

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD
FAIRFAX, VIRGINIA 22030



NRA

Office of the Executive Director
CHRIS W. COX

May 16, 2011

Dear Member of Congress:

Last week, the House Judiciary Committee rejected an amendment by Rep. Mike Quigley that would have authorized the Attorney General—using information gathered through covert surveillance—to block a person suspected of involvement in terrorism from purchasing a firearm. Similar legislation, based on the person's presence on the FBI's "terrorist watch list," has been introduced by Rep. Peter King and Sen. Frank Lautenberg.

The NRA stands second to none in terms of our members' service at all levels in the global war on terrorism. We also stand second to none in supporting laws that hold criminals and terrorists accountable for their misdeeds. We believe that individuals involved in, or who provide support to, terrorist activities, should be arrested and prosecuted. However, we will oppose any effort to deprive people of the right to arms on the basis of secret information, innuendo, unsubstantiated accusations, and a process that does not allow the accused an opportunity to defend himself against such accusations in a fair and open hearing in a court of law.

The National Rifle Association opposes these proposals for reasons that are shared by Americans across the political spectrum.

First, these proposals threaten to deprive good Americans of the fundamental, individual right to keep and bear arms without due process of law. There are over 400,000 individuals on the FBI's terrorist watch list, but because the FBI does not reveal the specific reasons why a person can be placed on the watch list, the proposals would allow an Attorney General to deny firearm purchases, and reject firearm licenses and permit applications on the basis of secret evidence. If the denials are mandatory, there is a high risk of tipping off potential suspects, and the best way for a person to find out if he or she is on the list might be to buy a gun. If denials are at the Attorney General's discretion, there is a high risk of abuse.

Furthermore, denied and rejected individuals would not be allowed to challenge their watch-listing in a fair and open hearing in a court of law. Under some proposals, they could appeal to a court, but they and their lawyers would not be allowed to examine the government's "evidence." To make matters worse, judges hearing their appeals would not be allowed to base their decisions upon examination of all the government's "evidence," but would instead be required to base their decisions upon "summaries or redacted versions of documents" alone.

Second, the notion that new authority is necessary to prohibit all known or suspected terrorists from acquiring or possessing firearms in the United States is false. To be eligible to acquire a firearm in the United States, a person must be a U.S. citizen, a permanent resident alien, or a non-immigrant alien who has established legal residency in a state and meets certain other requirements. However, as the FBI's Terrorist Screening Center (TSC) reports, "Approximately 95% of all the individuals included in the consolidated terrorist watch list are not U.S. citizens or legal residents." The TSC further notes, "The vast majority of individuals on the watch list are not even in the U.S."

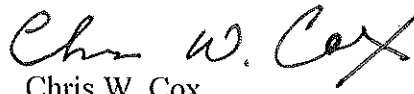
Some watch-listed persons are citizens or legal resident aliens. However, there are nine categories of persons who are prohibited from acquiring or possessing firearms in the United States, such as felons, fugitives, and illegal aliens. Such persons can already be arrested for illegally attempting to obtain a firearm. No further federal authority is necessary. If a citizen or legal alien is involved in terrorist activity, that person should be arrested and prosecuted. If there is insufficient evidence to justify a warrant for the person's arrest, it may well be that there is insufficient evidence to deny that person his or her right to keep and bear arms.

Third, gun control supporters have claimed that the watch list is similar to the government's "no-fly" list, but that is not a point in the favor of the Quigley amendment and similar proposals. The "no-fly" list has misidentified numerous Americans, including the late Sen. Edward Kennedy, Rep. John Lewis, then-House Transportation Committee chairman Don Young, Cub Scouts and toddlers.

Fourth, the fundamental differences between the consequences of the "no-fly" list mistakes and the denials proposed by Rep. Quigley and others are even more important than their similarities. Not allowing a person to get on a commercial aircraft doesn't deprive that person of a constitutional right. Far from being a list of individuals with proven ties to terrorism, the watch list includes people "being preliminarily investigated to determine whether they have links to terrorism" and those "for whom the FBI does not have an open terrorism investigation," according to the Department of Justice's Office of the Inspector General. As one FBI official in Denver noted in 2005, the FBI is already notified of attempted gun purchases by individuals on the watch list, but it would be unjust to deny all those purchases outright: "You're innocent until proven guilty," he said.

I hope this is helpful in explaining our position on this complex issue. If you have any further questions, please contact our Federal Affairs Division at (202) 651-2560.

Sincerely,

A handwritten signature in black ink that reads "Chris W. Cox". The signature is written in a cursive, slightly slanted style.

Chris W. Cox
Executive Director