



Senate to Vote on Four Gun Bills on Monday, Including NRA-backed Cornyn Bill

Although none of four gun bills, [offered as amendments](#) to a Justice Department spending bill, is expected to pass the Senate on Monday, special attention is being paid to two of them. Both infringe on Fifth Amendment rights, one by a little, the other by obliterating them altogether.

In her efforts to have the Senate expand the two current watch lists — the no-fly list and the terror watch list — to prohibit anyone on either list from being able to purchase a firearm, California Democrat Senator Dianne Feinstein is presenting her “Denying Firearms and Explosives to Dangerous Terrorists Act,” which would obliterate the Fourth and Fifth Amendments to the Constitution. In place of those two amendments, her legislation would give the attorney general the power to “deny the transfer of a firearm” if he or she “determines that the prospective transferee is known (or appropriately suspected) to be or have been engaged in ... terrorism, and ... has a reasonable belief that the prospective transferee may use a firearm in connection with terrorism.” This would neatly obliterate the Probable Cause (Fourth Amendment) and Due Process (Fifth Amendment) standards deliberately created by the Founders to keep politicians such as Feinstein from doing what she intends.



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That Feinstein intends the result — the destruction of those standards — was made clear when she argued on Sunday that that “probable clause” standard of the Fourth Amendment is just too high to catch the bad guys. It would, said the senator on CBS’s *Face the Nation*, “cut out a lot of people who are probable threats.” If passed it would also include a lot of people who aren’t, but they wouldn’t know it until they tried to purchase a firearm. And then there would be little chance of them getting off the list.

Across the aisle Texas Republican Senator John Cornyn has his own amendment, which would allow names to be added to the no-fly list and the terror watch list without due process or probable cause, but



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only for 72 hours, giving, said Cornyn, “law enforcement the opportunity to go before a judge and prove their case.”

Either those amendments mean what they say, or they don't. The Fourth Amendment says, in part: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, but upon probable cause.”

The Fifth Amendment says, in part: “No person shall ... be deprived of life, liberty, or property, without due process of law.”

Due Process consists of providing to the “prospective transferee” written notice of the impending deprivation, a hearing, an opportunity at that hearing to present witnesses in his defense and to cross-examine witnesses called by the prosecution, an independent and objective decision maker who is required to provide a written statement of his ruling, legal counsel, and the timely notice of all of these rights well in advance of charges being filed.

Feinstein doesn't care and neither, apparently, does Cornyn. His bill would deprive that “prospective transferee” those rights for 72 hours to allow the Justice Department time to persuade a judge that there does in fact exist sufficient probable cause to place his name on a watch list and prohibit him for purchasing a firearm.

It's a difference without a distinction according to Justin Stakes of Open Carry Texas:

Open Carry Texas (OCT) vehemently, categorically, and whole-heartedly opposes every proposed measure, including the NRA-backed amendment sponsored by [Texas] Senator John Cornyn requiring a mandatory waiting period.

He explains why:

The process by which the government determines one to be ineligible to fly is a secret. There is no notification process to an individual placed on the no-fly list, meaning that Americans frequently don't find out until they're already trying to board a plane. There is no appeals process for being removed from the list and — other than politically connected individuals — it is nearly impossible to do so.

Due to the complete lack of due process involved in the “no-fly” list, OCT condemns and opposes any effort to prevent law abiding citizens who have not been adjudicated by a court from exercising their right to keep and bear arms, including the right to purchase them, based on such a list....

Due to the lack of due process involved in every amendment being proposed, we cannot support, endorse, or accept any of them. We will not condone the destruction of any aspect of our constitution under the guise of public safety. Senator Cornyn's bill would treat people adjudicated without due process as criminals just for being placed a list without warrant, affidavit or cause.

Although none of the proposed amendments is likely to pass, including those offered by Senator Chris Murphy (D-Conn.) on expanding background checks and Senator Chuck Grassley (R-Iowa) on adding mental health records to the background check list, each illustrates how freedom is lost: an inch at a time. The NRA, supposedly the country's staunchest defender of precious rights, is willing to compromise a little instead of standing by its foundation's “heart [which is] preserving the core of our American values and traditions in our steadfast effort to Teach Freedom.”

Rather than obliterate precious constitutional rights altogether as Feinstein's amendment would do, the NRA appears to be comfortable instead in nibbling away at it an inch at a time.



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As expected the Senate rejected all four gun bills on Monday. But the fight is far from over, according to Senator Chuck Schumer: "We will keep pushing until they see the light." *The New American* will keep readers posted on new pressures on the Second Amendment as they occur.

A graduate of an Ivy League school and a former investment advisor, Bob is a regular contributor to The New American magazine and blogs frequently at [LightFromTheRight.com](#), primarily on economics and politics. He can be reached at badelmann@thenewamerican.com.

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