

'No Fly No Buy' Earns an Unexpected Opponent

After a sit-in held by congressional Democrats Wednesday and Thursday, senators have announced they plan to vote on two compromise gun-control measures.

But the Democrats' "no fly, no buy" measure has been met with a wholly unexpected new opponent. In a white paper titled "The Use of Error-Prone and Unfair Watchlists is Not the Way to Regulate Guns in America," the American Civil Liberties Union has blasted the proposed legislation.

The ACLU's National Security Project Director, Hina Shamsi, and Washington Legislative Office Deputy Director Chris Anders wrote:

We believe that the right to own and use guns is not absolute or free from government regulation since firearms are inherently dangerous instrumentalities and their use, unlike other activities protected by the Bill of Rights, can inflict serious bodily injury or death. Therefore, firearms are subject to reasonable regulation in the interests of public safety, crime prevention, maintaining the peace, environmental protection and public health. At the same time, regulation of firearms and individual gun ownership or use must be consistent with civil liberties principles, such as due process, equal protection, freedom from unlawful searches and privacy.

Our nation's watchlisting system is error-prone and unreliable because it uses vague and overbroad criteria and secret evidence to place individuals on blacklists without a meaningful process to correct government error and clear their names.

The government contends that it can place Americans on the

No Fly List who have never been charged let alone convicted of a crime, on the basis of prediction that they nevertheless pose a threat (which is undefined) of conduct that the government concedes "may or may not occur." Criteria like these guarantee a high risk of error and it is imperative that the watchlisting system include due process safeguards—which it does not. In the context of the No Fly List, for example, the government refuses to provide even Americans who know they are on the List with the full reasons for the placement, the basis for those reasons, and a hearing before a neutral decision-maker.