

**DAMA Subcommittee
Testimony of James McCormick 1/14/2025**

Mr. Chairman, Mr. Ranking Member, and distinguished Members of the Subcommittee, Thank you for the opportunity to present the stance as Past National Commanders of the Military Order of the Purple Heart and as a representative for MOPH on a pressing issue: **the constitutional violations embedded in the Veterans Affairs fiduciary program’s process of reporting veterans to the National Instant Criminal Background Check System, or NICS.**

The name itself is a mouthful—and the process is just as convoluted. Let me paint a picture for you, and you can tell me if this aligns with the Constitution’s promise that *“the right of the people to keep and bear Arms, shall not be infringed.”*

But under the VA fiduciary program, a veteran may be considered "mentally incompetent" if they decide the veteran cannot manage their financial benefits and have a disability, how is this determined to be dangerous or criminal? This finding—made without judicial oversight—results in the veteran being reported to the NICS database. Here is what that means:

- **Veterans in NICS are prohibited from owning or buying firearms under federal law.**
- **This determination is often made without a hearing, without proper notice, and without the veteran understanding its impact on their Second Amendment rights.**
- **Financial incompetence does not necessarily mean the veteran poses a danger to themselves or others—the standard typically needed to limit gun rights.**

In simple terms, a veteran can lose a constitutionally protected right without due process, based solely on a bureaucratic decision about their ability to “balance the books.”

If we subjected private citizens to this process—where financial decisions could strip away fundamental rights with or without appeal, there would be national outrage.

Let’s break down the constitutional violations:

- **First Amendment:** Veterans who fear being flagged in NICS may avoid seeking VA benefits or mental health treatment, creating obstacles to their right to petition the government or freely associate.
- **Second Amendment:** Veterans are unjustly stripped of their gun rights without individualized assessments or evidence of dangerousness.
- **Fourth Amendment:** Reporting veterans without proper judicial oversight, sharing confidential information violates their privacy and protection against unreasonable searches.
- **Fifth Amendment:** Veterans lose their rights without due process.

- **Fourteenth Amendment:** Veterans are treated unequally compared to non-veterans, deprived of equal protection and fundamental fairness.

The impact of these violations goes beyond legal arguments, it erodes trust and is a dangerous process that is NOT helping our veterans or rigorously evaluating them as you would any citizen without a DD214.

Even more troubling, this adds to the stigma many veterans already face. It discourages them from seeking help. For a veteran, this can be devastating, contributing to the alarming suicide rates among our veterans. This is pushing veterans to NOT seek mental health services out of fear of losing their rights as citizens, the fact this process has gone on for decades and we see no reduction in suicides related to the fiduciary program, says a great deal for its lack of effectiveness.

Suicide is a *national* epidemic, Mr. Chairman. Why should only veterans be punished for that? Are we simply used as some sub-standard group of citizens to test elements of social change without our consent. I am not pushing some conspiracy theory – merely saying that **we treat our veterans differently than everyday citizens – we are willing to take away their rights and allow malicious attacks against their service without due process and that is not right.**

Mr. Chairman, Mr. Ranking Member, and Members of the Subcommittee, this program not only violates the Constitution, it undermines the values we claim to uphold as a nation. Where I am from, we would say, “that dog don’t hunt.” My family lineage goes back to Charles Washington the brother of our first President George Washington, that is well known and easy to confirm but let us start with this. My grandfather served in WW II, wounded in a bombing mission over Europe, His brother was KIA in Korea, My Dad was wounded in Vietnam passing away at 52 from Cancer related to Agent Orange Exposure, I served in Desert Storm and Iraqi Freedom wounded in combat multiple times, awarded the Silver Star and 3 Bronze Stars for Valor, my wife and I recently gave you two of our sons who served overseas in combat operations. What more does my family, or any veteran must give to simply get the same due process and fairness as every other citizen gets who does not serve?

I urge this committee to act swiftly to address these violations and restore trust in the system for those who have served. Finally: **To my fellow veterans Do not let the current process keep you from seeking help, Vietnam Veterans of America, and Military Order of the Purple Heart-are going to make sure your rights, respect and fairness are not violated, so please not let the bureaucracy or fear of religion drive you from seeking help or earned benefits.**

If you or a veteran you know is in crisis, please reach out. **Help is available 24/7 Call 988 and press 1, text 838255.**

Thank you for your time and consideration, I look forward to your questions.