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TERRORIST WATCHLIST SCREENING

FBI Has Enhanced Its Use of Information from Firearm and Explosives Background Checks to Support Counterterrorism Efforts

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Highlights of [GAO-10-703T](#), a testimony before the Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

Membership in a terrorist organization does not prohibit a person from possessing firearms or explosives under current federal law. However, for homeland security and other purposes, the FBI is notified when a firearm or explosives background check involves an individual on the terrorist watchlist. This statement addresses (1) how many checks have resulted in matches with the terrorist watchlist, (2) how the FBI uses information from these checks for counterterrorism purposes, and (3) pending legislation that would give the Attorney General authority to deny certain checks. GAO's testimony is based on products issued in January 2005 and May 2009 and selected updates in March and April 2010. For these updates, GAO reviewed policies and other documentation and interviewed officials at FBI components involved with terrorism-related background checks.

What GAO Recommends

GAO is not making new recommendations, but has made prior recommendations to the Attorney General to help ensure that background checks involving individuals on the terrorist watchlist are properly handled and that allowable information from these checks is shared with counterterrorism officials, which the FBI has implemented. GAO also suggested that Congress consider adding a provision to any future legislation that would require the Attorney General to define when firearms or explosives could be denied, which has been included in a subsequent bill.

View [GAO-10-703T](#) or key components. For more information, contact Eileen Larence at (202) 512-6510 or larence@ga.gov.

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FBI Has Enhanced Its Use of Information from Firearm and Explosives Background Checks to Support Counterterrorism Efforts

What GAO Found

From February 2004 through February 2010, FBI data show that individuals on the terrorist watchlist were involved in firearm or explosives background checks 1,228 times; 1,119 (about 91 percent) of these transactions were allowed to proceed because no prohibiting information was found—such as felony convictions, illegal immigrant status, or other disqualifying factors—and 109 of the transactions were denied. In response to a recommendation in GAO's January 2005 report, the FBI began processing all background checks involving the terrorist watchlist in July 2005—including those generated via state operations—to ensure consistency in handling and ensure that relevant FBI components and field agents are contacted during the resolution of the checks so they can search for prohibiting information.

Based on another recommendation in GAO's 2005 report, the FBI has taken actions to collect and analyze information from these background checks for counterterrorism purposes. For example, in April 2005, the FBI issued guidance to its field offices on the availability and use of information collected as a result of firearm and explosives background checks involving the terrorist watchlist. The guidance discusses the process for FBI field offices to work with FBI personnel who conduct the checks and the Bureau of Alcohol, Tobacco, Firearms and Explosives to obtain information about the checks, such as the purchaser's residence address and the make, model, and serial number of any firearm purchased. The guidance states that any information that FBI field offices obtain related to these background checks can be shared with other counterterrorism and law enforcement agencies. The FBI is also preparing monthly reports on these checks that are disseminated throughout the FBI to support counterterrorism efforts.

In April 2007, the Department of Justice proposed legislative language to Congress that would provide the Attorney General with discretionary authority to deny the transfer of firearms or explosives to known or suspected "dangerous terrorists." At the time of GAO's May 2009 report, neither the department's proposed legislative language nor related proposed legislation included provisions for the development of guidelines further delineating the circumstances under which the Attorney General could exercise this authority. GAO suggested that Congress consider including a provision in any relevant legislation that would require the Attorney General to establish such guidelines; and this provision was included in a subsequent legislative proposal. If Congress gives the Attorney General authority to deny firearms or explosives based on terrorist watchlist concerns, guidelines for making such denials would help to provide accountability for ensuring that the expected results of the background checks are being achieved. Guidelines would also help ensure that the watchlist is used in a manner that safeguards legal rights, including freedoms, civil liberties, and information privacy guaranteed by federal law and that its use is consistent with other screening processes. For example, criteria have been developed for determining when an individual should be denied the boarding of an aircraft.

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to discuss the government's use of the terrorist watchlist to screen individuals who are attempting to purchase a firearm or obtain a firearm or explosives license or permit, and related actions to determine if the person poses a threat to homeland security. Under current federal law, there is no basis to automatically prohibit a person from possessing firearms or explosives because the individual appears on the terrorist watchlist. Rather, there must be a disqualifying factor (i.e., prohibiting information) under federal or state law, such as a felony conviction or illegal immigration status. Questions about how well the government is using and sharing terrorism-related information in order to identify potential threats that individuals may pose were also raised as a result of the November 2009 shootings at Fort Hood, Texas, and the December 25, 2009, attempted airline bombing.

In January 2005, we reported that from February through June 2004, individuals on the terrorist watchlist were allowed to proceed with firearm transactions 35 times because the background checks revealed no prohibiting information.¹ As a result of that review, we identified opportunities for the Federal Bureau of Investigation (FBI) to ensure that background checks initiated by state agencies are consistently and properly handled and that the maximum amount of allowable information from background checks is consistently shared with counterterrorism officials. We made recommendations aimed at addressing these issues, which the FBI implemented. We updated this work in a May 2009 report, which included both firearm and explosives background checks.² The number of transactions involving individuals on the watchlist that were allowed to proceed had increased to 865 through February 2009. We also discussed the potential implications of then pending proposed legislation that would give the Attorney General discretionary authority to deny such transactions if he reasonably believes that the person may use a firearm or explosives in connection with terrorism. We suggested that in any relevant legislation, Congress consider requiring the Attorney General to establish guidelines on how he would exercise this discretion—delineating under

¹See GAO, *Gun Control and Terrorism: FBI Could Better Manage Firearm-Related Background Checks Involving Terrorist Watch List Records*, [GAO-05-127](#) (Washington, D.C.: Jan. 19, 2005).

²See GAO, *Firearm and Explosives Background Checks Involving Terrorist Watch List Records*, [GAO-09-125R](#) (Washington, D.C.: May 21, 2009).

what circumstances transactions could be denied—and this provision was included in a subsequent legislative proposal.

My testimony today updates our prior work and discusses (1) the number of times firearm and explosives background checks have been a match to the terrorist watchlist and related outcomes, (2) actions the FBI has taken to use information from these background checks to support investigations and other counterterrorism activities, and (3) pending legislation that would give the Attorney General authority to deny firearms and explosives transactions based on terrorist watchlist concerns and related issues.

My statements are based on reports GAO issued in January 2005 and May 2009.³ In conducting our prior work, we reviewed documentation obtained from and interviewed officials at FBI components and state agencies with responsibilities for conducting background checks on individuals attempting to purchase firearms or obtain a firearm or explosives license or permit. Our previously published reports were conducted in accordance with generally accepted government auditing standards and contain additional details on the scope and methodology for those reviews. In addition, my testimony contains updated information on firearms and explosives background checks involving individuals on the terrorist watchlist. For the updates, we reviewed documentation obtained from and interviewed officials at relevant FBI components to discuss efforts to collect, analyze, and share information related to these checks with counterterrorism officials. We also obtained data on firearm and explosives background checks that resulted in valid matches with individuals on the terrorist watchlist from February 2004 (when the FBI first started checking against terrorist watchlist records) through February 2010. We discussed the sources of data with FBI officials as well as the policies and procedures that FBI officials used to maintain the integrity of the data, and determined that the data were sufficiently reliable for the purposes of this review. We conducted our updated work in March and April 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings based on our audit objectives.

³[GAO-05-127](#) and [GAO-09-125R](#).

Background

The mission of the FBI section that operates the National Instant Criminal Background Check System (NICS Section) is to ensure national security and public safety by providing the accurate and timely determination of a person's eligibility to possess firearms and explosives in accordance with federal law. Under the Brady Handgun Violence Prevention Act and implementing regulations, the FBI and designated state and local criminal justice agencies use NICS to conduct checks on individuals before federal firearms licensees (gun dealers) may transfer any firearm to an unlicensed individual.⁴ Also, pursuant to the Safe Explosives Act, in general, any person seeking to (1) engage in the business of importing, manufacturing, or dealing in explosive materials or (2) transport, ship, cause to be transported, or receive explosive materials must obtain a federal license or permit, respectively, issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).⁵ To assist ATF, in February 2003, the FBI began conducting NICS background checks on individuals seeking to obtain a federal explosives license or permit. Persons prohibited by federal law from possessing firearms or explosives include convicted felons, fugitives, unlawful controlled-substance users and persons addicted to a controlled substance, and aliens (any individual not a citizen or national of the United States) who are illegally or unlawfully in the United States, among others.⁶

One of the databases that NICS searches is the FBI's National Crime Information Center (NCIC) database, which contains criminal justice information (e.g., names of persons who have outstanding warrants) and also includes applicable records from the Terrorist Screening Center's (TSC) consolidated terrorist screening database.⁷ In general, individuals who are reasonably suspected of having possible links to terrorism—in addition to individuals with known links—are to be nominated for inclusion on the consolidated terrorist watchlist by the FBI and other members of the intelligence community. One of the stated policy

⁴Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

⁵See 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.

⁶See 18 U.S.C. § 922(g), § 842(i).

⁷TSC—an organization administered by the FBI—was established in 2003 to develop and maintain the U.S. government's consolidated terrorist screening database and to provide for the use of watchlist records during security-related screening processes. Specifically, the database 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."

objectives of the government’s consolidated watchlist is the coordinated collection of information for use in investigations and threat analyses. Terrorist watchlist records in the NCIC database are maintained in the Known or Suspected Terrorist File (formerly the Violent Gang and Terrorist Organization File), which was designed to provide law enforcement personnel with the means to exchange information on known or suspected terrorists.

About 90 Percent of NICS Transactions Involving Individuals on the Terrorist Watchlist Have Been Allowed to Proceed Because There Was No Legal Basis Identified to Deny the Transactions

In May 2009, we reported that from February 2004 through February 2009, a total of 963 NICS background checks resulted in valid matches with individuals on the terrorist watchlist.⁸ Of these transactions, approximately 90 percent (865 of 963) were allowed to proceed because the checks revealed no prohibiting information, such as felony convictions, illegal immigrant status, or other disqualifying factors. Two of the 865 transactions that were allowed to proceed involved explosives background checks. 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 NICS Section. About 10 percent (98 of 963) of the transactions were denied based on the existence of prohibiting information. No transactions involving explosives background checks were denied.

For today’s hearing, we obtained updated statistics from the FBI through February 2010. Specifically, from March 2009 through February 2010, FBI data show that 272 NICS background checks resulted in valid matches with individuals on the terrorist watchlist.⁹ One of the 272 transactions involved an explosives background check, which was allowed to proceed because the check revealed no disqualifying factors under the Safe Explosives Act. According to FBI officials, several of the 272 background checks resulted in matches to watchlist records that—in addition to being in the FBI’s Known or Suspected Terrorist File—were on the Transportation Security Administration’s “No Fly” list. In general, persons on the No Fly list are deemed to be a threat to civil aviation or national security and therefore should be precluded from boarding an aircraft. According to FBI officials, all of these transactions were allowed to

⁸GAO-09-125R.

⁹According to FBI data, there were approximately 14 million NICS backgrounds checks during this 12-month period.

proceed because the background checks revealed no prohibiting information under current law.

In total, individuals on the terrorist watchlist have been involved in firearm and explosives background checks 1,228 times since NICS started conducting these checks in February 2004, of which 1,119 (about 91 percent) of the transactions were allowed to proceed while 109 were denied, as shown in table 1.¹⁰

Table 1: Number of NICS Transactions Involving Individuals on the Terrorist Watchlist, February 2004 through February 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 (through February)	47	45	2
Total	1,228	1,119	109

Source: FBI.

According to the FBI, the 1,228 NICS transactions with valid matches against the terrorist watchlist involved about 650 unique individuals, of which about 450 were involved in multiple transactions and 6 were involved in 10 or more transactions.

Based on our previous work, the NICS Section started to catalog the reasons why NICS transactions involving individuals on the terrorist watchlist were denied. According to the NICS Section, from April 2009 through February 2010, the reasons for denials included felony conviction, illegal alien status, under indictment, fugitive from justice, and mental defective.

In October 2007, we reported that screening agencies generally do not check against all records in TSC's consolidated terrorist watchlist because

¹⁰We could not reconcile with NICS Section officials why the 1,228 total matches differed from the combined total from our May 2009 report (963) and recent update (272).

screening against certain records (1) may not be needed to support the respective agency's mission, (2) may not be possible due to the requirements of computer programs used to check individuals against watchlist records, or (3) may not be operationally feasible.¹¹ Rather, each day, TSC exports applicable records from the consolidated watchlist to federal government databases that agencies use to screen individuals for mission-related concerns. We raised questions about the extent to which not screening against TSC's entire consolidated watchlist during NICS background checks posed a security vulnerability. According to TSC officials, not all records in the consolidated watchlist are used during NICS background checks. The officials explained that in order for terrorist information to be exported to NCIC's Known or Suspected Terrorist File, the biographic information associated with a record must contain sufficient identifying data so that a person being screened can be matched to or disassociated from an individual on the watchlist. The officials noted that since not all records in TSC's consolidated watchlist contain this level of biographic information required for this type of screening, not all records from the watchlist can be used for NICS background checks. According to TSC officials, the majority of records that do not contain sufficient identifying data are related to foreign nationals who would not be prospective purchasers of firearms or explosives within the United States and therefore would not be subject to NICS checks. We are continuing to review this issue as part of our ongoing review of the terrorist watchlist.

FBI Has Taken Actions to Use Information from NICS Checks to Support Counterterrorism Efforts

The FBI has taken additional actions to use information obtained from NICS background checks to support investigations and other counterterrorism activities. These actions include providing guidance to FBI case agents on how to obtain information related to NICS checks and efforts to analyze and share information on individuals matched to the terrorist watchlist.

¹¹See GAO, *Terrorist Watchlist Screening: Opportunities Exist to Enhance Management Oversight, Reduce Vulnerabilities in Agency Screening Processes, and Expand Use of the List*, GAO-08-110 (Washington, D.C.: Oct. 11, 2007).

FBI Has Provided Guidance to Case Agents

The FBI has provided guidance to its case agents on how to obtain information on individuals matched to the terrorist watchlist during NICS background checks. According to FBI Counterterrorism Division officials, TSC notifies the division when a NICS background check is matched to an individual on the terrorist watchlist. After verifying the accuracy of the match, the Counterterrorism Division will advise the FBI case agent that the individual attempted to purchase a firearm or obtain a firearm or explosives license or permit. The division will also provide the agent with contact information for the NICS Section and advise the agent to contact the section to answer additional questions. According to Counterterrorism Division officials, the case agent is also advised to contact ATF to obtain a copy of the form the individual used to initiate the transaction.

For verified matches, NICS Section personnel are to determine if FBI case agents have information that may disqualify the individual from possessing a firearm or explosives—such as information that has been recently acquired but not yet available in the automated databases searched by NICS. To assist the division in searching for prohibiting information, NICS Section personnel are to share all available information that is captured in the NICS database with the case agent—name, date of birth, place of birth, height, weight, sex, race, country of citizenship, alien or admission number, type of firearm involved in the check (handgun, long gun, or other), and any exceptions to disqualifying factors claimed by an alien. According to FBI officials, these procedures have been successful in enabling the NICS Section to deny several gun transactions involving individuals on the terrorist watchlist based on disqualifying factors under current law. The FBI did not maintain specific data on the number of such denials.¹²

In response to a recommendation made in our January 2005 report, FBI headquarters provided guidance to its field offices in April 2005 on the types of additional information available to a field office and the process for obtaining that information if a known or suspected terrorist attempts to obtain a firearm from a gun dealer or a firearm or explosives license or permit. Regarding gun purchases, the guidance notes that if requested by an FBI field office, NICS personnel have been instructed to contact the gun dealer to obtain additional information about the prospective

¹²Our prior reports contain additional details on NICS procedures for handling firearm and explosives background checks involving the terrorist watchlist. See [GAO-05-127](#) and [GAO-09-125R](#).

purchaser—such as the purchaser’s residence address and the government-issued photo identification used by the purchaser (e.g., drivers license)—and the transaction, including the make, model, and serial number of any firearm purchased. According to the guidance, gun dealers are not legally obligated under either NICS or ATF regulations to provide this additional information to NICS personnel. If the gun dealer refuses, the guidance notes that FBI field offices are encouraged to coordinate with ATF to obtain this information. ATF can obtain a copy of the form individuals must fill out to purchase firearms (ATF Form 4473), which contains additional information that may be useful to FBI counterterrorism officials.¹³

Regarding a firearm or explosives permit, the FBI’s April 2005 guidance also addresses state permits that are approved by ATF as alternative permits that can be used to purchase firearms. Specifically, if requested by an FBI field office, NICS personnel have been instructed to contact the gun dealer to obtain all information from the permit application. Further, the guidance notes that the use and dissemination of state permit information is governed by state law, and that the FBI has advised state and local agencies that also issue firearm or explosives permits to share all information with FBI field personnel to the fullest extent allowable under state law. According to the guidance, any information that FBI field offices obtain related to NICS background checks can be shared with other law enforcement, counterterrorism, or counterintelligence agencies, including members of an FBI Joint Terrorism Task Force that are from other federal or state law enforcement agencies.¹⁴

In general, under current regulations, all personal identifying information in the NICS database related to firearms transfers that are allowed to proceed (e.g., name and date of birth) is to be destroyed within 24 hours after the FBI advises the gun dealer that the transfer may proceed.

¹³In general, under federal law, while gun dealers are required to maintain certain records of firearms transactions, they “shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required.” See 18 U.S.C. § 923(g)(1)(A). Such records may be inspected or examined under certain circumstances upon issuance of a warrant and without a warrant in certain specified circumstances such as “in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the [federal firearms] licensee.” See 18 U.S.C. § 923(g)(1)(B).

¹⁴Joint Terrorism Task Forces are teams of state and local law enforcement officials, FBI agents, and other federal agents and personnel whose mission is to investigate and prevent acts of terrorism.

Nonidentifying information related to each background check that is allowed to proceed (e.g., NICS transaction number, date of the transaction, and gun dealer identification number) is retained for up to 90 days. By retaining this information, the NICS Section can notify ATF when new information reveals that an individual who was approved to purchase a firearm should have been denied. ATF can then initiate any firearm retrievals that may be necessary. According to NICS Section officials, the section has made no firearm-retrieval referrals to ATF related to transactions involving individuals on the terrorist watchlist to date. Under provisions in NICS regulations, personal identifying information and other details related to denied transactions are retained indefinitely. The 24-hour destruction requirement does not apply to permit checks. Rather, information related to these checks is retained in the NICS database for up to 90 days after the background check is initiated.

FBI is Analyzing and Sharing Information from NICS Checks

The FBI is analyzing and sharing information on individuals matched to the terrorist watchlist to support investigations and other counterterrorism activities. In our May 2009 report, we noted that the FBI is utilizing a TSC database to capture information on individuals who attempted to purchase a firearm and were a match to the watchlist. Specifically, the FBI began analyzing each separate instance to develop intelligence and support ongoing counterterrorism investigations. Further, we reported that in October 2008, the FBI's Counterterrorism Division conducted—for the first time—a proactive analysis of the information related to NICS background checks involving individuals on the terrorist watchlist that is captured in the TSC database. This analysis was conducted to identify individuals who could potentially impact presidential inauguration activities. Based on the value derived from conducting this analysis, the Counterterrorism Division decided to conduct similar analysis and produce quarterly reports that summarize these analytical activities beginning in May 2009.

In updating our work, we found that the FBI's Counterterrorism Division is now issuing these analytic reports on a monthly basis. According to division officials, the reports contain an analysis of all NICS background checks during the month that involve individuals on the terrorist watchlist. The officials noted that the individuals discussed in the reports range from those who are somewhat of a concern to those who represent a significant threat. The reports are classified and distributed internally to various components within the FBI, including all FBI field offices and Joint Terrorist Task Forces. The officials stated that these reports have played a key role in a number of FBI counterterrorism investigations. According to

Counterterrorism Division officials, the names of individuals discussed in the reports are shared with other members of the intelligence community for situational awareness and follow-on analytical activity.

TSC also generates reports that cover all instances of screening agencies coming in contact with an individual on the terrorist watchlist, including those related to NICS transactions. TSC provides the reports to numerous entities, including FBI components, other federal agencies, and state and local information fusion centers.¹⁵ These reports are distributed via the FBI's Law Enforcement Online system.¹⁶ At the time of our updated review, TSC was exploring the possibility of electronically communicating this information to the intelligence community as well.

According to officials from the FBI's Counterterrorism Division, for investigative purposes, FBI and other counterterrorism officials are generally allowed to collect, retain, and share information on individuals on the watchlist who attempt to purchase firearms or explosives.

If the Attorney General Is Given Statutory Authority to Deny Transactions, Guidelines Would Help to Ensure Accountability and Civil Liberties Protections

In our May 2009 report, we noted that the Department of Justice (DOJ) provided legislative language to Congress in April 2007 that would have given the Attorney General discretionary authority to deny the transfer of firearms or the issuance of a firearm or explosives license or permit under certain conditions. Specifically, such transactions could be denied when a background check on an individual reveals that the person is a known or suspected terrorist and the Attorney General reasonably believes that the person may use the firearm or explosives in connection with terrorism. The legislative language also provided due process safeguards that would afford an affected person an opportunity to challenge an Attorney General denial.

At the time of our 2009 report, neither DOJ's proposed legislative language nor then pending related legislation included provisions for the development of guidelines further delineating the circumstances under

¹⁵In general, fusion centers are collaborative efforts of two or more agencies that provide resources, expertise, and information to the center with the goal of maximizing their ability to detect, prevent, investigate, and respond to criminal and terrorist activity.

¹⁶The FBI's Law Enforcement Online is an official U.S. government system for use only by authorized members of the law enforcement, criminal justice, and public safety community. Information presented in this system is considered sensitive but not classified and is for official law enforcement, criminal justice, and public safety use only.

which the Attorney General could exercise this authority.¹⁷ We suggested that Congress consider including a provision in any relevant legislation to require that the Attorney General establish such guidelines, and this provision was included in a subsequent legislative proposal.¹⁸ Such a provision would help DOJ and its component agencies provide accountability and a basis for monitoring to ensure that the intended goals for, and expected results of, the background checks are being achieved. Guidelines would also help to ensure compliance with Homeland Security Presidential Directive 11, which requires that terrorist-related screening—including use of the terrorist watchlist—be done in a manner that safeguards legal rights, including freedoms, civil liberties, and information privacy guaranteed by federal law.¹⁹

Furthermore, establishing such guidelines would be consistent with the development of standards, criteria, and examples governing nominations to, and the use of, the watchlist for other screening purposes. Because individuals are nominated to the terrorist watchlist based on a “reasonable suspicion” standard, the government generally has not used their inclusion on the watchlist to automatically deny certain actions, such as automatically prohibiting an individual from entering the United States or boarding an aircraft. Rather, when an agency identifies an individual on the terrorist watchlist, agency officials are to assess the threat the person poses to determine what action to take, if any, in accordance with applicable laws or other guidelines. For example, the Immigration and Nationality Act, as amended, establishes conditions under which an alien may be deemed inadmissible to the United States.²⁰ Also, the former White House Homeland Security Council established criteria for determining which individuals on the terrorist watchlist are deemed to be a threat to civil aviation or national security and, therefore, should be precluded from boarding an aircraft. Subsequent to the December 25, 2009, attempted terrorist attack, the President tasked the FBI and TSC to work with other relevant departments and agencies—including the Department of Homeland Security, the Department of State, and the Central Intelligence Agency—to develop recommendations on whether adjustments are

¹⁷See H.R. 2159.

¹⁸See S. 1317.

¹⁹The White House, *Homeland Security Presidential Directive/HSPD-11, Subject: Comprehensive Terrorist-Related Screening Procedures* (Washington, D.C.: Aug. 27, 2004).

²⁰See, for example, 8 U.S.C. § 1182.

needed to the watchlisting nominations guidance, including the No-Fly criteria.²¹ These efforts are ongoing.

At the time of our May 2009 report, DOJ was noncommittal on whether it would develop guidelines if legislation providing the Attorney General with discretionary authority to deny firearms or explosives transactions involving individuals on the terrorist watchlist was enacted. Subsequent to that report, Senator Lautenberg introduced S. 1317 that, among other things, would require DOJ to develop such guidelines. We continue to maintain that guidelines should be a part of any statutory or administrative initiative governing the use of the terrorist watchlist for firearms or explosives transactions.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions that you or other Members of the Committee may have.

Contacts and Acknowledgments

For additional information on this statement, please contact Eileen Larence at (202) 512-6510 or larencee@gao.gov. In addition, Eric Erdman, Assistant Director; Jeffrey DeMarco; and Geoffrey Hamilton made key contributions to this statement. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this statement.

²¹The White House, *Summary of the White House Review of the December 25, 2009, Attempted Terrorist Attack* (Washington, D.C.: Jan. 7, 2010).

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