



CLOSING THE TERROR GAP IN GUN BACKGROUND CHECKS

- ❑ **WHAT IS THE TERROR GAP?** The federal government currently has no authority to block firearm sales to international or domestic terror suspects. This gap in our laws is a glaring public safety concern, as DOJ remains powerless to stop individuals on the terror watch lists from getting armed—even though many are considered too dangerous to board a plane.
 - **A glaring gap in federal background checks:** Right now federal law prohibits nine categories of dangerous people from possessing firearms. Remarkably, individuals on terror watch lists are not among these prohibited people—and they can pass criminal background checks at the point of sale.
 - **The gun lobby has fought efforts to close the terror gap:** Since 2007, the National Rifle Association has blocked efforts to keep guns out of the hands of suspected terrorists, opposing numerous bills seeking to close the terror gap.¹
 - **Documented purchases:** According to the Government Accountability Office, individuals on the terror watch lists tried to buy guns and explosives 2,233 times between February 2004 and December 2014. On 2,043 occasions—91 percent of such attempts—the FBI was unable to block gun and explosives sales to suspected terrorists.²
- ❑ **TERROR GAP INCIDENTS:**
 - **Members of international terrorist organizations are able to exploit U.S. law and kill Americans with firearms.**
 - In June 2011, Al Qaeda released a video featuring Adam Gadahn, an American-born member of the terrorist group, urging followers to commit violent acts of jihad by exploiting weaknesses in U.S. gun laws and the gun background check system. “America is absolutely awash with easily obtainable firearms,” Gadahn said. “You can go down to a gun show at the local convention center and come away with a fully automatic assault rifle without a background check and, most likely, without having to show an identification card. So what are you waiting for?”³
 - In June 2015, a suspected terrorist with plans to kill a large number of U.S. citizens on behalf of ISIS was arrested the day before he planned to buy an AR-15 at a North Carolina gun show.⁴ If he had bought a gun from an unlicensed seller at a gun show, he would have been able to buy a gun with no background check, no questions asked. And even if he had gone to a licensed gun dealer, the fact that he was under investigation for terrorism by the federal government would not have prevented him from passing a background check and buying a gun.
 - **Guns in terrorist incidents:** Nearly all terrorism-related incidents in the U.S. have involved guns. The majority of these attacks, as well as several other thwarted plots, targeted U.S. military personnel.
 - *Texas attack.* On May 3, 2015, Elton Simpson and Nadir Hamid Soofi shot and killed one security officer in Garland, Texas, in a planned attack on an event displaying cartoons of the Prophet Muhammad. The two attackers were shot and killed by security. Simpson had been convicted for lying to federal agents in a terror investigation and FBI had alerted police that he posed a danger.⁵
 - *Boston bombers.* On April 18, 2013, Tamerlan and Dzhokhar Tsarnaev shot and killed a police officer in Cambridge, Massachusetts. The Tsarnaev brothers set off a bomb at the Boston Marathon three days earlier, killing three people and injuring over 250 others. Tamerlan Tsarnaev was on two different watch lists at the time of the bombing and shooting.⁶

- *Fort Hood shooting.* On November 5, 2009, 13 people were shot and killed and 30 others were wounded by Major Nidal Hasan.⁷ Hasan was able to pass a background check and buy a handgun even though he was under investigation by the FBI for links to terrorism. The FBI agents investigating Hasan were never informed that he was trying to purchase a weapon.⁸
- *Little Rock shooting.* On June 1, 2009, Abdulhakim Mujahid Muhammad opened fire at a military recruiting station in Little Rock, killing one private and wounding another. Muhammad, who had previously been arrested in Yemen with a fake Somali passport, was under investigation by the FBI at the time of the shooting.⁹ He was charged with murder and 16 counts of terrorist acts.¹⁰
- *Seattle plot.* On June 23, 2011, Abu Khalid Abdul-Latif, aka Joseph Anthony Davis, and Walli Mujahidh, aka Frederick Domingue, Jr., were arrested on terrorism and firearms-related charges. The two men had purchased machine guns from a government informant and were planning to use them in an attack on the Military Entrance Processing Station in Seattle.¹¹
- *Quantico plot.* On July 27, 2009, Daniel Patrick Boyd and six other suspects were arrested for conspiring to murder U.S. military personnel at the Marine Corps base in Quantico, Virginia. Boyd, who was under investigation by the FBI Joint Terrorism Task Force, had amassed an arsenal of assault rifles and had traveled to the Middle East to meet with militants and plan attacks.¹²
- *Fort Dix plot.* In 2007, six terror suspects were arrested for plotting to attack Fort Dix after trying to buy M-16s, AK-47s, and handguns from a government informant. One suspect pleaded guilty to providing firearms to illegal aliens. The other five were convicted of conspiracy to kill U.S. military personnel.¹³
- *Empire State Building murders.* On February 23, 1997, Ali Abu Kamal opened fire on the observation deck of the Empire State Building with a handgun purchased from a licensed dealer in Florida, killing one tourist and wounding six before killing himself.¹⁴ A note in his pocket expressed hatred for the United States, Great Britain, Israel, and France.¹⁵
- *CIA headquarters attack.* On January 25, 1993, Mir Aimal Kasi walked into traffic near CIA Headquarters in Langley, Virginia. Using an assault rifle he bought from a Virginia gun dealer, Kasi killed two CIA employees and wounded three others. Kasi then fled to Pakistan, where he remained at large until his arrest in 1997.¹⁶

❑ **SOLUTION: Bills to close the terror gap are pending in Congress.**

- In 2015, Senator Dianne Feinstein (D-CA) and Rep. Peter King (R-NY) introduced **S.551/H.R.1076**, which gives DOJ discretion, **subject to judicial review**, to block firearms and explosives sales to international and domestic terrorist suspects.
 - The bill grants DOJ the discretion to block sales to an individual on the terror watch lists or otherwise known to be or suspected of being involved in terrorist activity. Once DOJ makes the determination, the terror suspect would be unable to pass a criminal background check, and he or she would be unable to buy guns or explosives from federally licensed dealers.
 - **Due process:** Any individual who fails a background check because he or she is suspected of being involved in terrorist activity may appeal that finding in one of several different ways, including to the FBI, to the state Point of Contact, and ultimately to the agency that submitted the prohibiting record. An individual may also file suit against the United States or the state or local government responsible for providing the prohibiting information.

- The Department of Justice has endorsed identical bills in the past. The legislation was originally drafted and endorsed by the Bush Administration in 2007, and has since been introduced in every Congress.
- **Gun owners, including NRA members, overwhelmingly support the proposal.** A 2012 survey by Republican pollster Frank Luntz found that 76 percent of gun owners, including 71 percent of NRA members, support prohibiting people on the terror watch lists from purchasing guns.¹⁷

¹ <http://www.nra.org/news-issues/articles/2007/standing-guard-the-terror-watch-list.aspx?s=%22Wayne+LaPierre%22&st=&ps=>

² <http://1.usa.gov/1zIBliG>

³ Video available at <http://youtu.be/EpRQzTP8H1o>.

⁴ <http://www.nbcnews.com/news/us-news/isis-inspired-suspect-justin-nolan-sullivan-was-turned-dad-n379721>

⁵ <http://bit.ly/1FrUGuP>; <http://on.wsj.com/1PU5SSo>

⁶ <http://nyti.ms/1lJoxle>

⁷ "Soldier Opens Fire at Ft. Hood; 13 Dead," CBS News, November 6, 2009, available at <http://www.cbsnews.com/stories/2009/11/05/national/main5539067.shtml>.

⁸ Pierre Thomas and Jason Ryan. "Alleged Fort Hood Shooter Bought Gun, Despite Ongoing Terrorism Investigation," ABC News, available at <http://abcnews.go.com/Politics/fort-hood-shooter-obtained-weapon-ongoing-terrorism-investigation/story?id=9058803#.TxW0iKVSTjs>.

⁹ Daniel Nasaw. "US officials investigate suspect in military recruiter shooting," Guardian, June 3, 2009, available at <http://www.guardian.co.uk/world/2009/jun/03/arkansas-military-recruiter-shooting>.

¹⁰ "Man pleads not guilty in deadly recruiting center shootings," CNN, June 02, 2009, available at http://articles.cnn.com/2009-06-02/justice/arkansas.recruiter.shooting_1_carlos-bledsoe-muslim-community-quinton-ezeagwula?_s=PM:CRIME.

¹¹ Department of Justice Press Release, "Two Men Charged in Plot to Attack Seattle Military Processing Center," June 23, 2011, available at <http://www.justice.gov/opa/pr/2011/June/11-nsd-832.html>.

¹² Department of Justice Press Release, "Seven Charged with Terrorism Violations in North Carolina," July 27, 2009, available at <http://www.justice.gov/opa/pr/2009/July/09-nsd-725.html>.

¹³ "6 held on terror conspiracy charges in N.J.," MSNBC, May 8, 2007, available at http://www.msnbc.msn.com/id/18549005/ns/us_news-security/t/held-terror-conspiracy-charges-nj/#.TxW6bqVSTjs.

¹⁴ "Gunman shoots 7, kills self at Empire State Building," CNN, February 24, 1997, available at <http://www.cnn.com/US/9702/24/empire.shooting/>.

¹⁵ "Hint of politics in Empire slaying," AP, February 26, 1997.

¹⁶ "Trial Opens Today for Suspect in Slays Outside CIA," The Washington Post, November 03, 1997.

¹⁷ <http://www.mayorsagainstilllegalguns.org/downloads/pdf/poll-07-24-2012.pdf>.