Office of the Attorney General
Washington, D. C. 20530

November 22, 2017

MEMORANDUM FOR THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION AND THE ACTING DIRECTOR OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

FROM: THE ATTORNEY GENERAL

SUBJECT: Reporting of Information to the National Instant Criminal Background Check System (NICS) and Review of ATF Form 4473

The National Instant Criminal Background Check System (NICS) is a computerized system that was created under the Brady Handgun Violence Prevention Act of 1993. NICS was designed to help keep firearms out of the hands of convicted felons, domestic violence offenders, and others who are prohibited from possessing firearms, including those prohibited due to reasons related to mental health. NICS is critically important to protecting the American public from firearms-related violence. It is, however, only as reliable and robust as the information that federal, state, local, and tribal government entities make available to it. The recent tragedy in Sutherland Springs, Texas has revealed that the U.S. Air Force and other military branches may not be fully reporting relevant information to NICS. This is an alarming revelation that must be addressed. Accordingly, I am directing the Federal Bureau of Investigation (FBI) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to take the following actions:

(1) Work with the Department of Defense to identify and resolve any issues with the military's reporting of convictions and other information relevant to determining prohibited person status under 18 U.S.C. § 922(g).

(2) Conduct a review to identify other federal entities that are not fully and accurately reporting information to NICS. If any such entities are identified, a plan should be developed to ensure full and accurate reporting to NICS going forward to the extent required under current law.

(3) Conduct a review of the format, structure, and wording of ATF Form 4473 and recommend changes as necessary.

(4) Prepare a report that addresses: (a) the number of current open investigations for making a false statement on ATF Form 4473; (b) the number of investigations for making a false statement on ATF Form 4473 for the past five years; (c) the prosecution referral and declination numbers for the current year, as well as the past five years for making a false statement on ATF Form 4473; and (d) the priority level assigned to investigations for making a false statement on ATF Form 4473.

(5) Identify any additional measures that should be taken to prevent firearms from being obtained by prohibited persons, including identifying obstacles to state, local, and tribal entities sharing information with NICS.

Within 60 days of the date of this memorandum, the FBI and the ATF shall provide the Deputy Attorney General with a report that addresses the items listed above.