



Written by [Joe Wolverton, II, J.D.](#) on April 27, 2015

Why Is President Obama Prohibiting Veterans From Owning Guns?

Senator Chuck Grassley (R-Iowa) is digging for information on why nearly all of the names on the U.S. Justice Department's gun ban list in the "mental defective" category belong to veterans or their dependents.

In [a letter to outgoing U.S. Attorney General Eric Holder](#), Grassley questions the Obama administration's attack on the right of all Americans, including veterans and their families, to keep and bear arms.



"It's disturbing to think that the men and women who dedicated themselves to defending our freedom and values face undue threats to their fundamental Second Amendment rights from the very agency established to serve them. A veteran or dependent shouldn't lose their Constitutional rights because they need help with bookkeeping," Grassley said.

Despite the Second Amendment's clear prohibition on all federal abrogations of the right to own and use weapons ("the right of the people to keep and bear Arms, shall not be infringed"), Congress has passed "laws" mandating that all federal agencies report names of individuals to the National Instant Criminal Background Check System's (NICS) "mental defective" category.

Inclusion on the list prohibits the person from ever owning or possessing a gun. The legal standard guiding when a name is supposed to be reported to the "mental defective" category is whether the individuals are a danger to themselves or others. However, the Department of Veterans Affairs (VA) process does not support such findings. Instead VA reports individuals to the gun ban list if an individual merely needs financial assistance managing VA benefits.

Ostensibly, the VA process was never meant to affect a veteran's right to own, use, or possess a firearm. In practice, however, the process often results in veterans and their loved ones being barred from exercising their fundamental, constitutionally guaranteed Second Amendment rights.

Data published by Congressional Research reveals that in 2012 the VA was responsible for 99.3 percent of all "mental defective" referrals to NICS. Grassley sees gross irony in that figure, given, he says, that these are the very people who were charged with protecting the very freedom they and their families are now being denied.

Grassley is no Johnny-come-lately to the fight to restore the fundamental right to keep and bear arms to veterans and their families. In 2014, he introduced legislation that included a provision requiring a judicial authority to find individuals to be a danger to themselves or others in order to be added to the mental defective category within NICS. This legislation would have effectively overturned administrative actions by the VA to add individuals to the NICS simply because they were unable to manage their financial affairs.

Since the beginning of his administration, President Obama has followed a policy of targeting vets, taking away their guns, imprisoning them, and labeling them as "right wing extremists" and potential



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threats to national security.

Consider this quote from a Department of Homeland Security report entitled "[Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment](#)":

The possible passage of new restrictions on firearms and the return of military veterans facing significant challenges reintegrating into their communities could lead to the potential emergence of terrorist groups or lone wolf extremists capable of carrying out violent attacks.

Veterans are being asked to serve tour after tour in unconstitutional foreign conflicts with no identified enemy, then returning home and having their most basic right denied by the very government that asked them to sacrifice their lives.

There was a story last year about a police raid on the house of an Army veteran and Purple Heart recipient in Ohio. The county sheriff executed a search warrant and seized the man's guns for the "safety of the defendant and the general public."

Although unnamed, the government ruled the man was mentally incompetent to handle his own affairs or to own a weapon.

Apart from the government's reprehensible quest to disarm veterans, brand them as mentally ill, and treat them as terrorists, there is the fact that all this is being done in violation of the veterans' right to due process protected by the Fifth Amendment.

The [Fifth Amendment to the Constitution](#) provides that no person shall be "[deprived](#) of life, liberty, or property, without [due process](#) of law."

Grassley considers the current process to not only potentially deny veterans and their families of their right to keep and bear arms, but of their right to due process, as well. He explains his concern in his letter to Holder:

In addition, the procedural protections the VA affords to veterans are weak. First, the standard of review is particularly low for a fundamental constitutional right: clear and convincing. Hearsay is allowed. And, there are no significant checks and balances in place to ensure that there is any evidence to conclude that a veteran is a risk to the public or themselves. Of particular concern, although VA employees can personally meet with veterans and non-veteran dependents who are receiving VA benefits, only when VA personnel meet with veterans are they directed to consider whether competency is at issue. Thus, it appears that veterans are immediately targeted by VA personnel upon initial contact.

Furthermore, when a veteran receives a letter stating that the VA believes he is unable to manage his finances, that veteran now has the burden of proving that he is in fact competent to manage his benefit payments and does not need a fiduciary. However, underlying the hearing is a real possibility that the right to firearms will be infringed. Therefore, in light of the liberty and property interests involved, placing the burden of proof on the veteran is highly suspect. Under similar circumstances, the burden is generally on the government. Further, the hearing that takes place is inside the VA administrative system and composed of VA employees rather than a neutral decision maker.

Under the current practice, a VA finding that concludes that a veteran requires a fiduciary to administer benefit payments effectively voids his Second Amendment rights — a consequence which is wholly unrelated to and unsupported by the record developed in the VA process.



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Accordingly, Congress needs to understand what justifies taking such action without more due process protections for the veteran.

As in the case of so many other constitutional impediments to its statist goals, the president and his subordinates are ignoring the Fifth Amendment and arresting, disarming, and imprisoning veterans without due process.

Of course, the VA assures veterans subject to disarmament that if they file a timely objection to the decision, a VA board will consider their appeal. This is hardly the rigorous legal process required before the government can constitutionally deprive citizens — or any person — of their most basic constitutional rights.

Why is the president targeting veterans? [Michael Connelly proposes the following possible explanation:](#)

The reality is that Obama will not get all of the gun control measures he wants through Congress, and they wouldn't be enough for him anyway. He wants a totally disarmed America so there will be no resistance to his plans to rob us of our nation. That means we have to ask who will be next. If you are receiving a Social Security check will you get one of these letters? Will the government declare that you are incompetent because of your age and therefore banned from firearm ownership. It certainly fits in with the philosophy and plans of the Obama administration. It is also certain that our military veterans don't deserve this and neither do any other Americans.

Or, as Michael Snyder [wrote at the American Dream](#), "The federal government wants lots of warm bodies to throw into battle, but when those bodies get broken the government is not there to pick up the pieces."

As of April 25, the Justice Department has not responded to Senator Grassley's inquiry.



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