

Denying Firearms and Explosives to Dangerous Terrorists Act of 2011

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.

In 2010, the Government Accountability Office (GAO) updated a report originally requested by Senator Lautenberg and found that from February 2004 through February 2010, there were 1,228 cases in which a known or suspected terrorist identified in federal terrorist watch list records attempted to buy a gun or explosives. In 91 percent of these cases—a total of 1,119 different times—the known or suspected terrorist was cleared to buy a firearm or explosive. Significantly, 3 of the 1,228 matches involved explosives checks, all of which were allowed to proceed.

Summary of Legislation

The “Denying Firearms and Explosives to Dangerous Terrorists Act of 2011,” 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.

In November 2009, Attorney General Eric Holder indicated his support for closing the Terror Gap. A survey of gun owners conducted by pollster Frank Luntz found that an overwhelming 82 percent of NRA gun owners (and 86 percent of non-NRA gun-owners) support prohibiting people on the terrorist watch list from purchasing guns. A January 2011 bipartisan poll found that 88 percent of Americans support closing the Terror Gap.