

United States Senate

WASHINGTON, DC 20510

November 18, 2009

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Holder:

Thank you for announcing your support at today's Senate Judiciary Committee hearing for my legislation to close the "terror gap" in federal law. This is an urgent law enforcement and homeland security issue that must be addressed immediately.

In 2005, a Government Accountability Office (GAO) report I requested¹ revealed that known and suspected terrorists listed in the FBI's terrorist watch list (known as the "Violent Gang and Terrorist Organization File" or "VGTOF") are routinely purchasing firearms from gun dealers in America. To make matters worse, law enforcement has no discretion to stop such a purchase. I write to you today to seek your support for my legislative proposal to empower you to have the ability to stop a suspected terrorist from obtaining weapons.

In the wake of the Fort Hood tragedy, the Administration is correctly reviewing the case to examine what measures should be taken to prevent such an incident from happening again in the future. Whether or not Major Hasan was on the VGTOF list, if we truly want to prevent tragedies in the future, we must empower law enforcement to block the transfer of weapons to a suspected terrorist when necessary.

Under current law, even if the NICS gun background check reveals that the prospective purchaser is a known or suspected terrorist, federal law enforcement cannot deny that person a weapon unless he or she meets one of the nine disqualifying factors in the Brady Law, such as being a convicted felon or domestic abuser. This undermines law enforcement's ability to stop an attack like the one at Fort Hood in the future.

A recent GAO update of its 2005 report found 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.² In 90 percent of these cases—a total of 865 different times—the known or suspected terrorist was cleared to buy a firearm or an explosive.

¹ See GAO-05-127 NICS and Terrorist Watch Lists (rel. Jan. 19, 2005).

² See GAO-09-125R NICS and Terrorist Watch List Records (rel. May 21, 2009).

Accordingly, I introduced in 2007 and again this year S. 1317, the "Denying Firearms and Explosives to Dangerous Terrorists Act of 2009," which would provide the Attorney General with authority to deny the transfer of a firearm, or 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 believes that the person may use a firearm or explosives in connection with terrorism.

This legislation is critical to the safety of our nation. I thank you once again for your support and look forward to working with you to close the "terror gap" loophole.

Sincerely,

A handwritten signature in blue ink that reads "Frank R. Lautenberg". The signature is written in a cursive style with a large, prominent "F" and "L".