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United States Government Accountability Office  
Washington, DC 20548

April 27, 2011

The Honorable Frank R. Lautenberg  
United States Senate

Subject: *Update on Firearm and Explosives Background Checks Involving Terrorist Watch List Records*

As you requested, we have updated information on firearm and explosives background checks involving terrorist watchlist records that we presented in our May 2010 testimony.<sup>1</sup> Under the Brady Handgun Violence Prevention Act and implementing regulations, the Federal Bureau of Investigation (FBI) and designated state and local criminal justice agencies use the FBI's National Instant Criminal Background Check System (NICS) to conduct checks on individuals before federal firearms licensees (gun dealers) may transfer any firearm to an unlicensed individual.<sup>2</sup> Also, to assist the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the FBI conducts NICS background checks on individuals seeking to obtain a federal explosives license or permit.<sup>3</sup> Under current federal law, there is no basis to automatically prohibit a person from possessing firearms or explosives because they appear on the terrorist watchlist.<sup>4</sup> Rather, there must be a disqualifying factor (i.e., prohibiting information) pursuant to federal or state law, such as a felony conviction or illegal immigration status.

In our May 2010 testimony, we reported that from February 2004 through February 2010, individuals on the terrorist watchlist were involved in firearm and explosives background checks 1,228 times, of which 1,119 (about 91 percent) of the transactions

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<sup>1</sup> See GAO, *Terrorist Watch List Screening: FBI Has Enhanced Its Use of Information from Firearm and Explosives Background Checks to Support Counterterrorism Efforts*, GAO-10-703T (Washington, D.C.: May 5, 2010).

<sup>2</sup> Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

<sup>3</sup> See Safe Explosives Act, Pub. L. No. 107-296, 116 Stat. 2135, 2280 (2002) (Title XI, Subtitle C of the Homeland Security Act of 2002), as amended.

<sup>4</sup> The FBI's Terrorist Screening Center maintains the U.S. government's terrorist watchlist, which contains information about individuals "known or appropriately suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism." Applicable records from the watch list are searched during NICS background checks.

were allowed to proceed while 109 were denied.<sup>5</sup> Three of the 1,119 transactions involved explosives background checks and all 3 were allowed to proceed. The FBI does not know how often a firearm was actually transferred or if a firearm or explosives license or permit was granted, because gun dealers and explosives dealers are required to maintain but not report this information to the FBI.

For this update, we obtained statistics from the FBI through December 2010. Specifically, from March 2010 through December 2010, FBI data show that 225 NICS background checks resulted in valid matches with individuals on the terrorist watchlist, of which 202 were allowed to proceed and 23 were denied.<sup>6</sup> All 225 transactions involved firearm-related background checks (none of the transactions involved an explosives background check). Table 1 shows updated statistics through December 2010.

**Table 1: Number of NICS Transactions Involving Individuals on the Terrorist Watchlist, February 2004 through December 2010**

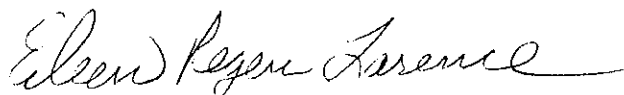
Calendar year	Valid Matches	Allowed to Proceed	Denied
2004 (beginning in February)	48	43	5
2005	149	141	8
2006	179	153	26
2007	287	259	28
2008	246	228	18
2009	272	250	22
2010	272	247	25
<b>Total</b>	<b>1,453</b>	<b>1,321</b>	<b>132</b>

Source: FBI.

According to the FBI, of the 23 transactions that were denied from March 2010 through December 2010, the reasons for denials included under indictment, felony conviction, protection or restraining order, and misdemeanor crime of domestic violence conviction. The FBI also noted that there have been no policy or procedural changes related to conducting firearm or explosives NICS background checks with respect to known or suspected terrorists since our May 2010 testimony.

If you or your staff have any questions about this update, please contact me at (202) 512-6510 or [larencee@gao.gov](mailto:larencee@gao.gov).

Sincerely yours,



Eileen R. Larence  
 Director, Homeland Security and Justice Issues

<sup>5</sup> Additional information on the reasons for these denials is in the May 2010 testimony.

<sup>6</sup> We discussed the sources of this data with FBI officials and determined that the data were sufficiently reliable for the purposes of this update.