

# United States Senate

WASHINGTON, DC 20510

November 7, 2017

The Honorable James N. Mattis  
Secretary  
U.S. Department of Defense  
Washington, DC

The Honorable Elaine Duke  
Acting Secretary  
U.S. Department of Homeland Security  
Washington, DC

Dear Secretary Mattis and Acting Secretary Duke:

We write to express our strong concerns with the apparent failure on the part of the United States Air Force to report records identifying an individual prohibited from legally receiving or possessing firearms to the Attorney General for inclusion in the National Criminal Information Center (NCIC) database. Following the tragic shooting in Sutherland Springs, Texas, on November 5, 2017, the Air Force announced that the gunman's domestic violence offense was not entered into the NCIC database. We understand that the Air Force has initiated an investigation into this case, and that the Department of Defense has also launched a review of how the gunman's criminal records were handled. We urge you to conduct a review of the NCIC database reporting procedures across all Armed Services components for the past decade. We further request a full review of military records and databases to ensure criminal records in other cases have been reported correctly.

According to law enforcement reporting, the gunman, a former Airman, was convicted by a general court martial on two charges of domestic assault against his wife and stepson under Article 128 of the Uniform Code of Military Justice. These convictions make it illegal for an individual to buy or possess a firearm under federal law, yet the failure to enter the gunman's criminal conviction into the NCIC system prevented the shooter from being flagged in the FBI's National Instant Criminal Background Check System (NICS). This allowed him to purchase at least four firearms over the last four years, including the firearm used in this horrific shooting.

The 2007 NICS Improvement Act directs federal agencies to report records identifying prohibited persons to the Attorney General no less than quarterly. This incident raises the question of whether there are other gaps in the military's criminal records reporting procedures. In addition, inmate in-processing could provide an additional opportunity for the Armed Services to check that cases are properly reported. We welcome your views on this and other potential improvements.

Please provide us with a report and regular updates on the details of this investigation and the actions the Department of Defense and the Department of Homeland Security are taking to ensure that military records across the Armed Services are accurately and consistently reported to the NCIC, in accordance with federal law. Thank you for your attention to this important issue.

Sincerely,



Susan M. Collins  
United States Senator



Pat Toomey  
United States Senator