

*This article originally appeared in the Chicago News Cooperative on June 26, 2011. It was written by James Warren. Read the original [here](#) .*

Don Mastrianni, owner of Illinois Gun Works in Elmwood Park, was telling me last week about attending a Chicago seminar sponsored by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.

“Some official was saying that if a guy shows up in a suit and tie and wants to buy a gun, you can pretty much figure he doesn’t belong in a gang. But I said: ‘Are you naïve?! Gangs have guys who dress up nice and buy guns, too.’ ”

While giving me a primer on buying guns, Mastrianni was surprised when I told him this: Somebody can be barred from taking a flight at O’Hare International Airport because he is a suspected terrorist but not from buying a gun at Mastrianni’s shop.

Yes, this might even give pause to a few die-hard Fox News Channel viewers, whom one presumes exhibit Pavlovian fidelity to the Second Amendment right to “keep and bear arms.”

There are 18 categories under which the purchase of a gun is prohibited by federal law. Those include a felony conviction; illegal drug use; misdemeanor conviction for domestic violence; a legal determination of being a ‘mental defective’; being in the country illegally; a dishonorable discharge from the military; and being the subject of a court order restraining you from harassing, stalking or threatening an intimate partner.

But if the government thinks you’re playing footsie with Al Qaeda, that’s different. You can get a gun, but you cannot fly to Bangor, Me.

At the request of Senator Frank R. Lautenberg, Democrat of New Jersey, the Government Accountability Office examined gun purchases by people on the government’s terrorist watch list. It concluded that such people bought guns and explosives from licensed dealers on 865

occasions between 2004 and 2009.

This placed a spotlight on several lists of bad guys, or supposed bad guys, kept by the government. There's one maintained by the F.B.I. and used for criminal background checks of prospective gun purchasers. Then there's a very different list, contributed to by multiple agencies and used by the Transportation Security Administration. It's meant to keep terrorists or suspected terrorists off planes. Those lists are confidential, and it's unclear if there's overlap.

But the law is such that the F.B.I. can't tell a gun dealer like Mastrianni not to sell a gun to somebody we think is a terrorist and whom the T.S.A. won't let on a plane. Two years ago, 400 mayors, led by Michael R. Bloomberg of New York and Thomas M. Menino of Boston, called for this oddity to be eliminated.

They were essentially parroting a 2007 recommendation by President George W. Bush's Justice Department. It drafted legislation under which the attorney general, through the F.B.I., would have the discretion to deny such a purchase to a known or suspected terrorist.

The Obama administration has supported the same change, which might still let a suspected terrorist buy a gun if authorities had investigative reasons not to tip that person off to their suspicions. Like its predecessor, the Obama administration has gotten nowhere, mostly because of Republican opposition.

Also carrying water for a change is Representative Mike Quigley, a North Side Democrat, who sits on the House Judiciary Committee. He tried to close the loophole but got slapped down in May on a 21-11 vote on partisan lines.

"It shows how extreme the National Rifle Association's control over Congress really is," Quigley said Friday.

As for what irks Republicans on the Judiciary Committee, there is deep suspicion of government overreaching, said a Republican Congressional aide on the committee, who conceded the political potency of the N.R.A. on this matter.

The Republicans fear that F.B.I. discretion would be abused to deny guns to “anybody and everybody,” the aide said. It’s an N.R.A. slippery slope argument. There are also qualms about due process, since suspected terrorists may not have been convicted of anything.

There are related, well-documented problems. While Quigley focuses on sales by federally licensed dealers, like Mastrianni, or licensed dealers at gun shows, background checks don’t apply to private people selling at those shows or through classified ads. Eliminate the loophole Quigley aims at, and there’s still the remaining mess.

As for Mastrianni, a retired trucker, he won’t lose sleep if he can’t sell to somebody the F.B.I. thinks is a terrorist. Besides, if it’s not a matter of law, there’s always his gut.

“If you come across somebody who’s nuts, you know,” he said.