

*Be Safe. Shoot Straight. Fight Back!*



July 10, 2019

VIA EMAIL & U.S. MAIL

Hon. Georgette Gomez, Council President

**San Diego City Council**

City Administration Building

202 C Street, 10<sup>th</sup> Floor

San Diego, CA 92101

EMAIL: [cityclerk@sandiego.gov](mailto:cityclerk@sandiego.gov)

[georgettegomez@sandiego.gov](mailto:georgettegomez@sandiego.gov)

**Re: PROPOSED ORDINANCE TO REQUIRE MANDATORY  
LOCK STORAGE OF FIREARMS INSIDE THE HOME-  
OPPOSED**

Dear President Gomez and Council Members:

The California Rifle & Pistol Association, Incorporated ("CRPA") has been working to protect the rights of Californians and those that choose to safely and lawfully possess and use firearms for sport, hunting, self-defense, and the protection of others for over 140 years.

The City of San Diego is now considering a proposed ordinance that would require gun owners to keep their firearms locked in a storage container or with a trigger lock while not in immediate control of the firearm and would require the reporting of lost or stolen firearms—something that is already required under the state penal code.

Aside from the fact that laws like this are unconstitutional and completely unenforceable, they are bad policy that will endanger the lives of law-abiding citizen in your city and do nothing to meet the government goals as outlined by the City Attorney and submitted staff reports.

**Mandatory Lock Storage Requirements Are Ineffective**

The City Attorney's analysis of this issue fails to recognize that there is no duty for law enforcement to protect the public. *DeShaney v. Winnebago County Department of Social Services*, 109 S. Ct. 975 (1990). This has been established law for some 30 years. A police force in any jurisdiction, no matter how hard they try, cannot protect *all* of its citizens,<sup>1</sup> and police can't be held legally responsible in court when they fail to.<sup>2</sup> The proposed ordinance would limit a citizen's ability to defend himself/herself when police can't.

---

<sup>1</sup> <https://timesofsandiego.com/crime/2016/02/11/2-more-home-invasion-robberies-reported-overnight/>

<sup>2</sup> *Williams v. State*, 34 Cal.3d 18, 664 (1983).

***Be Safe. Shoot Straight. Fight Back!***



The staff report irresponsibly states that the “ordinance does not substantially burden the right or ability of owners to use firearms for self-defense in the home.” But every self-defense situation is different. The statement does not take into account homes where there are no children, or with elderly residents, or those living alone, or those with disabilities. Mandatory locked storage will prevent some from gaining quick access to their firearm when they need it most, and most quickly.

In the recent ruling of *Duncan v. Becerra*,<sup>3</sup> the court went into great detail about how each situation of self defense is different. The Court was careful to point out that the government is not in the position to say what an individual may need to defend themselves based on their unique circumstances. The Court also referenced a special report by the U.S. Department of Justice, Bureau of Justice Statistics published in 2013 which reported that between 2007 and 2011 “there were 235,700 victimizations where the victim used a firearm to threaten or attack an offender.”<sup>4</sup> According to another U.S. Department of Justice, Bureau of Justice Statistics, Special Report, for each year between 2003 and 2007, an estimated 266,560 burglaries occurred during which a person at home became a victim of a violent crime or a “home invasion.”<sup>5</sup> Basically, the Court is pointing out the obvious that crime on homeowners is not diminishing and it is not the government’s place to decide what an individual needs or does not need to protect themselves in their homes.

### **Lock Storage Laws Do Not Prevent Accidents or Keep Communities More Safe**

Other recommendations made by the City Attorney and staff, like using trigger locks, do not prevent accidents in the home as claimed. The government’s Consumer Product Safety Commission (“CPSC”) tested 32 different gun locks in 2001. “Officials said they believe the sample was a good representation of the locks on the market.” “In all but two cases, the locks failed at least one test.” The CPSC “found you could open locks with paper clips, a pair of scissors or tweezers, or you could whack them on the table, and they would open.”<sup>6</sup>

What’s more, 85% of all communities in America recorded no juvenile homicides in 1995, and 93.4% of communities recorded one or no juvenile arrests (not convictions) for murder.<sup>7</sup> And a government study concluded that only 7.5% of accidental firearm deaths—a small portion of firearm

---

<sup>3</sup> <http://michellawyers.com/wp-content/uploads/2019/03/Duncan-2019-03-29-Order-Granting-Plaintiffs-MSJ.pdf>

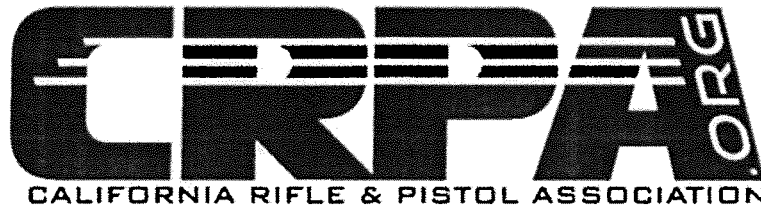
<sup>4</sup> Planty, Michael and Truman, Jennifer, Firearm Violence, 1993-2011 (2013), at p.11 and Table 11 [www.bjs.gov/content/pub/pdf/fv9311.pdf](http://www.bjs.gov/content/pub/pdf/fv9311.pdf)

<sup>5</sup> Catalano, Shannan, Victimization During Household Burglary, U.S. D.O.J., Bureau of Justice Statistics (Sept. 2010) <https://www.bjs.gov/content/pub/pdf/vdvhb.pdf>

<sup>6</sup> Caroline E. Mayer, *Safety Standards Sought After Gun Locks Fail Test*, WASHINGTON POST, Feb. 7, 2001, [https://www.washingtonpost.com/archive/politics/2001/02/07/safety-standards-sought-after-gun-locks-fail-test/d816ccfb-f282-4f68-bc43-90fdb399211/?utm\\_term=.3c66a873d476](https://www.washingtonpost.com/archive/politics/2001/02/07/safety-standards-sought-after-gun-locks-fail-test/d816ccfb-f282-4f68-bc43-90fdb399211/?utm_term=.3c66a873d476).

<sup>7</sup> *Children and Guns*, GUN FACTS, <http://www.gunfacts.info/gun-control-myths/children-and-guns/> (last visited July 16, 2018) (citing *Crime in the United States: Uniform Crime Reports*, Federal Bureau of Investigation, 1996).

*Be Safe. Shoot Straight. Fight Back!*



deaths to begin with—were preventable by child proof devices.<sup>8</sup> Deaths caused by accidental firearm discharges were declining *before* safe storage laws were enacted. “According to statistics maintained by the National Center for Health Statistics, the number of deaths annually caused by accidental firearm discharges has generally been decreasing, ranging from 1,955 deaths in 1980 to 1,501 deaths in 1988. This is a decline of 23 percent over 8 years.”<sup>9</sup>

A comparison of the fifteen states that adopted safe-storage laws between October 1, 1989 and January 1, 1996 with states that had no such laws found that:

The rate of accidental total gun deaths in the two sets of states ends up being virtually the same at the end of the period as when the law passed. The same holds for the subcategory of handgun deaths. Despite these laws potentially being most likely to stop accidental handgun deaths, there is no obvious decline. In fact, while relative accidental handgun deaths fall at first, the relative accidental handgun death rate in states passing the laws almost doubles 4 years afterward.”<sup>10</sup> Moreover, “The relative gun suicide rate ends up at almost the exact same level 4 years after adoption as the year that the law is adopted.”<sup>11</sup>

**That same study also found that safe-storage laws resulted in “3,738 more rapes, 21,000 more robberies, and 49,733 more burglaries annually in just the 15 states with these laws. More realistic estimates indicate across-the-board increases in violent and property crimes. During the 5 full years after the passage of the safe-storage laws, the 15 states faced an annual average increase of 309 more murders, 3,860 more rapes, 24,650 more robberies, and over 25,000 more aggravated assaults.”<sup>12</sup>**

Even Dr. Garen Wintemute, with U.C. Davis Health, who has a much stronger record for intellectual honesty than many other gun control researchers, admits that for “child-access prevention laws...at this time there is no good evidence that the laws are effective.”

Indeed, there is direct evidence that mandatory storage laws are lethal and allow criminals more opportunity to victimize citizens. The significant danger of gun-storage laws was brought home in an August 2000 incident in Merced, California, where a pitchfork-wielding man attacked Jessica

---

<sup>8</sup> United States General Accounting Office, *Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be Prevented* 39 (Mar. 1991), available at <https://www.gao.gov/assets/160/150353.pdf>.

<sup>9</sup> United States General Accounting Office, *Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be Prevented* 4 (Mar. 1991), available at <https://www.gao.gov/assets/160/150353.pdf>.

<sup>10</sup> John R. Lott Jr. & John E. Whitley, *Safe-Storage Gun Laws: Accidental Deaths, Suicides, and Crime*, THE JOURNAL OF LAW AND ECONOMICS, pg. 667–68, vol. XLIV (Oct. 2001).

<sup>11</sup> John R. Lott Jr. & John E. Whitley, *Safe-Storage Gun Laws: Accidental Deaths, Suicides, and Crime*, THE JOURNAL OF LAW AND ECONOMICS, pg. 668, vol. XLIV (Oct. 2001).

<sup>12</sup> John R. Lott Jr. & John E. Whitley, *Safe-Storage Gun Laws: Accidental Deaths, Suicides, and Crime*, THE JOURNAL OF LAW AND ECONOMICS, pg. 686, vol. XLIV (Oct. 2001).

*Be Safe. Shoot Straight. Fight Back!*



Carpenter's 7-year-old brother and 9-year-old sister. It's neither a surprise nor a coincidence that the cause of this tragedy went unreported by the national press.

Jessica's father had kept a gun in the home, and his children had learned how to fire it. Jessica, age 14, is a very good shot. But by California law, the gun had to be locked up when the parents weren't home. So, when the murderer attacked, Jessica wasn't able to retrieve the gun to save her siblings. She ran to a neighbor and begged for help. By the time the police showed up, the 7-year-old boy and the 9-year-old girl had been stabbed to death with the pitchfork.

In the aftermath, the children's great-uncle, Rev. John Hilton, declared that their father was "more afraid of the law than of somebody coming in for his family. He's scared to death of leaving the gun where kids could get it because he's afraid of the law. He's scared to teach his children to defend themselves."

According to Section 12035 of California's Dangerous Weapons Control Law, "criminal storage of a firearm in the first degree" is punishable by confinement to state prison for a maximum of 3 years, and/or a fine of up to \$10,000. Compliance with California's "safe-storage" laws — and the fear of being prosecuted for their violation — cost the Carpenter family two of their children.

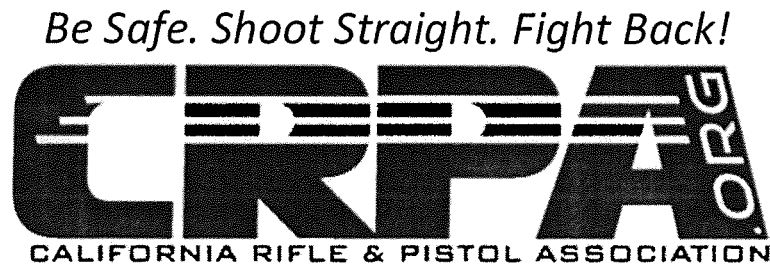
The tragedy in Merced is just one graphic instance of the thousands of additional murders and violent crimes that have resulted from criminals being emboldened by gun-storage laws that turn a family's home into a soft target for violent predators. And San Diego is no stranger to criminal elements that would take advantage of knowing that gun owners may be limited in their access to firearms in the home.

### **Lock Storage Laws are Part of a Larger Agenda and Not Based on Statistical Responses**

The hidden agenda behind safe-storage laws has nothing to do with safety. The anti-gun lobby believes that armed self-defense, by people who are not government employees, is inherently immoral; so, preventing families from protecting themselves is a step forward for civilization. The late David Clarke was the leading anti-gun advocate on the Washington, D.C. City Council. He claimed that his efforts to outlaw gun ownership for self-defense "are designed to move this government toward civilization...I don't intend to run the government around the moment of survival."

Even Sarah Brady, Chair of Handgun Control, Inc., agrees: "To me, the only reason for guns in civilian hands is for sporting purposes." As a direct result of her group's successful lobbying, the California government was emphatically not around at "the moment of survival" for the Carpenter children.

In Canada, gun prohibitionists, such as then-Justice Minister Alan Rock, have used storage laws as a justification for imposing universal gun registration, since registration "will create a sense



of accountability on the part of the firearms owner to comply with some of the safe-storage laws that are in effect.”

As the next step, the anti-gun lobbies in Canada (who work closely with their American cousins) have begun pushing for "community storage." Rather than keeping your guns in a safe in your home, you would have to keep your guns at a police station. When you wanted to use your gun for the day, you could check it out from the police station. This latest Canadian ploy isn't really new. Long ago, Sir Walter Raleigh wrote that the “sophisticated and subtle tyrant” will “unarm his people, and store up their weapons, under pretense of keeping them safe.”

In the 1950s, one of the most popular sitcoms was *Father Knows Best*. Starring Robert Young as head of the Anderson family, it centered on family values and personal responsibility. The show was not entitled *Government Knows Best*. Half a century later, it's still true that parents, not legislators, know best how to keep their children safe.

#### **Firearm Loss and Theft Reporting**

This proposal duplicates and simultaneously conflicts with state law and so is preempted. A person looking at the proposed ordinance may think that there is no fine or punishment if they report a lost or stolen firearm. Under the proposed ordinance (as noted in the staff report) they could report a lost or stolen firearm at any time. The state law requires a reporting time of 5 days.

Duplicative and conflicting laws at the local level do not make the citizenry safer. Duplicative and conflicting laws confuse people, create a patchwork of laws that cause conflict as to what laws actually do apply, and do not work to meet any valid governmental goals of the City as laid out in the staff report.

#### **Conclusion**

The CRPA advocates for responsible gun ownership and advocates to restrict access to firearms by violent criminals. But that the government does not have the expertise or the authority to dictate what a person does *in their home*. On behalf of our members, we oppose the proposed ordinance.

Sincerely,



Rick Travis