

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVIEW OF BACKGROUND CHECK RECORDS

Mr. REED. Mr. President, I rise today to talk about our fight against terrorism and a report in the New York Times last Thursday about the Justice Department's denial of requests from the FBI to review background check records for gun purchases as part of its antiterrorist investigation.

When I met with Justice Department officials on November 1, I was informed that in the immediate aftermath of the September 11 attacks, the Department of Justice compared the audit log of approved gun sales under Brady law's National Instant Criminal Background Check System to the Federal Government's terrorist watchlists.

The New York Times reported that on September 16, 5 days after the terrorist attacks, the Bureau of Alcohol, Tobacco, and Firearms requested the FBI center that operates the National Instant Criminal Background Check System to check a list of 186 names against the NICS audit log. The names were identified as aliens whose identities had been developed during the ongoing terrorist investigation. The FBI got two hits, meaning that two of the persons on the watchlist had been approved to buy guns.

The ATF's request and the resulting hits underscore the point that the NICS audit log has a clear investigative value for law enforcement and our counterterrorist efforts.

Yet the day after the FBI made its initial check, the Attorney General's lawyers prohibited further reviews of the audit log by the FBI for the purposes of the terrorist investigation.

The Congress passed and the President signed the Patriot Act earlier this year to give the Attorney General expanded powers to fight terrorism. The Attorney General has used these powers and others created by the administration, without congressional input, to permit, for example, eavesdropping on detainees' conversations with their attorneys, to implement new wiretapping authority, and to look into the backgrounds of truck drivers and crop duster pilots, and immigrants.

When President Bush addressed Congress on September 20, he said:

We will direct every resource at our command—every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence, and every necessary weapon of war—to the disruption and to the defeat of the global terror network.

Now we find the Attorney General is bending over backwards to protect the special interests of the gun lobby at the expense of the safety of the American people and the investigation into terrorism. Rather than seeking every opportunity to give law enforcement all the information at hand, the Attorney General has chosen, erroneously in my view, to interpret the Brady law and related Justice Department regulations as prohibiting the use of the audit log for investigative purposes beyond the performance of the system.

Even if the Attorney General believed he did not have the authority to review the audit log for investigative purposes, why then did he not ask Congress for that authority back in September when he was putting together his proposals for the Patriot Act? Why wouldn't he want Federal law enforcement officers to know if a suspect or potential informant had recently purchased a firearm when they go to question or detain that person? Finally, why would he continue to seek to reduce the retention time for the audit log from 90 days to 1 business day, forcing ATF to ask more than 70,000 federally licensed gun dealers to review their sales records every time law enforcement authorities conduct a review for names associated with gun crimes but particularly associated with terrorist activities?

We can only conclude that politics and the powerful influence of the gun lobby have trumped gun policy once again. I hope the Attorney General will reconsider his position. None of us really knows what the next terrorist attack will look like. We cannot assume that because the attacks on September 11 did not involve firearms, the next one will not also involve firearms. We should give law enforcement every tool at our disposal to prevent terrorists from gaining access to firearms, and to know about it when they do.

If the Attorney General insists upon the narrowest interpretation of allowable uses of the NICS audit log, we need legislation to make it absolutely clear that law enforcement authorities can review these records if they have reason to believe that a person under investigation, particularly under investigation for terrorist activity, may have purchased a firearm.

I am pleased to join Senator SCHUMER as a cosponsor of S. 1788, to clarify that NICS audit log records may be accessed by the Federal authorities for the purposes of responding to an inquiry from any federal, state or local law enforcement agency, and also to ensure that these records be maintained for at least 90 days to ensure a reliable auditing system is in place.

I also look forward to consideration at the earliest possible time next year of my legislation to close the gun show loophole, so that we can prevent convicted felons, fugitives from justice, and, yes, even terrorists, from buying guns from private dealers at gun shows without a background check.

There has been a lot of misinformation about the technical requirements of conducting Brady Law background checks at gun shows. It has been suggested that gun shows in rural areas are not equipped with the technology to make background checks feasible. The only technology needed to run a Brady background check is a telephone. At most gun shows, federally licensed firearms dealers use cell phones to conduct background checks. At others, telephone "land lines" are made available. Under my bill, these federally licensed dealers would run checks on behalf of unlicensed sellers at the gun show, ensuring that a background check is run every time a gun is sold at more than 4,000 gun shows held each year in America.

I should also add that 95 percent of these checks are completed within two hours, and no new technology would be required beyond access to a telephone, a device that has been with us for a long time. My constituents in Rhode Island and all Americans pay a universal service fee as part of their monthly phone bills to ensure that telephone service is available to every part of this country, no matter how rural or how remote.

Let's close the gun show loophole so that convicted felons, domestic abusers, terrorists, and other prohibited persons do not use gun shows to purchase firearms without a Brady background check.

When we confront terrorists, and when we hear the President say every tool available to law enforcement will be used, let us ensure every tool is used. Let us ensure there is no area that is off limits because of the powerful influence of the gun lobby. Let us give our law enforcement officials every opportunity to protect America from terrorist attacks.

I yield the floor.

NOMINATION OF EUGENE SCALIA

Mr. HATCH. I rise to join many of our colleagues to express my frustration with the leadership for failing to permit a floor vote on the nomination of Eugene Scalia to be the Solicitor General of the Labor Department. I was mystified as to what reasons there could possibly be to hold up the President's choice, his pick, for this vital position at a time when it is of national urgency for the Labor Department to have its team in place.

I have heard it said in the press it is because Scalia is the son of Justice Antonin Scalia and that this is some