

Mr. POE. Mr. Speaker, North Carolina District Attorney Michael Nifong finds himself the accused and not the accuser this week. It seems his overzealous desire to make headlines by appealing to political pandering and making false allegations against three innocent Duke University lacrosse players has landed him in trouble.

The State Bar Association charged Nifong with making outlandish prejudicial public comments against the players and hiding evidence, and they want him disbarred.

Independent special prosecutors have found the sexual assault charges against the players to be unfounded, but Prosecutor Nifong tried to put them in jail anyway.

The mere accusation of sexual assault, even when false, can ruin an individual.

The role of the prosecutor is to seek, not convictions.

Rouge D.A. Nifong is yet another example of a prosecutor gone wild and an abuser of power. If the allegations against him are true, he joins the wall of shame and should never be allowed near the courthouse again, except maybe as a defendant.

Because justice is the one thing we should always find.

And that's just the way it is.

#### SECRECY AND NEGLECT REPLACE EARMARK TRANSPARENCY

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to make a pledge to the American people. I pledge to fight secrecy in the Federal spending process. It seems that some Democratic lawmakers would like to keep earmarks in spending bills secret until August, months after the House votes on the bills that will contain the requests.

By air-dropping these earmarks in at the last minute, my Democratic colleagues are effectively cutting off debate on potentially wasteful or controversial items.

Instead of the transparency and accountability they promised, the Democrats' spending bills will essentially include a slush fund for billions of dollars in earmarks hidden from public scrutiny. I honestly can't believe it. These taxpayer-backed slush funds will fund earmarks without actually putting them into the bills before the House votes.

This is dangerous turf. Americans don't want more secrecy; they want less. As the Baltimore Sun wrote yesterday, the Democrats' new rules have "made the process exponentially worse."

Mr. Speaker, we must restore accountability to the process lest the path to corruption is paved smooth by secrecy and neglect.

#### WHILE THE SPEAKER SLEEPS

(Mr. MCHENRY asked and was given permission to address the House for 1 minute.)

Mr. MCHENRY. Mr. Speaker, people around the Nation may be wondering why the Speaker slept as we debated Democrat overspending and earmarks until 2 in the morning. But the Speaker slept.

If last night were about pure partisan politics, we probably would have turned in early, but for House Republicans it was a matter of principle. That's why we stayed here and debated and fought the Democrat overspending plan and their secret earmarks and secret slush funds.

And moreover, the American people expect a couple of basic things from their government. They expect to be protected, they expect politicians to be wise with their tax dollars, and they expect government to stay out of their way. And they expect us to accomplish this in an open and fair way. But maybe that was asking too much for the new majority, Mr. Speaker.

So when people ask where were you last night, I will proudly say I was standing with my Republican brethren and the House Republicans fighting the Democrats overspending, all while the Speaker slept.

#### CONGRESS' APPROVAL RATING

(Mrs. DRAKE asked and was given permission to address the House for 1 minute.)

Mrs. DRAKE. Mr. Speaker, Americans are growing frustrated. A recent Los Angeles Times poll placed Congress' approval ratings at the lowest point they have been in a decade, 27 percent down from 36 percent in January. And based on the many calls that my office receives every day, that frustration is largely embodied in the immigration issue.

Specifically, for the last 2 weeks, I have received numerous calls from my constituents asking where is the border fence. Well, Mr. Speaker, that's a good question. Where is the border fence? Last night and early this morning, while this Chamber was debating a Homeland Security funding bill, that contains no funding specifically for fencing, hundreds of people were able to make their way across the border or were trafficked into America.

And while we would like to believe that every single person made their way in order to seek out a better life for themselves or their family, we know that is not always the case. Some, as evidenced by the plot to attack Fort Dix, are here to harm us.

I would impress upon the majority to do the right thing.

#### WE MUST SEIZE THE OPPORTUNITY TO ENACT REAL REFORM

(Mr. WALBERG asked and was given permission to address the House for 1 minute.)

Mr. WALBERG. Mr. Speaker, let me read you a line from today's Wall Street Journal: "The latest Los Angeles Times-Bloomberg survey finds that Congress' approval rating is down to 27 percent, with 63 percent of the public saying Democrats are practicing 'business as usual.'"

The frustration of the American people is real and growing. Every weekend I hear it in the voices of my constituents, regardless of their affiliation.

Almost all south central Michiganders have the same message: control runaway government spending, maintain the highest of ethical standards, and put an end to wasteful pork barrel spending.

The actions of Congress this week not only continue the culture of corruption currently plaguing the capital city, but also are an insult to an American public that longs for transparency and accountability.

Together, Democrats and Republicans must seize this opportunity and use it to enact real reform that values how taxpayer dollars are being spent.

I believe that by limiting the size and scope of government and making certain taxpayer dollars go to meaningful programs, Congress can restore public trust and build a better, brighter future for our country.

□ 1030

#### THE OBEY RULE

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, last night, we were informed over and over again by the other side of the aisle that we were supposed to follow what's become known as the Obey rule, O-b-e-y. Now, out west where I come from, that's pronounced "obey."

So I looked up in the dictionary to see what o-b-e-y means, and it's from middle English and old French, and it means to carry out or fulfill the command, order and instruction of, to carry out or comply with the command, or to behave obediently. That's the problem.

We have been told that we are supposed to obey, that is, behave obediently at the whim of the chairman of the Committee on Appropriations and their staff.

I was not elected to obey anybody here. I was elected here to represent the people of the Third Congressional District of California. That's what the debate was about last night. That's what the debate will be about today, and that's what the debate will be about for the rest of the appropriations cycle.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CARDOZA). Pursuant to clause 8 of rule

XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

#### NICS IMPROVEMENT AMENDMENTS ACT OF 2007

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2640) to improve the National Instant Criminal Background Check System, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2640

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “NICS Improvement Amendments Act of 2007”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

#### TITLE I—TRANSMITTAL OF RECORDS

- Sec. 101. Enhancement of requirement that Federal departments and agencies provide relevant information to the National Instant Criminal Background Check System.
- Sec. 102. Requirements to obtain waiver.
- Sec. 103. Implementation assistance to States.
- Sec. 104. Penalties for noncompliance.
- Sec. 105. Relief from disabilities program required as condition for participation in grant programs.

#### TITLE J—FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF RELEVANT RECORDS

- Sec. 201. Continuing evaluations.

#### TITLE K—GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

- Sec. 301. Disposition records automation and transmittal improvement grants.

#### TITLE L—GAO AUDIT

- Sec. 401. GAO audit.

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Approximately 916,000 individuals were prohibited from purchasing a firearm for failing a background check between November 30, 1998, (the date the National Instant Criminal Background Check System (NICS) began operating) and December 31, 2004.

(2) From November 30, 1998, through December 31, 2004, nearly 49,000,000 Brady background checks were processed through NICS.

(3) Although most Brady background checks are processed through NICS in seconds, many background checks are delayed if the Federal Bureau of Investigation (FBI) does not have automated access to complete information from the States concerning persons prohibited from possessing or receiving a firearm under Federal or State law.

(4) Nearly 21,000,000 criminal records are not accessible by NICS and millions of criminal records are missing critical data, such as arrest dispositions, due to data backlogs.

(5) The primary cause of delay in NICS background checks is the lack of—

(A) updates and available State criminal disposition records; and

(B) automated access to information concerning persons prohibited from possessing or receiving a firearm because of mental illness, restraining orders, or misdemeanor convictions for domestic violence.

(6) Automated access to this information can be improved by—

(A) computerizing information relating to criminal history, criminal dispositions, mental illness, restraining orders, and misdemeanor convictions for domestic violence; or

(B) making such information available to NICS in a usable format.

(7) Helping States to automate these records will reduce delays for law-abiding gun purchasers.

(8) On March 12, 2002, the senseless shooting, which took the lives of a priest and a parishioner at the Our Lady of Peace Church in Lynbrook, New York, brought attention to the need to improve information-sharing that would enable Federal and State law enforcement agencies to conduct a complete background check on a potential firearm purchaser. The man who committed this double murder had a prior disqualifying mental health commitment and a restraining order against him, but passed a Brady background check because NICS did not have the necessary information to determine that he was ineligible to purchase a firearm under Federal or State law.

#### SEC. 3. DEFINITIONS.

As used in this Act, the following definitions shall apply:

(1) COURT ORDER.—The term “court order” includes a court order (as described in section 922(g)(8) of title 18, United States Code).

(2) MENTAL HEALTH TERMS.—The terms “adjudicated as a mental defective”, “committed to a mental institution”, and related terms have the meanings given those terms in regulations implementing section 922(g)(4) of title 18, United States Code, as in effect on the date of the enactment of this Act.

(3) MISDEMEANOR CRIME OF DOMESTIC VIOLENCE.—The term “misdemeanor crime of domestic violence” has the meaning given the term in section 921(a)(33) of title 18, United States Code.

#### TITLE I—TRANSMITTAL OF RECORDS

#### SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FEDERAL DEPARTMENTS AND AGENCIES PROVIDE RELEVANT INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) IN GENERAL.—Section 103(e)(1) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended—

(1) by striking “Notwithstanding” and inserting the following:

“(A) IN GENERAL.—Notwithstanding”;

(2) by striking “On request” and inserting the following:

“(B) REQUEST OF ATTORNEY GENERAL.—On request”;

(3) by striking “furnish such information” and inserting “furnish electronic versions of the information described under subparagraph (A)”;

(4) by adding at the end the following:

“(C) QUARTERLY SUBMISSION TO ATTORNEY GENERAL.—If a department or agency under subparagraph (A) has any record of any person demonstrating that the person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code, the head of such department or agency shall, not less frequently than quarterly, provide the pertinent information contained in such record to the Attorney General.

“(D) INFORMATION UPDATES.—The agency, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall—

“(i) update, correct, modify, or remove the record from any database that the agency maintains and makes available to the Attorney General, in accordance with the rules pertaining to that database; or

“(ii) notify the Attorney General that such basis no longer applies so that the National Instant Criminal Background Check System is kept up to date.

“(E) ANNUAL REPORT.—The Attorney General shall submit an annual report to Congress that describes the compliance of each department or agency with the provisions of this paragraph.”.

#### (b) PROVISION AND MAINTENANCE OF NICS RECORDS.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall make available to the Attorney General—

(A) records, updated not less than quarterly, which are relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, for use in background checks performed by the National Instant Criminal Background Check System; and

(B) information regarding all the persons described in subparagraph (A) of this paragraph who have changed their status to a category not identified under section 922(g)(5) of title 18, United States Code, for removal, when applicable, from the National Instant Criminal Background Check System.

(2) DEPARTMENT OF JUSTICE.—The Attorney General shall—

(A) ensure that any information submitted to, or maintained by, the Attorney General under this section is kept accurate and confidential, as required by the laws, regulations, policies, or procedures governing the applicable record system;

(B) provide for the timely removal and destruction of obsolete and erroneous names and information from the National Instant Criminal Background Check System; and

(C) work with States to encourage the development of computer systems, which would permit electronic notification to the Attorney General when—

(i) a court order has been issued, lifted, or otherwise removed by order of the court; or

(ii) a person has been adjudicated as mentally defective or committed to a mental institution.

(c) STANDARD FOR ADJUDICATIONS, COMMITMENTS, AND DETERMINATIONS RELATED TO MENTAL HEALTH.—

(1) IN GENERAL.—No department or agency of the Federal Government may provide to the Attorney General any record of an adjudication or determination related to the mental health of a person, or any commitment of a person to a mental institution if—

(A) the adjudication, determination, or commitment, respectively, has been set aside or expunged, or the person has otherwise been fully released or discharged from all mandatory treatment, supervision, or monitoring;

(B) the person has been found by a court, board, commission, or other lawful authority to no longer suffer from the mental health condition that was the basis of the adjudication, determination, or commitment, respectively, or has otherwise been found to be rehabilitated through any procedure available under law; or

(C) the adjudication, determination, or commitment, respectively, is based solely on a medical finding of disability, without a finding that the person is a danger to himself