



NEW YORK CITY LAW DEPARTMENT

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New York & Other Cities Sue to Compel the Department of Defense to Report All Disqualifying Conviction Records to the FBI's National Gun Background Check System

*Cities Partner with Giffords Law Center to Obtain Court Oversight of DoD, After Decades of
Inaction by the Agency*

*The NYPD & Other Municipal Police Departments Rely on the FBI's Database for Background
Checks*

NEW YORK – New York City Corporation Counsel Zachary W. Carter announced today that the City of New York, in conjunction with Philadelphia and San Francisco, has filed a federal lawsuit to compel the Department of Defense (DoD) to fix its broken system for reporting all service members disqualified from purchasing and possessing firearms to the FBI's national background check system for gun licensing and sales.

Service members convicted of crimes or dishonorably discharged are prevented from legally buying or possessing guns, but for decades the DoD has consistently failed to report significant numbers of disqualifying records to the FBI. This failure recently allowed the perpetrator of the church shooting in Sutherland Springs, Texas, to pass a background check, buy an assault rifle, and carry out the mass shooting there last month. The NYPD and the police departments of the other municipalities that have filed suit rely on the FBI's database to conduct background checks on gun permit applicants, monitor gun purchases and ensure seized guns are not returned to anyone prohibited from owning them.

“This failure on behalf of the Department of Defense has led to the loss of innocent lives by putting guns in the hands of criminals and those who wish to cause immeasurable harm,” said **Mayor Bill de Blasio**. “New York City is joining Philadelphia and San Francisco to stand up to the Department of Defense and demand they comply with the law and repair their drastically flawed system.”

Corporation Counsel Zachary W. Carter said: “For decades the Department of Defense has shirked its legal obligation to provide information to the FBI that may disqualify dangerous individuals from legally acquiring guns. This lawsuit seeks a court order requiring the Department of Defense to fix a broken system that puts lives at risk.”

The DoD’s reporting failures are pervasive, and have persisted for at least two decades:

- In 1997, the DoD Inspector General reported that the Air Force failed to submit appropriate records in approximately 50% of its cases; the Navy failed to submit records in approximately 94% of its cases; and the Army failed to submit records in approximately 79% of its cases.
- Eighteen years later, in 2015, the DoD Inspector General reported that the same problems persisted, and the Air Force still failed to submit records in approximately 32% of its cases; the Navy failed to submit records in approximately 25% of its cases; and the Marine Corps failed to submit records in approximately 33% of its cases.
- Just this month, the DoD Acting Inspector General reported that the Air Force failed to submit records in approximately 14% of its cases, the Navy failed to submit records in approximately 36% of its cases, the Army failed to submit records in approximately 41% of its cases, and the Marine Corps failed to submit records in approximately 36% of its cases. The DoD Acting Inspector General just testified to Congress that these problems persisted because DoD simply “didn’t take [his office’s] recommendations as seriously as they should have.”

The City of New York, et al. v. The United States Department of Defense, et al. was filed today in the United States District Court for the Eastern District of Virginia.

Lead counsel is Pillsbury Winthrop Shaw Pittman. The Pillsbury team is led by New York partner Kenneth Taber, who led landmark litigation brought by New York City in 2006 to stem the flow of illegal guns into New York, and by Washington partner Matthew MacLean, who has extensive experience litigating with the DoD, and previously served as a Judge Advocate in the U.S. Army. Pillsbury has developed this case with Adam Skaggs, Chief Counsel at Giffords Law Center to Prevent Gun Violence, an organization that includes the nation’s foremost experts in gun law.

The City of New York is also represented by the Law Department: Zachary W. Carter, Corporation Counsel; and Melanie Ash and Eric Proshansky of the Law Department’s Affirmative Litigation Division.

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