



**FOR IMMEDIATE RELEASE**

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**ARIZONA AFTERMATH: FEDERAL AGENCIES DON'T REPORT KNOWN DRUG ABUSERS TO GUN BACKGROUND CHECK DATABASE**

*Only three federal agencies supply any records of drug abusers to FBI*

*Agencies erroneously following memorandum by then- Attorney General Janet Reno that was superseded by law passed to close gaps exposed by Virginia Tech massacre*

The Arizona gunman charged with killing six people and attempting to assassinate Representative Gabrielle Giffords was able to buy a gun despite a history of drug abuse that should have prohibited the purchase. FBI data released today by a bipartisan coalition of more than 550 mayors shows that his name was among many thousands missing from the national instant background check system because federal agencies are wrongly following a Clinton-era memo that was superseded by law in 2007.

Although the federal government estimates that there are more than 7 million drug abusers in America, only 1,426 people were listed in the National Instant Background Check System (NICS) Controlled Substance Abuser file as of March 31, 2010. Dozens of federal agencies have not provided any names to the FBI. Only three agencies have sent records to the Bureau.

*Federal agencies are required to report known drug abusers to FBI*

Under federal law, 18 U.S.C. § 922(g)(3), any person who is an “unlawful user of or addicted to any controlled substance” is prohibited from possessing or purchasing a gun. A Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulation, 27 C.F.R. § 478.11, makes clear that “[a]n inference of current use may be drawn from evidence of a recent use or possession of a controlled substance or a pattern of use or possession that reasonably covers the present time,” including failing a drug test within the past year.

The NICS Improvement Amendments Act of 2007, Public Law No. 110-180, was passed in the wake of the Virginia Tech shootings to specifically mandate information-sharing among federal agencies. The law requires all federal agencies—including the military—to provide “any record of any person” who is prohibited from purchasing firearms to the FBI on at least a quarterly basis.

*As of March 31, 2010, federal agencies had supplied only 1130 names to the NICS database – and only three federal agencies had submitted any drug records at all*

The FBI data show that most federal agencies have failed to provide even a single record of a known drug abuser despite the new law. As of March 31 of last year, the agencies had submitted only 1,130 names to the FBI. Almost all the records – 1,126 – came from the FBI itself. The Coast Guard supplied three more records and the Defense Department sent one. **No other agency had submitted any records of drug offenders.**

As of the same date, states had supplied only 296 records of known drug abusers to NICS. Utah leads the nation in reporting 125 records of drug abusers, Nevada supplied 73, and eleven other states supplied at least one record. Thirty-seven states and the District of Columbia supplied no records.

The FBI data are available here:

[http://www.mayorsagainstillegalguns.org/downloads/pdf/fbi\\_nics\\_data\\_01\\_21\\_11.pdf](http://www.mayorsagainstillegalguns.org/downloads/pdf/fbi_nics_data_01_21_11.pdf)

*Attorney General Reno memo: one reason federal agencies do not provide records to the FBI*

On Wednesday, January 19, 2011, the *Washington Post* reported that a Clinton Administration policy enacted by then-Attorney General Janet Reno directed federal agencies not to report records of failed “voluntary” drug tests to the FBI gun background check system, including tests taken by persons seeking federal jobs or seeking to enlist in the military. That directive should have been superseded by the NICS Improvement Amendments Act of 2007, which require reporting “notwithstanding any other law” or policy – but apparently the policy remains in place at most federal agencies.

*Data suggest other problems with agencies’ reporting of drug abusers*

Even the government's erroneous reliance on the Reno policy cannot explain why so many agencies have not provided records of known drug abusers to NICS. Officials become aware of drug abusers in numerous ways that are not “voluntary,” and so should not be covered by the memo.

Probationers and prisoners under federal supervision take drug tests, and those tests are not voluntary, but the Justice Department agencies that supervise them have not submitted any names to the database. Similarly, federal employees not only take drug tests and undergo questioning about drug abuse before being hired, as Loughner did, but they are also subject to drug tests while employed.

*Mayors Against Illegal Guns and Senator Schumer’s proposed solutions*

On January 11, 2011, Mayors Against Illegal Guns called on President Obama to correct these failures. The coalition asked the President to sign an executive order establishing a protocol to ensure that all federal agencies promptly inform the FBI when they discover that an individual is a drug abuser.

In announcing this initiative, coalition co-chair Mayor Michael R. Bloomberg remarked that “for public safety and national security reasons, it is absolutely critical that the federal government do a better job of sharing information, so that law enforcement can connect the dots and act before it’s too late.”

On January 16, Senator Charles Schumer echoed that effort, announcing that he has written a letter to Attorney General Eric Holder asking that the Pentagon be instructed to inform law enforcement agencies when a potential enlistee is rejected because of drug abuse.

### **Available for Interviews**

**Edgar Domenech**, former Acting Director and Deputy Director of ATF who led ATF’s VA Tech investigation and is now New York City Sheriff.

**John Feinblatt**, Chief Advisor to NYC Mayor Michael Bloomberg for Policy and Strategic Planning

**Arkadi Gerney**, Special Advisor to Mayor Bloomberg on firearms policy and staff for Mayors Against Illegal Guns

### *About Mayors Against Illegal Guns*

Since its inception in April 2006, Mayors Against Illegal Guns has grown from 15 mayors to over 550. Mayors Against Illegal Guns has united the nation’s mayors around these common goals: protecting their communities by holding gun offenders and irresponsible gun dealers accountable, demanding access to trace data that is critical to law enforcement efforts to combat illegal gun trafficking, and working with legislators to fix gaps, weaknesses and loopholes in the law that make it far too easy for criminals and other prohibited purchasers to get guns.

Contact: Mayor Bloomberg’s Press Office (212) 788-2958