

Denying Firearms and Explosives to Dangerous Terrorists Act of 2009 S. 1317

Background

Under the federal Brady Act, a licensed firearms dealer must request a background check through the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) before an unlicensed individual may purchase a weapon. However, even if the NICS check reveals that the prospective purchaser is a known or suspected terrorist, nothing in current law prevents that person from purchasing a gun unless he or she meets one of the nine other disqualifying factors, such as being a convicted felon or domestic abuser.

This loophole in federal law —the "Terror Gap" — keeps the federal government from stopping the sale of gun or explosive to a known or suspected terrorist.

At the request of Senator Lautenberg, the Government Accountability Office (GAO) has released a report finding that from February 2004 through February 2009, there were 963 cases in which a known or suspected terrorist identified in federal terrorist watch list records attempted to buy a gun or explosives. In 90 percent of these cases — a total of 865 different times — the known or suspected terrorist was cleared to buy a firearm or explosive.

Summary of Legislation

The "Denying Firearms and Explosives to Dangerous Terrorists Act of 2009," introduced by Senator Lautenberg:

- Provides the Attorney General with discretionary authority to deny the transfer of a firearm or the issuance of a firearm or explosives license or permit when a background check reveals that the purchaser is a known or suspected terrorist and the Attorney General reasonably believes that the person may use a firearm or explosives in connection with terrorism;
- Requires the Attorney General to issue guidelines describing the circumstances under which such discretionary authority will be used;
- Includes due process safeguards that afford an affected person an opportunity to challenge a denial by the Attorney General; and
- Protects the sensitive information upon which terrorist watch lists are based.

Attorney General Eric Holder has endorsed Senator Lautenberg's "Denying Firearms and Explosives to Dangerous Terrorists Act of 2009."