# Cities sue Defense Dept. over gun-check system failures

By COLLEEN LONG Associated Press

NEW YORK — Three large U.S. cities filed a federal lawsuit Tuesday against the Department of Defense, arguing that many service members who are disqualified from gun ownership weren't reported to the national background check system.

New York City, San Francisco and Philadelphia said in court papers that the military's broken system for relaying such information helped spur the massacre of 26 people inside a Texas church last month.

"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," New York Mayor Bill de Blasio said in a statement. "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.

Local law enforcement officials rely on the FBI's database to conduct background checks on gun permit applications and to monitor purchases. It must be up-to-date in order to prevent people from



Jay Janner/The San Antonio Express-News via AP. File In this Nov. 5 file photo, investigators work at the scene of a deadly shooting at the First Baptist Church in Sutherland Springs, Texas.

wrongly getting guns, the cities' attorneys wrote.

The lawsuit filed in federal court in Alexandria, Virginia, seeks an injunction and judicial oversight to ensure ongoing compliance with the Defense Department's obligation to submit records.

Military officials previously acknowledged problems with their reporting.

A Pentagon spokesman on Tuesday said he couldn't comment specifically on the lawsuit.

"The department continues to work with the services as they review and refine their policies and procedures to ensure qualifying criminal history information is submitted to the FBI," said Tom Crosson, a Pentagon spokesman.

Defense Department's The failure to report "significant numbers" of disqualifying records to the FBI's national background check system allowed former U.S. Air Force member Devin P. Kelley to buy a rifle and shoot 26 people

to death Nov. 5 in a Sutherland Springs, Texas, church, the lawsuit said. Kelley had been convicted of assaulting family members in a 2012 court martial and should not have been allowed to purchase a gun.

Air Force leaders already acknowledged that the service failed to alert the FBI to Kelley's criminal history and that they discovered "several dozen" other such reporting omissions. They said that while policies and procedures requiring reporting were in place, training and compliance measures were lacking.

And Army leaders have said their service also has similar gaps.

Earlier this month, the Pentagon's watchdog agency it found a "troubling" number of failures this year by the military services to alert the FBI to criminal history information. Attorney General Jeff Sessions has ordered a far-ranging review of the FBI database.

Philadelphia in particular has been plagued by gun violence and "relies on this reporting when making the crucial decision whether a license-to-carry applicant should be permitted to carry a firearm," said Mayor Jim Kenney, who is a Democrat like the mayors of New York and San Francisco. "We're

joining in this suit because reporting these records is absolutely critical to those decisions. The background check system only works if it contains the proper records."

San Francisco City Attorney Dennis Herrera said in a statement that the Department of Defense's failure to accurately report criminal convictions puts Americans at risk.

"We cannot accept the level of gun violence in our country as 'just the way it is," he said. The lawsuit names the armed

forces individually, as well as the Department of Defense, Defense Secretary Jim Mattis and several other officials.

According to the lawsuit, the U.S. Air Force failed to submit records in about 14 percent of cases, the U.S. Navy and Marine Corps failed to submit records in 36 percent of cases, and the U.S. Army didn't submit records in about 41 percent of cases.

The Air Force said it has already made changes designed to prevent such failures in the future. For example, it is now requiring that leaders up the chain of command verify that criminal history reporting requirements have been met in every case. And, additional training on these procedures is being conducted.

## North Carolina sues pharmaceutical over opioid scheme

By GARY D. ROBERTSON Associated Press

RALEIGH, N.C. - North state government Carolina lawyers are suing a pharmaceutical company whose former leaders already face criminal charges elsewhere related to an alleged nationwide bribery scheme involving a powerful opioid.

Attorney General Josh Stein announced an unfair trade lawsuit Dec. 21 he filed in Wake County Superior Court against Arizona-based Insys Therapeutics for an unlawful marketing campaign he says rewarded doctors who prescribed the drug Subsys.

Subsys, a mouth spray, contains fentanyl and is approved only for cancer patients dealing with extreme bouts of pain. It's 50 times stronger than heroin and 100 times stronger than morphine,

### "We allege that Insys unlawfully pushed these powerful pain killers on North Carolina patients just to make more money."

- Josh Stein, North Corolina Attorney General

according to the lawsuit.

Insys officials gave financial inducements to physicians who prescribed Subsys to noncancer patients and sponsored presentations in Chapel Hill and Winston-Salem to expand use, the lawsuit alleges while seeking civil penalties and forcing the company to give up money generated through its scheme.

The lawsuit also accuses the company of misleading insurers about the drug so they would cover the drug's use and providing incentives to its sales staff to get physicians to switch the medications of noncancer patients to Subsys.

Stein, who is also involved in a multistate investigation of major opioid manufacturers, said actions like those by Subsys are 'unconscionable" and "unacceptable," particularly in light of the nation's opioid epidemic. Nearly four people a day in North Carolina die from unintentional drug overdoses, according to officials.

"As millions of Americans were becoming addicted to these prescription pain killers and communities were struggling to respond to the crisis, we allege that Insys unlawfully pushed these powerful pain killers on North Carolina patients just to make more money," Stein said at

a news conference.

prosecutors Federal in Massachusetts indicted company founder John Kapoor in October in connection with the kickback allegations, while former executives — including one based in Charlotte — face trial next year. Kapoor's lawyer said he'll fight the charges.

Through a spokesman, Insys declined comment Thursday on Stein's lawsuit. At the time of Kapoor's indictment, the company said in a statement that it is now under new management and has taken "necessary and appropriate steps to prevent past mistakes from happening in the future."

Several former Insys employees and health care providers have pleaded guilty to felony charges around the country. New Jersey's attorney general also filed a lawsuit in October.

## Minnesota AG to join 'net neutrality' lawsuit

ST. PAUL, Minn. (AP) - Minnesota Attorney General Lori Swanson plans to join a multi-state lawsuit challenging the federal government's repeal of "net neutrality" rules.

Swanson told supporters in an email that she and other attorneys general would sue over the Federal Communications Commission's recent decision to roll back Obama-era rules that guaranteed equal access to the internet.

Minnesota Public Radio reports Swanson, a Democrat, says repealing net neutrality would have a detrimental effect on consumer protection and may influence how internet users access political content.

Service providers have argued the rules were heavy-handed. They contend they don't intend to block, slow down or prioritize web traffic as a result of the repeal.

Ben Wogsland, a spokesman for Swanson, said the lawsuit can't be filed until the rule change is published in the Federal Register.

#### WEDNESDAY AFTERNOON & EVENING

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