the executive, legislative, and judicial functions into a single agency.

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