

United States Senate

WASHINGTON, DC 20510

February 5, 2018

The Honorable Christopher Wray
Director of the Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Director Wray,

We write to express our alarm over recent reports of dangerous lapses in the incorporation of military criminal records into the Federal Bureau of Investigation's (FBI) background check databases.¹ As you know, the recent tragic mass shooting in Sutherland Springs, Texas, brought to light a systematic failure by the Department of Defense (DoD) to report all relevant court-martial charges and convictions to the FBI's background check systems. We are deeply disturbed to learn that court-martial convictions, even when properly reported by the DoD to the FBI, are not all being incorporated into the FBI's databases. We urge you to act immediately, in close coordination with the DoD, to protect the safety of all Americans by ensuring that all information submitted to the FBI is properly and completely incorporated into all relevant background check databases for use by law enforcement agencies and federally licensed firearms dealers.

In 2014, Kyle Juhl, a United States Army veteran, committed suicide with a handgun.² In 2010, Mr. Juhl was convicted in a court martial and sentenced to four years in military prison. As you know, the Brady Handgun Violence Prevention Act prohibits individuals convicted of offenses carrying a sentence of more than one year from obtaining firearms. An Army spokesman said Mr. Juhl's conviction and fingerprint records were correctly submitted to the FBI in 2010. However, local police found no record of his court-martial conviction in the FBI background check system.³ Even though Mr. Juhl was disqualified from buying a gun, there was nothing in the federal background check system that would have prevented him from doing so.

Similarly, in 2015, former Army 1st Sgt. Gregory McQueen was convicted by General Court Martial of a number of charges related to his organization of a prostitution ring, sentenced to two years of confinement, and dishonorably discharged. The Army claims to have submitted Mr. McQueen's fingerprints to the National Crime Information Center (NCIC) and his dishonorable discharge to the National Instant Criminal Background Check System (NICS). In October 2016, the Texas Department of Family and Protective Services (DFPS) queried NCIC when Mr. McQueen applied to be a foster parent, but his records were not in the system. As a result, although Mr. McQueen had been convicted of charges stemming from the sexual exploitation of others, he was approved by the State of Texas to become a foster parent and did work as a foster parent before this egregious oversight was detected. This lapse in records reporting could have had dire consequences for some of our nation's most vulnerable and at-risk children. In November 2017, the Army learned that Mr. McQueen's fingerprints were not in NCIC and immediately notified Texas DFPS and resubmitted his fingerprints to NCIC.

¹ Martha Bellisle, *Vet killed self with gun previously seized, sold by police*, The Associated Press, January 9, 2018, <https://apnews.com/58bd92e2c449481d95135323b9d02670/Vet-killed-self-with-gun-previously-seized,-sold-by-police>.

² Martha Bellisle, *A look at guns sold by police that ended up at crime scenes*, Merced Sun-Star, January 8, 2018, <http://www.mercedsunstar.com/news/business/article193505739.html>.

³ *Vet killed self with gun previously seized, sold by police*, *supra* note 1.

Following the mass shooting in Sutherland Springs, the U.S. Army Chief of Staff acknowledged significant gaps in reporting Army court martial convictions to federal databases.⁴ The reporting around Mr. Juhl and Mr. McQueen suggests that there may be gaps in the FBI's incorporation of military criminal records into federal databases even when criminal records are apparently correctly reported by the DoD. As you know, it is critically important that federal agencies not only effectively share information to ensure that our existing firearms laws keep Americans safe, but that the many systems that protect children in foster care and other settings reflect a complete record of felony and disqualifying convictions.

We request a response to the following questions no later than February 19, 2018.

- 1. Did the FBI receive a record from the United States Army regarding Mr. Juhl's conviction that should have been entered into NICS? Is/was Mr. Juhl's court-martial conviction available on NICS and/or any other criminal background check system?**
- 2. Did the FBI receive a record from the United States Army regarding Mr. McQueen's conviction and dishonorable discharge that should have been entered into NCIC or NICS? Is Mr. McQueen's record available now on NCIC or NICS?**
- 3. What procedures does the FBI follow to acquire and incorporate court-martial charges or convictions into its federal background check databases? What changes to procedures, if any, have been made in response to these reported lapses?**
- 4. Can you verify that the number of submissions by the Department of Defense to NICS—published by the DoD Inspector General⁵—is completely consistent with the FBI's records? Please provide us with the number of submissions that NICS and other databases have received from the DoD, as well as a comparison to the DoD's own numbers. If these numbers are not consistent, please detail what steps you have taken, or will take, to immediately identify and correct any discrepancies.**

Thank you for your prompt attention to this matter.

Sincerely,



RICHARD BLUMENTHAL
United States Senator



EDWARD J. MARKEY
United States Senator




MAZIE K. HIRONO
United States Senator



KIRSTEN GILLIBRAND
United States Senator

⁴ *U.S. Army sees 'significant' gaps in reporting criminal activities to law enforcement*, Reuters, November 15, 2017, <https://www.reuters.com/article/us-usa-military/u-s-army-sees-significant-gaps-in-reporting-criminal-activities-to-law-enforcement-idUSKBN1DF2XQ>.


⁵ Department of Defense Inspector General, *Evaluation of Fingerprint Card and Final Disposition Report Submissions by Military Service Law Enforcement Organizations*, December 4, 2017, <https://media.defense.gov/2017/Dec/05/2001852278/-1/-1/1/DODIG-2018-035.PDF>.



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