

CLOSING THE TERROR GAP IN GUN BACKGROUND CHECKS

- **WHAT IS THE TERROR GAP?** The FBI currently has no authority to block firearm sales to terror suspects. After 9/11, it makes no sense that the federal government can't stop gun sales to some of the same people it thinks are too dangerous to get on a plane.
 - **A glaring gap in federal background checks:** Right now federal law prohibits nine categories of dangerous persons from purchasing or possessing firearms. Remarkably, individuals on the terror watch lists are not among these prohibited purchasers.
- **EXAMPLES OF THE TERROR GAP:**
 - **Purchases documented by GAO report:** A 2009 Government Accountability Office (GAO) report shows that individuals on terror watch lists tried to buy guns and explosives 963 times during a five-year period (February 2004 – February 2009). On 865 occasions – 90 percent of attempts – the FBI was unable to block gun and explosive sales to suspected terrorists.¹
 - **Use of guns in terrorist incidents:**
 - *Fort Hood shooting.* On November 5, 2009, 13 people were shot and killed and 30 others were wounded by Major Nidal Hasan, a man who had been under investigation by the FBI, suspected of having ties to terrorists. Hasan purchased his gun after the FBI had investigated his suspicious activities, but the FBI agents who ran the gun background check never communicated with the FBI agents who had investigated Hasan.
 - *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. At the time of the shooting, the FBI was investigating Muhammad after his arrest in Yemen with a fake Somali passport. He was charged with murder and 16 counts of terrorist acts.
 - *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.
 - *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. A note in his pocket expressed hatred for the United States, Great Britain, Israel, and France.
 - *Halberstam murder.* On March 1, 1994, Rashid Baz shot and killed 16-year old Ari Halberstam on an on-ramp to the Brooklyn Bridge. Baz was armed with a machine gun, a 9 mm pistol, and a “street sweeper” shotgun.
 - *CIA Headquarters attack.* On January 25, 1993, Mir Aimal Kasi walked into traffic stopped at a red light near CIA Headquarters in Langley, Virginia. Shooting from point blank with an assault rifle he bought earlier in the month from a Chantilly, VA 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.
- **SOLUTIONS: Bills to close the terror gap are pending in Congress.**
 - Senator Frank Lautenberg (D-NJ) and Rep. Peter King (R-NY) introduced **S.1317/H.R.2159**, which gives DOJ discretion, subject to judicial review, to block sales to terror suspects.
 - Once DOJ made such a determination, the terror suspect would fail background checks, meaning they could not purchase guns or explosives or hold a license to sell them.
 - If the terror suspect knew about the determination, it would be a crime to possess guns.
 - DOJ could allow particular gun purchases to proceed to avoid tipping off the suspect.
 - The Obama Administration Department of Justice supports passage of **S.1317/H.R.2159**. During the Bush Administration, DOJ endorsed nearly identical bills introduced in 2007.

¹ United States Government Accountability Office, “Firearm and Explosives Background Checks Involving Terrorist Watch List Records,” no. GAO-09-125R (May 21, 2009), available at <http://www.gao.gov/new.items/d09125r.pdf>.