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Gun-control Advocates Push for Using No-fly List to Ban Gun Sales

“No-fly, no-buy” is the catchy phrase used by the supporters of increased gun-control measures, who are making a major push for restrictions on the right to keep and bear arms in the aftermath of the Orlando night club massacre by Islamic terrorist Omar Mateen.

Not surprisingly, President Barack Obama took the point in calling for increased gun sales restrictions in a Wednesday press conference. After noting that Mateen was an example of “homegrown extremism,” he added, “It also appears that he was able to obtain these weapons legally because he did not have a criminal record that, in some ways, would prohibit him from purchasing these weapons. It appears that one of those weapons he was able to just carry out of the store — an assault rifle, a handgun — a Glock — which had a lot of clips in it.”

“People with possible ties to terrorism who are not allowed on a plane shouldn’t be allowed to buy a gun,” Obama insisted. He also expressed a desire to “reinstate the assault weapons ban ... make it harder for terrorists to use these weapons to kill us.”

Obama lamented, “It was not difficult for him to obtain these kinds of weapons.”

But Senator Charles Schumer (D-N.Y.) is among those wanting to make it more difficult for Americans to purchase guns, and he predicts success, eventually. “We’ll win, sooner or later. We’ll keep trying. We’re not giving up.”

The avenue that the gun-control advocates such as Schumer are presently pursuing is to take the “no-fly list” established by the Bush administration in 2003 in the aftermath of the September 11, 2001 attacks and use that list to bar gun purchases by individuals who are on the list. Senator Dianne Feinstein (D-Calif.) has authored a bill to do just that.

According to Feinstein’s gun-control bill, the Justice Department would be allowed to block the sale of a firearm to any person on the no-fly list. She called them “known or suspected terrorists,” and her proposed legislation would empower the federal government to ban the sale of a gun to anyone for whom they have a “reasonable belief that the weapon would be used in connection with terrorism.”

White House Press Secretary Josh Earnest said, “If it’s too dangerous for you to board an airplane, it’s too dangerous for you to buy a gun.”

But use of the no-fly list as a tool to ban the sale of a gun to a “suspected” terrorist raises several





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questions about respect for a person's due process rights under the Constitution. First of all, the list is riddled with inaccuracies. The late Senator Edward Kennedy somehow got put on the no-fly list. While there are certainly questions as to whether Kennedy was competent to drive an automobile across a bridge, there were no real concerns that Kennedy was going to hijack an airplane.

A four-year-old boy in northern California was mistakenly put on the list as a potential terrorist. He was one of more than one million people who have made the list. The list has grown tremendously since its establishment years ago, and many law-abiding Americans have been erroneously placed on it. But since the list is secret, many Americans who are on it do not know they have made the list, and may never know, unless they attempt to board an airplane.

Or buy a gun, if the gun-control advocates have their way.

And, of course, just because a person is a "suspect" does not mean that person is in any way guilty of anything. That is why we have a legal system, with juries, lawyers, and rules of evidence. Depriving a person of a constitutionally guaranteed right, such as purchasing a firearm, cannot happen legally under the Constitution, unless a person has actually been charged with a specific crime.

The exact process by which a person can get on the list is unknown. Since the list is secret, a person put on the list cannot challenge the decision by some bureaucrat in the Department of Justice. And, because of that, if the list was used to deny a person the right to legally purchase a gun, this would mean that one lone bureaucrat could strip that person of their Second Amendment-guaranteed rights, all with no due process of law.

Despite these and other concerns about using such a list to violate a person's rights, Obama laments, "We make it very easy for individuals who are troubled or disturbed or want to engage in violent acts to get very powerful weapons very quickly. And that's a problem."

Of course, a problem needs a solution, and it is not surprising that many Democrats in Congress agree with the president that use of the no-fly list is a possible solution to the problem.

Accordingly, Senator Chris Murphy (D-Conn.) launched a filibuster, which ended early Thursday morning, designed to force concessions from the Republicans on the issue. He had said he would continue his filibuster "until we get some signal, some sign that we can come together." After he finished, he said he had extracted a commitment from Republican leadership in the Senate that votes would be allowed on amendments to expand background checks and ban gun sales to suspected terrorists.

In his marathon speech, Murphy recalled the Newtown school shooting in Connecticut in 2012. Twenty-six people died in the massacre at Sandy Hook Elementary school, including 20 young children. "For those of us that represent Connecticut, the failure of this body to do anything, anything at all in the face of that continued slaughter isn't just painful to us, it's unconscionable."

It appears that Republican leadership and even the National Rifle Association (NRA) are open to some sort of compromise. Senate Majority Leader Mitch McConnell met with FBI Director James Comey and Homeland Security Secretary Jeh Johnson Wednesday and emerged to say that he is "open" to new gun controls, but he refused to go along with the idea of banning people on the no-fly list from buying weapons. Johnson said that gun control would be a part of Homeland Security post-Orlando.

"Nobody wants terrorists to have firearms," McConnell said. "We are open to serious suggestions from the experts as to what we might be able to do be helpful." McConnell added, "Our suspicion is this is



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basically a politically motivated effort.” No doubt, as Democrats have conceded that their strategy is to wear down the Republicans.

There is nothing to indicate that the Democrat-led proposals would have prevented the unfortunate Orlando killings. Mateen passed a background check, and even had to undergo a 72-hour waiting period under Florida law before picking up his handgun. He held a Florida Security Officer’s license and a statewide firearms license.

The expected Republican nominee for president, New York businessman Donald Trump, who has promised to “save your Second Amendment,” tweeted Wednesday: “I will be meeting with the NRA, who has endorsed me, about not allowing people on the terrorist watch list, or the no fly list, to buy guns.” The same day, the executive director for the NRA’s Institute for Legislative Action, Chris W. Cox, said in a statement: “We are happy to meet with Donald Trump. The NRA’s position on this issue has not changed. The NRA believes that terrorists should not be allowed to purchase or possess firearms, period.” He added: “At the same time, due process protections should be put in place that allow law-abiding Americans who are wrongly put on a watchlist to be removed.”

Yet, the NRA has said it supports a bill from Senator John Cornyn (R-Texas) that would allow the government to delay firearms sales to suspected terrorists for up to 72 hours. Under the proposed Cornyn legislation, prosecutors would have to persuade a judge to block the transaction permanently. Democrat gun-control advocates say that making law enforcement persuade a judge to stop the sale permanently is unacceptable.

Cornyn counters that the Feinstein bill denies due process to a person who may actually be on the no-fly list by mistake, and is a violation of the Second Amendment.

Another “compromise” offered by Senator Patrick Toomey (R-Pa.) was immediately rejected by Democrats. Toomey’s proposal would have directed the attorney general to create a new and improved list of suspected terrorists.

Obama said that without more restrictive gun laws, “these kinds of events are going to keep on happening.” But, while Obama claims these events happen “despite extraordinary efforts,” it is a fact that the FBI knew about the shooter, and closed their file on him. Instead of reviewing the failure of the FBI in this instance, his solution is to trample on the Second Amendment-protected rights of all Americans.

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