



January 31, 2017

The Honorable Mitch McConnell  
Senate Majority Leader  
317 Russell Senate Office Bldg.  
Washington, DC 20515

The Honorable Chuck Schumer  
Senate Minority Leader  
322 Hart Senate Office Bldg.  
Washington, DC 20515

Dear Majority Leader McConnell and Minority Leader Schumer:

The National Association of Rights Protection and Advocacy (NARPA) urges you to support a Congressional Review Act (CRA) resolution to disapprove the Final Rule issued by the Social Security Administration (SSA) on December 19, 2016, "Implementation of the NICS Improvement Amendments Act of 2007." NARPA was formed in 1981 to provide education and advocacy in the mental health arena. Members are attorneys, people with psychiatric histories, mental health professionals and administrators, academics, and non-legal advocates. Central to NARPA's mission is the promotion of those policies and strategies that represent the preferred options of people who have been diagnosed with psychiatric disabilities.

This rule requires the Social Security Administration to forward the names of Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefit recipients who use a representative payee to help manage their benefits due to a mental impairment to the National Instant Criminal Background Check System (NICS). The rule is inconsistent with the statute it implements, has no evidentiary justification, would wrongly perpetuate inaccurate stereotypes of individuals with mental disabilities as dangerous, and would divert already too-scarce SSA resources away from efforts to address the agency's longstanding backlog of unprocessed benefits applications toward a mission in which the agency has little expertise.

First, there is no statutory basis for the rule. The National Instant Criminal Background Check System (NICS) statute authorizes the reporting of an individual to the NICS database on the basis of a determination that the person "lacks the capacity to contract or manage his own affairs" as a result of "marked subnormal intelligence, or mental illness, incompetency condition or disease."<sup>1</sup> The appointment of a representative payee simply does not meet this standard. It indicates only that the individual needs help managing benefits received from SSA.

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<sup>1</sup> 18 U.S.C. § 922(g); 27 C.F.R. § 478.11.

Second, the rule puts in place an ineffective strategy to address gun violence, devoid of any evidentiary basis, targeting individuals with representative payees and mental impairments as potential perpetrators of gun violence. In doing so, it also creates a false sense that meaningful action has been taken to address gun violence and detracts from potential prevention efforts targeting actual risks for gun violence.

Third, the rule perpetuates the prevalent false association of mental disabilities with violence and undermines important efforts to promote community integration and employment of people with disabilities. The rule may also dissuade people with mental impairments from seeking appropriate treatment or services, or from applying for financial and medical assistance programs.

Finally, the rule creates enormous new burdens on SSA without providing any additional resources. Implementation of the rule will divert scarce resources away from the core work of the SSA at a time when the agency is struggling to overcome record backlogs and prospective beneficiaries are waiting for months and years for determinations of their benefits eligibility. Moreover, SSA lacks the expertise to make the determinations about safety that it would be called upon to make as part of the relief process established by the rule.

Based on similar concerns, the National Council on Disability, an independent federal agency charged with advising the President, Congress, and other federal agencies regarding disability policy, has urged Congress to use the Congressional Review Act to repeal this rule. We urge Congress to act, through the CRA process, to disapprove this new rule and prevent the damage that it inflicts on the disability community.

Sincerely,

A handwritten signature in cursive script that reads "Ann Rider, MSW".

Ann Rider  
President