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8
 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA
 11

12
 13 **WILLIAM WIESE, et al.,**

14 Plaintiff,

15 v.

16 **XAVIER BECERRA, et al.,**

17 Defendant.

2:17-cv-00903-WBS-KJN

**EXHIBITS 43 THROUGH 54 TO THE
 DECLARATION OF ALEXANDRA
 ROBERT GORDON IN SUPPORT OF
 PLAINTIFF'S MOTION FOR
 TEMPORARY RESTRAINING ORDER
 AND PRELIMINARY INJUNCTION**

Date: June 16, 2017

Time: 10:00 a.m.

Courtroom: 5

Judge: The Honorable William B. Shubb

Action Filed: April 28, 2017

Exhibit 43

APPENDIX

MARCH 2017

Mass Shootings in the United States: 2009–2016



Appendix

Mass shooting incidents, January 2009–December 2016

The following incidents are presented in reverse chronological order. Information comes from police and court records, or media reports when no records were available.

Chicago, IL, 12/17/2016

Four people were shot and killed and one person was shot and injured in a home in the Fernwood neighborhood of Chicago. The identity of the shooter remains unknown.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Los Angeles, CA, 10/15/2016

A dispute involving multiple shooters led to four people being fatally shot and 11 more being shot and injured. The shooting took place during a birthday party, at a home that also served as an underground restaurant in the West Adams neighborhood of Los Angeles. Though investigators suspect multiple shooters were involved, only Marlon Jones has been charged in connection with the crime.

Shooter name: Marlon Jones (alleged)

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Marlon Jones was likely prohibited from possessing firearms as he was believed to be living in the United States illegally, according to the FBI.

GVRO red flag: There is no evidence to suggest that Jones exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Burlington, WA, 09/23/2016

Arcan Cetin, 20, allegedly shot and killed five people at the Cascade Mall. Cetin fled the mall in a vehicle, and was arrested by police after a 24-hour manhunt.

Shooter name: Arcan Cetin, 20 (alleged)

Gun details: .22-caliber Ruger rifle

Gun acquired: Cetin's stepfather owned a .22-caliber Ruger rifle and told detectives the weapon was missing from his home.

Prohibiting criteria: Cetin was likely prohibited from possessing firearms. In November 2015, he attempted suicide and was involuntarily committed at Fairfax Hospital, an inpatient psychiatric facility in Kirkland, WA.

GVRO red flag: In addition to his November 2015 suicide attempt, Cetin exhibited several warning signs in advance of the shooting. In the spring of 2015, Cetin was accused of sexually touching two female classmates at Oak Harbor High. A month later, he was arrested for misdemeanor domestic violence assault after an argument with his stepfather.

Gun-free zone: Cascade Mall, which is owned by the Macerich Group, prohibits the carrying of all weapons, including firearms, on the property as a term of their corporate code of conduct.

Sinking Spring, PA, 08/06/2016

Mark Short, 40, fatally shot his wife and their three children –ages 2 to 8 –before fatally shooting himself.

Shooter name: Mark Short, 40

Gun details: Handgun

Gun acquired: Short bought the gun from a licensed dealer in Lancaster County, PA approximately two weeks before the shooting.

Prohibiting criteria: There is no evidence to suggest Short was prohibited from possessing firearms.

GVRO red flag: Approximately two weeks before the shooting, police responded to a call from Short's wife, who indicated she was afraid of her husband.

Not a gun-free zone: The shooting took place in a private home.

Dallas, TX, 07/07/2016

Micah Johnson, 25, fatally shot five police officers and shot and injured nine more people during a protest in downtown Dallas. After the shooting subsided, Johnson hid in a parking garage, holding off police for hours. The police killed him the following morning, using an explosive delivered by a remote-controlled robot.

Shooter name: Micah Johnson, 25

Gun details: Izhmash-Saiga 5.45mm rifle, 9mm handgun, .25-caliber handgun

Gun acquired: Investigators believe Johnson acquired the guns legally, either online or at a gun show.

Prohibiting criteria: There is no evidence to suggest that Johnson was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Johnson exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: Under Texas law, the open and concealed carrying of firearms was lawful at the protest. There were several armed individuals at the protest.

Las Vegas, NV, 06/29/2016

Jason Dej-Odoum, 34, fatally shot his wife outside a Walgreens store. He then fatally shot their three children –ages 9 to 15 –in the family's apartment before fatally shooting himself.

Shooter name: Jason Dej-Odoum, 34

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest Dej-Odoum was prohibited from possessing firearms.

GVRO red flag: Dej-Odoum's wife had applied for a protective order weeks before the shooting,

but it was denied. In the protective order application, she alleged that Dej-Odoum had threatened the family with guns many times in the past. The application also suggests that Dej-Odoum threatened his children in conversation with his wife approximately three weeks before the shooting.

Not a gun-free zone: The shootings took place outside a Walgreens store and in a private home. Neither location would prohibit the carrying of firearms.

Roswell, NM, 06/12/2016

Juan David Villegas-Hernandez, 34, allegedly shot and killed his wife and four children, ages 7 to 14, in the family's home.

Shooter name: Juan David Villegas-Hernandez, 34 (alleged)

Gun details: .22-caliber rifle

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Villegas-Hernandez was prohibited from possessing firearms.

GVRO red flag: Days before the shooting, Villegas-Hernandez threatened to kill his wife, according to her brother. There was a history of abuse in the relationship, and Villegas-Hernandez's wife had recently asked for a divorce.

Not a gun-free zone: The shooting took place in a private home.

Orlando, FL, 06/12/2016

Omar Mateen, 29, fatally shot 49 people and shot and wounded 53 more at Pulse, a gay nightclub in Orlando. After the initial attack, Mateen held the people inside the club hostage for approximately three hours before police raided the club. Over a dozen police officers and sheriff's deputies engaged in a shootout with Mateen, shooting him fatally.

Shooter name: Omar Mateen, 29

Gun details: Sig Sauer MCX assault rifle, 9mm handgun

Gun acquired: Mateen legally purchased the guns from a Florida gun store about a week before the shooting.

Prohibiting criteria: The FBI had investigated Mateen for possible ties to terrorism, but eventually closed the investigation because agents concluded he was not a threat. This would not have prevented the shooter from buying or having firearms as the FBI currently has no authority to block gun sales to suspected terrorists.

GVRO red flag: There were several signs that Mateen was potentially dangerous. His ex-wife alleged that Mateen beat her before their divorce in 2011. A man who was Mateen's colleague in 2014 and 2015 said that he had violent tendencies and that he threatened to kill people.

Gun-free zone: Pulse nightclub was a gun-free zone under Florida law, which prohibits permit holders from carrying concealed handguns in bars and other venues that primarily serve alcohol.

Appling, GA, 4/22/2016

Wayne Anthony Hawes, 50, fatally shot five adults before fatally shooting himself. The shooting was related to a domestic dispute, with Hawes killing three of his girlfriend's family members.

Shooter name: Wayne Anthony Hawes, 50

Gun details: .357 magnum revolver, and shotgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest Hawes was prohibited from possessing firearms.

GVRO red flag: Hawes' girlfriend reported a long and ongoing history of verbal and physical abuse, as well as alcohol abuse.

Not a gun-free zone: This shooting took place between three private homes.

Pike County, OH, 04/22/2016

Eight members of the same family were shot and killed between four homes in the Piketon, OH area. No arrests have been made, and the identity of the shooter(s) is unknown. There were marijuana grow operations found at three of the crime scenes, though it is unknown if this was related to the shooting.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shootings took place between 4 private homes.

Wilksburg, PA, 03/09/2016

Cheron Shelton, 29, and Robert Thomas, 27, allegedly shot and killed five people and shot and injured three more at a backyard cookout. Officials believe the shooting was retaliation for another shooting in 2013.

Shooter names: Cheron Shelton, 29, and Robert Thomas, 27 (alleged)

Gun details: 7.62-caliber assault rifle, .40-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Both Shelton and Thomas were prohibited from possessing firearm, because of their history of violent felony convictions. Shelton also had a 2009 felony drug conviction which prohibited him.

GVRO red flag: There is no evidence that Shelton or Thomas exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shooting took place at a private home.

Kansas City, KS, 03/07/2016

Pablo Antonio Serrano-Vitorino, 40, allegedly shot and killed four men in Kansas City, KS; at least one of these men lived in the house next door to him. The next day he fatally shot another man at that man's home in Montgomery County, MO. A police manhunt ended in his arrest.

Shooter name: Pablo Antonio Serrano-Vitorino, 40 (alleged)

Gun details: A shotgun was used in the Kansas City shootings; an assault rifle was used in the Montgomery County shootings.

Gun acquired: Unknown

Prohibiting criteria: Serrano-Vitorino was prohibited from possessing firearms because, according to media reports, he was in the United States illegally.

GVRO red flag: In June 2015, Serrano-Vitorino was charged after allegedly punching his brother in the face.

Not a gun-free zone: The shootings took place between two private homes.

Belfair, WA, 02/26/2016

David Wayne Campbell, 51, fatally shot his wife, her two sons, a neighbor, and then himself.

Shooter name: David Wayne Campbell, 51

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: Campbell was likely prohibited from possessing firearms due to past felony and misdemeanor convictions in Pennsylvania, including theft by deception and forgery.

GVRO red flag: One of Campbell's former employees alleged that Campbell pulled a gun on him, and threatened to kill him in July 2015.

Not a gun-free zone: The shooting took place in a private home.

Phoenix, AZ, 02/23/2016

Alex Arthur Buckner, 26, fatally shot his parents and his two sisters in the family's home. He set fire to the house before being fatally shot by responding police officers.

Shooter name: Alex Arthur Buckner, 26

Gun details: Unknown

Gun acquired: The gun used in the shooting belonged to Buckner's father, one of the victims.

Prohibiting criteria: There is no evidence to suggest that Buckner was prohibited from possessing firearms.

GVRO red flag: There is no evidence that Buckner exhibited recent behavior that would have qualified him for a GVRO. His family members noted that he had been treated for drug abuse in the past, but it is unclear exactly when this occurred.

Not a gun-free zone: The shooting took place in a private home.

Kalamazoo, MI, 02/20/2016

Jason Brian Dalton, 45, allegedly shot and killed six people and injured two more in a spree shooting. The first shooting took place in the parking lot of an apartment building; a woman was critically injured, but survived. The second shooting –in the parking lot of a car dealership –killed a man and his 17-year-old son. And the third shooting –in the parking lot of a Cracker Barrel restaurant –killed four women and injured a 14-year-old girl. Dalton was working as an Uber driver during the spree, telling investigators that the Uber app took over his body.

Shooter name: Jason Brian Dalton, 45 (alleged)

Gun details: Walther P99 9mm handgun, Glock 19 9mm handgun

Gun acquired: Both guns used in the shooting were purchased from a licensed dealer.

Prohibiting criteria: There is no evidence that Dalton was prohibited from possessing firearms.

GVRO red flag: There is no evidence that Dalton exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: There is no evidence to suggest that any of the three locations was a gun-free zone.

Chesapeake, VA, 01/27/2016

Cameron Dooley, 26, fatally shot his mother, father, brother, sister, and grandmother between two homes. He then fatally shot himself.

Shooter name: Cameron Dooley, 26

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest Dooley was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest Dooley exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shootings took place between two private homes.

San Bernardino, CA, 12/02/2016

Married couple Syed Rizwan Farook, 28, and Tashfeen Malik, 29, fatally shot 14 people and shot and injured 22 more at Farook's office holiday party. Farook and Malik fled in a vehicle, but were shot and killed by pursuing police officers. The FBI investigated the incident as terrorism, suggesting that Farook and Malik may have been inspired by ISIS.

Shooter names: Syed Rizwan Farook, 28, and Tashfeen Malik, 29

Gun details: Five firearms were used in the attack: two 9mm handguns, two .223-caliber assault rifles, and a .22-caliber rifle.

Gun acquired: Three of the guns were purchased legally by Farook between 2007 and 2012. The other two were purchased by Farook's friend and former neighbor in 2011 or 2012.

Prohibiting criteria: There is no evidence to suggest that Farook or Malik were prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Farook or Malik exhibited recent behavior that would have qualified for a GVRO.

Not a Gun-free zone: The shooting took place at the Inland Regional Center, which is a state-run facility for individuals with developmental disabilities, including children. According to California law, the carrying of firearms is prohibited in state or local public buildings. However, concealed carry permit holders are exempt from this prohibition. Everytown found no other evidence that firearms were prohibited in the facility.

Palestine, TX, 11/14/2015

William Hudson, 33, allegedly shot and killed six people at a campsite. Hudson lived next to the campsite, and appeared to know the victims, though the motive for the shooting is unclear.

Shooter name: William Hudson, 33 (alleged)

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest Hudson was prohibited from possessing firearms.

GVRO red flag: In the month before the shooting, Hudson was arrested for assault after an incident at a local convenience store.

Not a gun-free zone: The campsite was privately owned; there is no evidence to suggest that firearms were prohibited on the land.

Pendleton, SC, 11/01/2015

Four family members were fatally shot in the Pendleton home where they lived. The identity of the shooter(s) is unknown.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Roseburg, OR, 10/01/2015

Christopher Harper-Mercer, 26, fatally shot nine people and shot and injured nine more during an English class at Umpqua Community College. Two responding police officers engaged Harper-Mercer in a shootout, hitting him once in the right side. Harper-Mercer then went back into the classroom and fatally shot himself.

Shooter name: Christopher Harper-Mercer, 26

Gun details: Harper-Mercer had five handguns and one rifle at the scene of the crime. Seven more guns were found at Harper-Mercer's home.

Gun acquired: According to ATF, all of the guns recovered were purchased legally, either by Harper-Mercer or his family members.

Prohibiting criteria: There is no evidence to suggest that Harper-Mercer was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Harper-Mercer exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: Concealed carry permit holders were allowed to carry firearms on the Umpqua Community College campus.

Platte, SD, 09/17/2015

Scott Westerhuis, 41, fatally shot his wife and their four children before setting their home on fire and fatally shooting himself.

Shooter name: Scott Westerhuis, 41

Gun details: Shotgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence that Westerhuis was prohibited from possessing firearms.

GVRO red flag: There is no evidence that Westerhuis exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Greenwood, NM, 9/10/2015

Brian Short, 45, fatally shot his wife and their three children –ages 13, 15, and 17 –before fatally shooting himself. The shooting took place in the family's home.

Shooter name: Brian Short, 45

Gun details: Remington 870 Express 12-gauge shotgun

Gun acquired: Short legally purchased the gun at a local gun store 4 days before the shooting.

Prohibiting criteria: There is no evidence that Short was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest Short exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Harris County, TX, 08/08/2015

David Conley, 49, allegedly shot and killed the woman he formerly lived with, her husband, and her six children in his former home. Conley was arrested after a standoff with police.

Shooter name: David Conley, 49 (alleged)

Gun details: 9mm handgun

Gun acquired: Conley reportedly bought the gun online in a private sale within two weeks of the shooting.

Prohibiting criteria: Conley was likely prohibited from possessing firearms due to a lengthy criminal history, including a 1989 conviction for aggravated robbery and auto theft, and a 1994 conviction for possession of a controlled substance.

GVRO red flag: In July 2015, the woman Conley ultimately shot and killed called police claiming that Conley had threatened to strike her son with a belt, and pushed her head against the refrigerator multiple times.

Not a gun-free zone: The shooting took place in a private home.

Barre, VT, 08/07/2015

Jody Herring, 40, allegedly shot and killed a social worker in a public parking lot. She then allegedly shot and killed her aunt, and two of her cousins in their home.

Shooter name: Jody Herring, 40 (alleged)

Gun details: Remington 700 .270-caliber rifle

Gun acquired: Herring stole the rifle from her ex-boyfriend.

Prohibiting criteria: Herring was prohibited from possessing firearms. She had a lengthy criminal record with 11 misdemeanor convictions, including heroin possession, petit larceny, and driving under the influence. Approximately 5 months before the shooting, Herring, on two separate dates, attempted to buy handguns from two licensed dealers in Vermont. On both occasions, the dealers denied her after requesting background checks.

GVRO red flag: Approximately a week before the shooting, Herring told her ex-boyfriend that she was going to "shoot some people". Her ex-boyfriend told investigators that Herring had a "hit list".

Not a gun-free zone: The shootings took place between a public parking lot and a private home, neither of which are gun-free zones.

Chattanooga, TN, 07/16/2015

Mohammad Abdulazeez, 24, fired from a vehicle into an Army/Navy recruitment center. He then traveled to the U.S. Naval Reserve where he fatally shot four marines and one sailor, and shot and injured two others, including a police officer. Ultimately, he was fatally shot by responding police.

Shooter name: Mohammed Youssuf Abdulazeez, 24

Gun details: AK-47-style assault rifle, shotgun, 9mm handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Abdulazeez was prohibited from possessing firearms.

GVRO red flag: Approximately 3 months before the shooting, Abdulazeez was charged with a DUI. Abdulazeez's relatives also attempted to have him admitted to an in-patient drug and alcohol program.

Gun-free zone: Abdulazeez fired at the Army/Navy recruitment center from the parking lot. Under Tennessee law, permit holders are allowed to keep guns in their cars in public and private parking lots. Under Department of Defense regulations, it is likely that most service members and

personnel at the US Naval Reserve were prohibited from carrying firearms. But, this prohibition would not have applied to authorized personnel, including those acting as security personnel or law enforcement. Media reports suggest that there was at least one service member on the premises who had a personal firearm and used it to fire at Abdulazeez.

Holly Hill, SC, 07/15/2015

An unknown assailant entered a residence and fatally shot two teenage girls, an adult male, an adult female, and shot and injured a child.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Charleston, SC, 06/17/2015

Dylann Roof, 21, fatally shot nine people during Bible study at the Emanuel African Methodist Episcopal Church.

Shooter name: Dylann Roof, 21

Gun details: .45 caliber Glock handgun

Gun acquired: Roof bought the gun at a licensed gun store in April 2015.

Prohibiting criteria: In the six-month period before the shooting, Roof was convicted for misdemeanor trespass and was facing a charge of misdemeanor possession of a controlled substance. Though neither the trespassing conviction nor the drug arrest would have caused him to fail a gun background check, the police report of the drug arrest contained evidence that he was an admitted unlawful user of a controlled substance. According to the FBI, that admission prohibited him from possessing firearms, so when he tried to purchase a handgun at a licensed gun dealer and underwent a background check, the FBI operator would have denied the sale had they had the record. The FBI operator did delay the sale of the gun used in the shooting to examine the details of the drug arrest, but they did not locate the police report within the three-business-day limit provided under law, and after that period elapsed, the gun dealer lawfully sold Roof the gun.

GVRO red flag: According to the police report from his 2015 arrest, Roof was an unlawful user of a controlled substance. This is echoed by one of Roof's high school classmates, who also identified him as a heavy drug user.

Gun-free zone: According to South Carolina law, the carrying of handguns is generally prohibited in churches and other religious sanctuaries.

Columbus, OH, 06/12/2015

Robert Lee Adams, 27, fatally shot a man, his daughter, and two other victims inside the man's home. He also shot and injured a 16-year-old girl. Adams was accompanied by a 16-year-old boy who helped rob the victims, but did not shoot them.

Shooter name: Robert Lee Adams, 27

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: Adams was prohibited from possessing firearms due to a 2008 conviction for armed robbery.

GVRO red flag: There is no evidence to suggest that Adams exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Missoula, MT, 06/07/2015

Michael Bournes, 59, fatally shot his wife and their three children—ages 1, 4, and 5—in their home. He then set the house on fire and fatally shot himself.

Shooter name: Michael Bournes, 59

Gun details: .45-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Despite a previous criminal history, Bournes was likely not prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Bournes exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Waco, TX, 05/17/2015

A brawl between rival biker gangs escalated into a shootout in which nine bikers were fatally shot and 18 others were shot and injured. Police engaged in the shootout and fired on the bikers.

Shooter names: Multiple unknown shooters

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in the parking lot around a restaurant. There is no evidence to suggest that the parking lot prohibited the carrying of firearms.

Tucson, AZ, 05/13/2015

Christopher Carrillo, 25, fatally shot his parents, his brother, and his niece in the family's home. He then fatally shot himself.

Shooter name: Christopher Carrillo, 25

Gun details: 9mm handgun

Gun acquired: Carrillo legally purchased the gun five days before the shooting.

Prohibiting criteria: Carrillo was not prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest Carrillo exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Phoenix, AZ, 05/13/2015

Driss Diaddinne, 50, fatally shot his mother, two brothers, and a sister-in-law in the home they all shared. He then fatally shot himself.

Shooter name: Driss Diaddinne, 50

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Diaddinne was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Diaddinne exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Indianapolis, IN, 03/24/2015

An unknown assailant shot and killed a woman, her cousin, her son, and a friend of the family in a home.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Tyrone, MO, 02/26/2015

Joseph Jesse Aldridge, 36, drove from house to house in his neighborhood, fatally shooting two of his cousins, their wives, and three unrelated neighbors. He shot and injured another neighbor. He fled the scene and ultimately shot and killed himself in his car.

Shooter name: Joseph Jesse Aldridge, 36

Gun details: .45-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Aldridge was prohibited from possessing firearms due to a 2008 felony conviction for possession of a firearm by an unlawful user of a controlled substance.

GVRO red flag: There is no evidence to suggest that Aldridge exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shootings took place in private homes.

Douglasville, GA, 02/07/2015

Cedric G. Prather, 33, went to the home where his ex-wife lived and fatally shot her, their two sons, and the ex-wife's new boyfriend. He also shot and injured two other children, and then fatally shot himself.

Shooter name: Cedric G. Prather, 33

Gun details: .45-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Prather was prohibited from possessing firearms due to a 2011 felony conviction for possessing cocaine.

GVRO red flag: Prather's ex-wife had asked a judge for a temporary protective order in August 2013, alleging that Prather had forced his way into her locked home and sexually assaulted her.

Not a gun-free zone: The shooting took place in a private home.

La Grange, GA, 01/31/2015

Thomas Jesse Lee, 26, fatally shot his wife, mother-in-law, father-in-law, and a teenage family friend in the home he shared with his wife's family. Lee also strangled and killed his stepdaughter.

Shooter name: Thomas Jesse Lee, 26

Gun details: .22-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Lee was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Lee exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

San Francisco, CA, 01/09/2015

An unknown assailant fatally shot four young men while they sat in a parked car on the street.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: In California, persons with a concealed carry permit may carry a concealed firearm in a car and on a public street.

Rockford, IL, 12/20/2014

Calvin Carter, 22, allegedly shot and killed his ex-girlfriend, her boyfriend, and her two children—ages 4 and 6.

Shooter name: Calvin Carter, 22 (alleged)

Gun details: .45 caliber handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence that the shooter was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest Carter exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Souderton, PA, 12/15/2014

Bradley Stone, 35, fatally shot his ex-wife, mother-in-law, sister-in-law, brother-in-law, and grandmother-in-law. He also fatally stabbed his niece and stabbed and injured his nephew before killing himself with a drug overdose.

Shooter name: Bradley Stone, 35

Gun details: .40-caliber handgun, 9mm Beretta

Gun acquired: Unknown

Prohibiting criteria: It is unclear if Stone was prohibited from possessing firearms. He was arrested and charged for a third DUI offense in 2013, admitted to Veteran's Treatment Court, and sentenced to 23 months of supervision. He agreed not to possess firearms as a condition of his admission to the treatment program, though it is unclear whether Stone would have failed a criminal background check.

GVRO red flag: Stone has several DUI arrests on his record, including one about 18 months before the shooting.

Not a gun-free zone: The shootings took place between three private homes.

Morgantown, WV 12/01/2014

Jody Lee Hunt, 39, fatally shot four people at three different locations: a business rival at his towing company, his ex-girlfriend and her new boyfriend in their shared home, and his cousin at his home. Hunt then fatally shot himself in his vehicle.

Shooter name: Jody Lee Hunt, 39

Gun details: 9mm handgun

Gun acquired: ATF traced the shooter's gun to a Monongalia County resident, who sold Hunt the 9mm handgun in an unlicensed transfer one year prior to the shooting. He was able to purchase the handgun in a private sale after responding to an ad for the gun posted on Facebook. Authorities do not believe that Hunt and the seller previously knew each other, and the seller was not charged with a crime.

Prohibiting criteria: The shooter was prohibited from possessing firearms due to multiple felony convictions. In 1999 in Virginia, he was convicted of felony kidnapping for abducting a former girlfriend and holding her hostage at gunpoint.

GVRO red flag: There is no evidence to suggest that Hunt exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: Three of the victims were killed in private homes. There is no evidence to suggest that the towing company had a specific policy prohibiting firearms on the premises.

Cleveland, OH, 11/21/14

James Sparks-Henderson, 19, allegedly shot and killed his close friend, a woman who was seven months pregnant, and two other victims inside a residence. He also allegedly shot and injured a nine-year-old girl.

Shooter name: James Sparks-Henderson, 19 (alleged)

Gun details: 9mm handgun

Gun acquired: Unknown

Prohibiting criteria: The shooter was prohibited from possessing firearms due to a 2010 felony conviction for aggravated robbery.

GVRO red flag: There is no evidence to suggest that Sparks-Henderson exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Springfield, MO, 11/15/2014

Scott Goodwin-Bey, 47, is suspected of fatally shooting four people in a motel room because he thought they were acting as informants to the police. He was convicted for being a felon in possession of a firearm. The murder charges were dropped in December 2016; though

Goodwin-Bey remains the only suspect, and prosecutors anticipate re-filing charges after additional testing is complete.

Shooter name: Scott Goodwin-Bey, 47 (suspected)

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Goodwin-Bey was prohibited from possessing firearms due to multiple felony convictions. In 1992, he was convicted of three felonies: possession of a controlled substance, unlawful use of a weapon, and resisting arrest.

GVRO red flag: There is no evidence that Goodwin-Bey exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: In a phone conversation, a motel employee told Everytown that a person with a concealed carry permit could carry on the premises.

Marysville, WA, 10/24/2014

Jaylen Fryberg, 15, shot five of his friends and classmates as they sat eating lunch in the cafeteria of Marysville-Pilchuck high school, killing four and injuring one. Fryberg then fatally shot himself.

Shooter name: Jaylen Fryberg, 15

Gun details: .40-caliber Beretta handgun

Gun acquired: The gun used in the shooting was owned by Fryberg's father, who said he kept the gun in his pickup truck.

Prohibiting criteria: As a juvenile, the shooter was prohibited from possessing handguns.

GVRO red flag: There is no evidence that Fryberg exhibited recent behavior that would have qualified him for a GVRO.

Gun-free zone: Washington law prohibits any person from carrying firearms onto elementary or secondary schools.

Bell, FL, 09/18/2014

Don Charles Spirit, 51, fatally shot his daughter and his six grandchildren, ranging from two months to 11 years of age. He then fatally shot himself.

Shooter name: Don Charles Spirit, 51

Gun details: .45-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: The shooter was prohibited from possessing firearms due to multiple felony convictions. In 1998, Spirit was convicted of felony possession of marijuana. In 2001, he unintentionally shot and killed his 8-year-old son while on a hunting trip; he was convicted of possession of a firearm by a felon.

GVRO red flag: Florida's Department of Children and Families (DCF) had been alerted to problems in the family about two weeks before the shooting. Spirit was allegedly abusing drugs, and physically abusing his grandchildren.

Not a gun-free zone: The shooting took place in a private home.

Culpeper, VA, 08/04/2014

Clarence Washington, 35, fatally shot his wife and three daughters –ages 4, 6, and 13 –and then fatally shot himself inside their home.

Shooter name: Clarence Washington, 35

Gun details: A .380 Hi-Point handgun and .22-caliber rifle were found at the scene; it is unclear which weapons were used in the shooting.

Gun acquired: Unknown

Prohibiting criteria: There is no evidence that Washington was prohibited from possessing firearms.

GVRO red flag: There is no evidence that Washington exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Saco, ME, 07/26/2014

Joel Smith, 33, fatally shot his wife, their two children, ages 4 and 7, and his 12-year-old stepson in the family's home. He then fatally shot himself.

Shooter name: Joel Smith, 33

Gun details: Shotgun

Gun details: Smith's brother purchased the shotgun for him.

Prohibiting criteria: There is no evidence that Smith was prohibited from possessing firearms.

GVRO red flag: Smith's father indicated that Smith suffered from alcohol abuse. Smith's wife told a family friend that Smith had threatened suicide in the week before the shooting.

Not a gun-free zone: The shooting took place in a private home.

Spring, TX, 07/09/2014

Ronald Lee Haskell, 33, allegedly shot and killed the sister of his ex-wife, her husband, and four of their children, injuring a fifth, before being captured by police.

Shooter name: Ronald Lee Haskell, 33 (alleged)

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: Haskell was likely prohibited from possessing firearms. There was a mutual restraining order enacted as part of his divorce proceedings in February 2014. He had also been charged with simple assault and domestic violence in the presence of a child in 2008, but the charges were dismissed.

GVRO red flag: In July, weeks before the shooting, Haskell's family attempted to take out a protective order against him. According to media reports, the mother accused her son of choking her until she passed out and threatened to kill her. In November of 2013, he was accused of choking his sister and throwing her to the ground.

Not a gun-free zone: The shooting took place in a private home.

Fort Myers, FL, 6/8/2014

Sonny Medina, 36, shot and killed his girlfriend and three daughters –ages 2, 5, and 10 –before fatally shooting himself. The shooting took place after a party at Medina's home.

Shooter name: Sonny Medina, 36

Gun details: Ruger .22 handgun, Glock 9mm handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence that the shooter was prohibited from possessing firearms.

GVRO red flag: Medina's brother told police that Medina told him about an incident approximately two years before the shooting in which Medina shoved his girlfriend, causing bruising.

Not a gun-free zone: The shooting took place in a private home.

Indianapolis, IN, 02/20/2014

During an attempt to rob the home of a drug dealer, the shooters killed the drug dealer and three others.

Shooter names: Kenneth Rackemann, 24, and Valencia Williams, 21

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Rackemann had several felony convictions on his record, including battery and burglary, which prohibited him from possessing a gun. There is no evidence to suggest that Williams was prohibited from possessing firearms.

GVRO red flag: There is no evidence that the shooters exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Alturas, CA, 02/20/2014

Cherie Rhoades, 44, fatally shot four people, wounded another by gunshot, and wounded another with a knife at her eviction hearing at the Cedarville Rancheria Tribal Community Council. Among the fatalities were Rhoades' brother, niece, and nephew.

Shooter name: Cherie Rhoades, 44

Gun details: Two 9mm handguns

Gun acquired: Unknown

Prohibiting criteria: There is no evidence that Rhoades was prohibited from possessing firearms.

GVRO red flag: Rhoades' nephew told investigators that she had made statements for years that she was going to kill her brother.

Not a gun-free zone: The shooting took place at a public building called the Cedarville Rancheria Tribal Office and Community Center. According to California law, the carrying of firearms is prohibited in state or local public buildings. However, concealed carry permit holders are exempt from this prohibition. Everytown has found no other evidence that firearms were prohibited in the building.

Cypress, TX, 02/03/2014

An unknown assailant fatally shot a married couple and their two sons, ages 7 and 9, in their home.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Spanish Fork, UT, 01/16/2014

Joshua Boren, 34, an officer in the Lindon Police Department, fatally shot his wife, their two children, and his mother-in-law inside of their family home before fatally shooting himself.

Shooter name: Joshua Boren, 34

Gun details: Handgun

Gun acquired: The handgun used in the shooting was Boren's service weapon.

Prohibiting criteria: Boren was an actively serving as a police officer and there is no evidence to suggest he was prohibited from possessing firearms.

GVRO red flag: Boren repeatedly drugged and raped his wife, recording the incidents on videotape. His wife learned of the attacks in 2013, but did not report him.

Not a gun-free zone: The shooting took place in a private home.

Topeka, KS, 12/01/2013

An unknown assailant shot and killed four people – a woman whose body was found behind a strip mall, and her brother, ex-husband, and female friend, whose bodies were found in her house.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: Neither of the locations where bodies were found would have prohibited the carrying of firearms.

Tulsa, OK, 11/23/2013

An unknown assailant shot a woman and two married couples, killing four and leaving one male victim in critical condition.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Jacksonville, FL, 11/07/2013

An unknown assailant fatally shot two sisters and two other men in a home.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Callison, SC, 10/29/2013

Bryan Eugene Sweatt, 27, fatally shot the mother of his child, her parents, and her two nephews in their home before fatally shooting himself.

Shooter name: Bryan Eugene Sweatt

Gun details: .44 caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Sweatt was likely prohibited from possessing firearms. He had a lengthy arrest record and was out on bond at the time of the shooting.

GVRO red flag: In the month before the shooting, Sweatt posted increasingly troubling messages on Facebook. On October 9, he indicated a desire to crash his truck into a pole.

Not a gun-free zone: The shooting took place in a private home.

Terrell, TX, 10/28/2013

Charles Everett Brownlow, Jr., 36, fatally shot his mother, his aunt, two acquaintances, and a store clerk in a spree of attacks before being captured by police. He killed the first four victims in their respective homes and the final one –the clerk –at Ali's Market on W. Moore Avenue, apparently in an attempt to rob the store.

Shooter name: Charles Everett Brownlow, Jr., 36

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Brownlow had a criminal record that prohibited him from possessing firearms. He had convictions for drug possession, burglary, and assaulting a family member. In 2009, he was sentenced to three years in prison for being a felon in possession of a firearm.

GVRO red flag: Brownlow's brother told the Associated Press that Brownlow struggled with drug addiction.

Not a gun-free zone: The first four victims were killed in private homes. The final victim was fatally shot at Ali's Market; there is no evidence to suggest that firearms were prohibited on the premises.

Phoenix, AZ, 10/26/2013

Michael Guzzo, 56, entered his neighbor's' home and killed all four family members and their two dogs. Guzzo then tried to enter another nearby residence, firing twice into the door, but ultimately failed and returned home to fatally shoot himself. Other neighbors and family members pointed to Guzzo's annoyance at the dogs' barking as a possible motive for the shooting.

Shooter name: Michael Guzzo, 56

Gun details: Shotgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Guzzo was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Guzzo exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place between three private homes.

Paris, TX, 10/09/2013

In a Paris, TX home, an unknown assailant shot and killed four men who ranged in age from 18 to 32.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Rice, TX, 09/22/2013

Guadalupe Ronquillo-Ovalle, 33, fatally shot her husband and three children—ages 4, 8, and 10—before fatally shooting herself. The shooting took place at the family's home.

Shooter name: Guadalupe Ronquillo-Ovalle, 33

Gun details: .22-caliber rifle

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Ronquillo-Ovalle was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest Ronquillo-Ovalle exhibited recent behavior that would have qualified her for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Washington, DC, 09/16/2013

Aaron Alexis, 34, fatally shot 12 people and wounded three more in an attack on Building 197 at the Navy Yard. Alexis was a civilian contractor working to update computer systems at military installations.

Shooter name: Aaron Alexis, 34

Gun details: Alexis arrived with a shotgun, and also obtained a 9mm handgun from one of the security guards he killed.

Gun acquired: Two days before the incident, Alexis passed a background check and legally bought the shotgun at a licensed gun dealer in Lorton, VA.

Prohibiting criteria: There is no evidence to suggest Alexis was prohibited from possessing firearms. He passed a background check and legally bought a firearm two days before the shooting.

GVRO red flag: In September 2010, Alexis was arrested after he fired a bullet through his ceiling into a neighbor's apartment. He told police it was an accident, and he was never charged with a crime.

Not a gun-free zone: There were armed guards at the Washington Navy Yard, and Alexis was familiar with the premises, so he did not select it as a target on the presumption he would not face armed resistance.

Crab Orchard, TN, 9/12/13

The shooters killed a 22-year-old woman and three teenagers while attempting to rob them and steal marijuana. The victims' bodies were discovered in a parked car.

Shooter name: Jacob Allen Bennett, 26 and Brittany Lina Yvonn Moser, 25

Gun details: .40 caliber Glock handgun

Gun acquired: Unknown

Prohibiting criteria: Bennett was prohibited from possessing firearms. According to media reports, in 2010, he received a prison sentence for charges of theft, forgery, and being a felon in possession of a firearm, but was paroled on March 4, 2013.

GVRO red flag: Bennett received regular drug tests as a condition of his parole. He failed a drug test in prison in 2012 and again several months before the shooting, indicating that he had an ongoing drug problem.

Not a gun-free zone: There is no evidence that permit holders were prohibited from carrying guns in this area.

Oklahoma City, OK, 08/14/2013

Daniel Green, 40, allegedly shot and killed four of his family members, including a 4-month-old infant, in the family's home.

Shooter name: Daniel Green, 40 (alleged)

Gun details: .380-caliber handgun

Gun acquired: The handgun used in the shooting belonged to one of the residents of the house.

Prohibiting criteria: Though Green had a history of mental illness, there is no clear evidence to suggest that he was prohibited from possessing firearms.

GVRO red flag: Although his family reported some alcohol abuse in the past, the timeframe for this is unclear, so it is unclear if Green would have qualified for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Dallas, TX, 08/07/2013

Erbie Lee Bowser, 44, allegedly shot and killed his ex-girlfriend and her daughter, and injured two others. Then, in a separate shooting, he allegedly shot and killed his estranged wife and her daughter, and injured two other children.

Shooter name: Erbie Lee Bowser, 44 (alleged)

Gun details: .380 handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Bowser was prohibited from possessing firearms. He had a domestic violence charge, but it was expunged from his record after he completed a court program for veterans in the summer of 2012.

GVRO red flag: According to Bowser's estranged wife, he shoved her and threatened to kill her in January 2011.

Not a gun-free zone: The shootings took place between two private homes.

Clarksburg, WV, 07/26/2013

Sidney Muller, 27, fatally shot four people after an argument related to a drug debt. Muller was trying to collect \$10,000 two men owed him for drugs when one of them aimed a handgun at him. Muller reportedly stripped the man of the weapon and used it to kill both men; he then fatally shot a father-son newspaper delivery team that happened to be outside the house.

Shooter name: Sidney Muller, 27

Gun details: 9mm Beretta handgun

Gun acquired: Gun apparently belonged to one of the victims

Prohibiting criteria: Muller had been convicted previously for driving under the influence and had been arrested for driving with a suspended license, but was not prohibited from possessing firearms. Muller was also a veteran of the U.S. Marine Corps and his lawyer indicated he had scored four out of five on a post-traumatic stress disorder test and had been diagnosed as bipolar. There is no evidence his mental illness rose to the level of prohibiting him from possessing guns.

GVRO red flag: There is no evidence that Muller exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home, and in the area directly outside the home.

Hialeah, FL, 07/26/2013

Pedro Alberto Vargas, 42, fatally shot the building manager of his apartment complex, the manager's wife, a bystander across the street, and three more occupants before police fatally shot him in a standoff.

Shooter name: Pedro Alberto Vargas, 42

Gun details: Glock 17 9mm semiautomatic handgun

Gun acquired: Vargas obtained a concealed weapons permit in the fall of 2010. In October 2010, he passed a background check and legally purchased a Glock 17 handgun, the firearm used in the shootings.

Prohibiting criteria: Vargas was not prohibited from possessing firearms.

GVRO red flag: The shooter had developed a pattern of anonymously harassing his former co-workers online, and was confronted about it three days before the shooting. His mother also expressed concerns about her son's behavior on a 911 call hours before the shooting, suggesting that he needed a psychiatric evaluation.

Not a gun-free zone: The shooting took place within an apartment complex.

Santa Monica, CA, 06/07/2013

John Zawahri, 23, fatally shot his father and brother, burned down their house, and shot and wounded a passing driver who tried to intervene. He then carjacked another vehicle and made the driver transport him to Santa Monica College, firing at a city bus and police cruiser along the way, injuring three. Once on the college's campus, he shot and killed three people outside and fired several rounds at individuals in the library before he was shot and killed by police.

Shooter name: John Zawahri, 23

Gun details: AR-15-style assault rifle, .44-caliber handgun

Gun acquired: Law enforcement sources believe that the assault rifle was put together from various parts, possibly in an attempt to circumvent California's restrictions on such guns.

Prohibiting criteria: Zawahri was not prohibited from possessing firearms. He had a history of mental illness and had previously been held for a short-term psychiatric evaluation, which would have prohibited him from possessing a firearm for five years, but the prohibition expired in 2011.

GVRO red flag: There is no evidence to suggest that Zawahri exhibited recent behavior that would have qualified him for a GVRO.

Gun-free zone: Part of the shooting took place at Santa Monica College, which prohibits the carrying of firearms by virtue of being a college in California.

Fernley, NV, 5/13/2013

Jeremiah Bean, 25, fatally shot five people over a three-day spree, in connection with multiple burglaries. Bean fatally shot an elderly couple in their Fernley, NV home, and proceeded to steal their jewelry and their truck. On his way to California, Bean fatally shot another man and stole his truck. He then returned to Fernley, where he broke into another home, stole a handgun, and fatally shot and stabbed two of the home's residents.

Shooter name: Jeremiah Bean, 25

Gun details: .22-caliber handgun, .38-caliber handgun

Gun acquired: It is unknown how Bean acquired the .22-caliber handgun; he stole the .38-caliber handgun from the residence of his last two victims.

Prohibiting criteria: As a convicted felon, Bean was prohibited from possessing firearms.

GVRO red flag: Bean's friend and former roommate told police that Bean once broke a window in his house with a rock or brick. He also said that Bean was a heroin user.

Not a gun-free zone: The shootings took place between two private homes, and on a highway overpass.

Waynesville, IN, 5/11/2013

Samuel Earl Sallee, 55, fatally shot four people in a home. He had initially gone to the home attempting to trade a gun for drugs. A confrontation ensued, resulting in the shootings.

Shooter name: Samuel Earl Sallee, 55

Gun details: .22-caliber rifle

Gun acquired: The gun used was owned by Sallee's son. Sallee had borrowed the gun about a year before the shooting and never returned it.

Prohibiting criteria: Sallee was prohibited from possessing firearms due to several prior felony convictions, including for intimidation.

GVRO red flag: There is no evidence to suggest that Sallee exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Ottawa, KS, 04/28/2013

Kyle Flack, 27, raped and fatally shot a woman at a farm in eastern Kansas. He also fatally shot her 18-month-old daughter, and two men who were with her at the farm.

Shooter name: Kyle Flack, 27

Gun details: 12-gauge shotgun

Gun acquired: Unknown

Prohibiting criteria: In 2005, Flack was convicted of attempted murder in the 2nd degree. This conviction prohibited him from possessing firearms.

GVRO red flag: There is no evidence that Flack exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Manchester, IL, 04/24/2013

Rick Odell Smith, 43, broke into a home and fatally shot the grandmother of his child and four of her family members, including two young children. Another young girl was shot and injured. Smith was subsequently shot and killed in a firefight with law enforcement.

Shooter name: Rick Odell Smith, 43

Gun details: Shotgun

Gun acquired: Unknown

Prohibiting criteria: Smith was likely prohibited from possessing firearms, as he had been previously convicted for reckless homicide, along with drug possession and writing bad checks.

GVRO red flag: There is no evidence to suggest that Smith exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Federal Way, WA, 04/21/2013

Dennis Clark III, 27, fatally shot his girlfriend inside the apartment they shared and then fatally shot two men in a nearby parking lot. When a neighbor called 911, the shooter broke down the man's door with a shotgun and killed him. He was subsequently shot and killed by police.

Shooter name: Dennis Clark III, 27

Gun details: .40-caliber handgun, shotgun

Gun acquired: Unknown

Prohibiting criteria: Clark was not prohibited from possessing firearms; he had a permit to carry a concealed weapon.

GVRO red flag: There is no evidence to suggest that Clark exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place inside two private homes and a public parking lot.

Akron, OH, 04/18/2013

Derrick Brantley and Deshanon Haywood fatally shot four people inside a townhouse; the initial motive for the crime was robbery.

Shooter name: Derrick Brantley, 21, and Deshanon Haywood, 21

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Both shooters were likely prohibited from possessing firearms due to their criminal histories. Brantley was free on bond awaiting trial on felony charges for heroin trafficking. Haywood was paroled from prison in February 2012 after serving part of a two-year sentence for cocaine trafficking and heroin possession. He immediately violated his parole and was sentenced to 45 days of house arrest.

GVRO red flag: There is no evidence to suggest either shooter exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Herkimer, NY, 04/13/2013

Kurt Myers, 64, fatally shot two people and wounded two people at a barbershop, and then fatally shot two more people at a car service center. He was fatally shot by responding officers.

Shooter name: Kurt Myers, 64

Gun details: Shotgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Myers was prohibited from possessing firearms. He was arrested in 1973 for drunk driving.

GVRO red flag: There is no evidence to suggest that Myers exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The car service center, Gaffey's Fast Lube, does not have a specific policy prohibiting guns. The barbershop, John's Barbershop, did not reopen following the shooting, but there is no evidence to suggest it had an explicit firearm policy or ban.

Albuquerque, NM, 1/19/2013

Nehemiah Griego, 15, fatally shot his parents and three siblings in their home. Griego was apprehended by police after speaking with the pastor of a local church and the church's head of security.

Shooter name: Nehemiah Griego, 15

Gun details: AR-15 assault rifle, .22-caliber rifle

Gun acquired: The guns were kept in Griego's parents' closet, and appear to belong to Griego's father.

Prohibiting criteria: As a juvenile, Griego was prohibited from purchasing firearms, but it was lawful for him to possess long guns like those used in the shooting.

GVRO red flag: A neighbor of Griego's saw him exhibit violent and threatening behavior a few months before the shooting. He observed Griego pretending to cut a dog's throat with an open knife in his hand, and then performing a similar gesture on his younger brother.

Not a gun-free zone: The shooting took place in a private home.

Tulsa, OK, 01/07/2013

During a robbery, Cedric Dwayne Poore and James Stanford Poore fatally shot four women in an apartment. A 3-year-old boy was in the apartment at the time of the incident but was unharmed.

Shooter names: Cedric Dwayne Poore, 39, and James Stanford Poore, 32

Gun details: .40-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Both shooters had extensive criminal histories: Cedric Poore received a 35-year prison sentence in 1995 for armed robbery, and James Poore received a 12-year sentence in 2000 for armed robbery with a firearm. Both were released in 2011, but likely remained prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that either shooter exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Newtown, Connecticut, 12/14/12

Adam Peter Lanza, 20, fatally shot his mother in her home and then traveled to a nearby elementary school where he shot twenty-eight people, killing twenty-six of them, including twenty children. He then fatally shot himself.

Shooter name: Adam Peter Lanza, 20

Gun details: A Bushmaster .223 assault-style rifle was used in the attack at the elementary school. A 10mm Glock handgun, a 9mm SIG Sauer handgun, and a shotgun were also recovered at the crime scene.

Gun acquired: The guns were legally registered to Lanza's mother, who he shot and killed earlier in the day and with whom he lived.

Prohibiting criteria: Under Connecticut law, Lanza would have been prohibited from possessing handguns because he had not reached the legal age, 21. However, he would not have been prohibited from possessing a long gun like the Bushmaster rifle used in the shooting. Lanza's mental health was also scrutinized after the shooting, and while his social isolation had been noted, there is no evidence that concerns had been brought to the attention of a public authority.

GVRO red flag: Lanza displayed symptoms of psychological distress, but there was no evidence that he voiced or gave indication that he intended to commit a crime prior to the shooting.

Gun-free zone: The shooting took place in an elementary school, which is a gun-free zone according to federal law.

Tule River Reservation, CA, 12/08/2012

Hector Celaya, 31, fatally shot his mother and two uncles, and shot and injured his young son in the trailer where they lived. He then shot his two daughters, one fatally, in a car while fleeing from police. Celaya died after a shootout with police in which he also shot himself in the head.

Shooter name: Hector Celaya, 31

Gun details: .38-caliber revolver

Gun acquired: Unknown

Prohibiting criteria: Celaya was prohibited from possessing firearms. He had been imprisoned in 2008 for an assault and battery charge, and was prohibited from having weapons as a condition of three years' probation. He was subsequently arrested multiple times for driving while intoxicated.

GVRO red flag: Celaya was arrested just two months before the shooting on suspicion of drunk driving and being under the influence of drugs. Celaya was a known drug user, according to the Tulare County Sheriff's Office.

Not a gun-free zone: The shootings took place between a private home and an automobile.

Detroit, MI, 12/04/2012

Three adults and one minor were shot to death in a house on the east side of the city before a fire broke out, apparently set by the shooter. There are no reports of arrests or suspects.

Shooter name: Unknown

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Northridge, CA, 12/02/2012

Ka Pasasouk, 31, fatally shot four people outside a boarding house in the Granada Hills neighborhood of Los Angeles County. The attack reportedly began as an attempted robbery.

Shooter name: Ka Pasasouk, 31

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: Pasasouk was prohibited from possessing firearms, having been convicted of car theft and robbery.

GVRO red flag: Pasasouk was a methamphetamine user. About three months before the shooting, Pasasouk pleaded no contest to methamphetamine possession, and was reportedly under the influence of alcohol and methamphetamine during the shooting.

Not a gun-free zone: The shooting took place on the street outside a boarding house; permit holders were not prohibited from carrying guns in this area.

New Town, ND, 11/18/2012

Kalcie Eagle, 21, fatally shot a woman and her three grandchildren in their home on Fort Berthold Indian Reservation. When confronted by police, he stabbed himself and died of his injuries.

Shooter name: Kalcie Eagle, 21

Gun details: .25-06 hunting rifle

Gun acquired: Unknown

Prohibiting criteria: In March 2012, Eagle was arrested in a stolen pickup truck after a high-speed chase with police. He pled guilty to felony unauthorized use of a vehicle and was sentenced to a year in jail. Because of this conviction, he was likely prohibited from possessing firearms.

GVRO red flag: Eagle was a user of methamphetamines, and was on methamphetamines at the time of the shooting.

Not a gun-free zone: The shooting took place in a private home.

Minneapolis, MN, 09/27/2012

Andrew John Engeldinger, 36, fatally shot six people and shot and injured two more at a signage business from which he was fired earlier in the day. He then fatally shot himself.

Shooter name: Andrew John Engeldinger, 36

Gun details: Glock 9mm handgun

Gun acquired: The handgun was legally purchased from a Minneapolis gun store.

Prohibiting criteria: Engeldinger had a concealed carry permit and was not prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Engeldinger exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: There is no evidence to suggest that the signage business had a specific policy prohibiting employees from carrying firearms on the premises.

Oak Creek, WI, 08/05/2012

Wade Michael Page, 40, fatally shot six people at a Sikh temple and injured three others, including a responding police officer, before fatally shooting himself.

Shooter name: Wade Michael Page, 40.

Gun details: 9mm semiautomatic handgun

Gun acquired: Page legally acquired the gun at a local gun shop a week before the shooting.

Prohibiting criteria: Page was not prohibited from possessing firearms. He received a less than honorable discharge from the army and was demoted from sergeant to specialist, but this did not affect his access to firearms. Federal officials investigated Page's ties to supremacist groups more than once prior to the shooting, but did not collect enough evidence to open an investigation.

GVRO red flag: Page received a citation for driving while impaired in North Carolina in 2010. Despite this, there is no evidence to suggest he suffered from ongoing alcohol abuse, and so would likely not qualify for a GVRO.

Not a gun-free zone: Wisconsin state law permits people to carry guns in places of worship unless there is a sign or they have been personally notified that carrying firearms is prohibited by the property owner or occupant. Amardeep Kaleka, whose father founded the temple and was killed during the attack, confirmed that there was no such sign on the property.

Aurora, CO, 07/20/2012

James Holmes, 24, fatally shot 12 and injured 70 in an attack on a suburban movie theater during a midnight screening of the new Batman movie.

Shooter name: James Holmes, 24

Gun details: Smith & Wesson M&P15 assault rifle, Remington 870 12-gauge shotgun, and two Glock .40-caliber handguns.

Gun acquired: Holmes legally acquired the guns at local gun shops.

Prohibiting criteria: Holmes was not prohibited from purchasing firearms. While a student at the University of Colorado, he was treated by the school psychiatrist, who expressed concern about his behavior and referred him to the university Behavioral Evaluation and Threat Assessment (BETA) team. They took no further action and he was never adjudicated mentally ill. He had no prior criminal record.

GVRO red flag: On March 16th, he told a social worker that he had regular thoughts of killing people. During a psychiatric examination on March 21, 2012, Holmes indicated that he thought about homicide three to four times daily. He repeatedly expressed homicidal ideations to a variety of mental health professionals.

Gun-free zone: In Colorado, businesses determine whether concealed carry permit holders can carry guns on their private property. The Cinemark theater in Aurora was a gun-free zone.

Newton Falls, OH, 07/06/2012

Robert Brazzon, 55, fatally shot his girlfriend, another couple, and their son in two separate shootings. He was then cornered by police and fatally shot himself. Brazzon was allegedly a heavy user of illegally obtained prescription drugs, and thought that his girlfriend and the man he killed were stealing pills from him.

Shooter name: Robert Brazzon, 55

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Brazzon had previously pled guilty to felony drug trafficking charges. In 1999, police found 47 guns, 100,000 rounds of ammunition, homemade bombs, 7,400 pills, and \$27,000 cash inside his home. He was also convicted of domestic violence in 1984, and of sexual battery and gross sexual imposition in 1987. But due to Ohio laws that provide for the restoration of felons' firearm rights, it is unclear whether Brazzon was prohibited from possessing firearms at the time of the shooting.

GVRO red flag: Brazzon was a heavy user of illegally obtained prescription drugs. Investigators found that Brazzon consumed painkillers, Valium, and heroin on the day of the shootings.

Not a gun-free zone: The shootings took place between two private homes.

Tempe, AZ, 06/02/2012

James Butwin, 47, fatally shot his wife and three children inside of their home. He then drove the bodies to a location in the Vekol Valley desert, where he lit the car on fire and fatally shot himself.

Shooter name: James Butwin, 47

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Butwin was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Butwin exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Seattle, WA, 5/20/2012

Ian Lee Stawicki, 40, fatally shot four people and wounded one in a restaurant. Less than an hour later, he fatally shot a woman in a parking lot, stealing her car. Later in the afternoon, as police officers closed in on him, Stawicki shot and killed himself.

Shooter name: Ian Lee Stawicki, 40

Gun details: Two .45-caliber semi-automatic handguns

Gun acquired: Stawicki was a concealed carry permit holder, and bought the guns used in the shooting legally.

Prohibiting criteria: As a concealed carry permit holder, Stawicki was not prohibited from possessing firearms.

GVRO red flag: Approximately two years before the shooting, Stawicki was charged with misdemeanor assault for attacking his brother, but prosecutors dropped the charges. Stawicki's father and brother said that he had battled mental illness for a long time, but they never pushed for a mental health intervention.

Gun-free zone: According to Gun Free Seattle, Cafe Racer, where the first shootings took place, is a gun free zone.

Leivasy, WV, 05/19/2012

James Roy Belknap, 27, fatally shot a man, his girlfriend, and his two children after a dispute over a debt for drugs.

Shooter name: James Roy Belknap, 27

Gun details: Shotgun

Gun acquired: Unknown

Prohibiting criteria: In 2007, Belknap pled guilty to charges of conspiracy to deliver cocaine and was sentenced to 1 to 5 years in prison. In exchange, prosecutors dismissed a grand jury indictment charging him with murder. He was therefore prohibited from possessing a gun.

GVRO red flag: Belknap had a history of drug abuse, and illegally purchased prescription drugs from one of the shooting victims.

Not a gun-free zone: The victims were shot in their car while it was on Belknap's property.

Port St. John, FL, 5/15/12

Tonya Thomas, 33, fatally shot her four children –ages 12, 13, 15, and 17 –before fatally shooting herself. The shooting took place in the family's home.

Shooter name: Tonya Thomas, 33

Gun details: Taurus .38-caliber revolver

Gun acquired: Thomas legally purchased the gun used in the shooting from a local licensed gun dealer.

Prohibiting criteria: There is no evidence to suggest Thomas was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest Thomas exhibited recent behavior that would have qualified her for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Gilbert, AZ, 05/02/2012

Jason Todd ("J.T.") Ready, 39, fatally shot four people including his girlfriend, her daughter, and her granddaughter, before fatally shooting himself. Ready was a former member of the U.S. Marine Corps, and a founder of a border militia group. At the time of the incident, he was running for the office of Pinal County Sheriff.

Shooter name: Jason Todd ("J.T.") Ready, 39

Gun details: Two handguns and a shotgun were found at the scene.

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Ready was prohibited from possessing firearms.

GVRO red flag: On February 28, 2012, Ready's girlfriend went to police headquarters and told police about two domestic violence incidents. But no charges were filed, and Ready's girlfriend did not go to court to file for an order of protection.

Not a gun-free zone: The shooting took place in a private home.

Oakland, CA, 04/02/2012

One L. Goh, 43, allegedly shot and killed 7 people at a Oikos University, a Christian college affiliated with a Korean-American church, where he had formerly been a student.

Shooter name: One L. Goh, 43 (alleged)

Gun details: .45-caliber handgun

Gun acquired: Goh legally bought the handgun at a gun store in California in early 2012.

Prohibiting criteria: There is no evidence that Goh was prohibited from possessing firearms; he was able to legally purchase a firearm in early 2012.

GVRO red flag: Though Goh reportedly had disputes with his classmates and administrators at Oikos University, there is no evidence to suggest that he exhibited recent behavior that would have qualified him for a GVRO.

Gun-free zone: According to California law, the carrying of firearms is generally prohibited on private or public college or university campuses.

Norcross, GA, 2/20/2012

Jeong Soo Paek, 59, fatally shot two of his sisters and both of their husbands before fatally shooting himself. The shooting took place in a health spa which Paek had invested in.

Shooter name: Jeong Soo Paek, 59

Gun details: .45-caliber handgun

Gun acquired: Paek legally purchased the gun in Maryland in 2002.

Prohibiting criteria: Paek does not appear to have been prohibited from possessing firearms. In 2006, he was arrested on charges of simple battery for striking one of his sisters in the face, but the charges were ultimately dropped.

GVRO red flag: There is no evidence to suggest Paek exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: There is no evidence that the spa prohibited firearms on the premises.

Birmingham, AL, 01/29/2012

During an attempted robbery at a home, three shooters fatally shot five men.

Shooter names: Rashad Stoves, 17, Artavius Underwood, 16, Reginald Mims, 16

Gun details: Two 9mm handguns and a .38-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: All three shooters were prohibited from possessing handguns due to their age.

GVRO red flag: There is no evidence to suggest that any of the shooters exhibited recent warning signs that would have qualified them for a GVRO.

Not a gun-free zone: The shooting took place at a private home.

Villa Park, IL, 01/17/2012

Cedric Anderson, 42, fatally shot his girlfriend, her two sons, and her niece while they slept. After leaving the scene of the crime he fatally shot himself.

Shooter name: Cedric Anderson, 42

Gun details: .357 Magnum handgun.

Gun acquired: Unknown.

Prohibiting criteria: Anderson has several drug-related offenses dating back to 1990, and in 2008 received probation for possessing a firearm without the required license. On December 29, 2011, he was convicted of felony heroin possession, and was awaiting sentencing at the time of the massacre. He was therefore prohibited from possessing a gun.

GVRO red flag: Anderson's multiple convictions related to controlled substances indicate that he suffered from ongoing drug abuse. In 2009, he was ordered to undergo treatment for substance abuse after he failed a random drug test that was part of his probation.

Not a gun-free zone: The shooting took place in a private home.

Grapevine, TX, 12/25/2011

Aziz Yazdanpanah, 56, fatally shot his estranged wife, two children, and three other family members as they opened their Christmas presents. He then fatally shot himself.

Shooter name: Aziz Yazdanpanah, 56

Gun details: 9mm and .40-caliber handguns

Gun acquired: The 9mm handgun was purchased in 1996 and owned by Yazdanpanah.

Prohibiting criteria: There is no evidence to suggest that Yazdanpanah was prohibited from possessing firearms.

GVRO red flag: There is no evidence that Yazdanpanah exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Emington, IL, 12/16/2011

Sara McMeen, 30, fatally shot her boyfriend and her three children before fatally shooting herself in the backyard of their home.

Shooter name: Sara McMeen, 30

Gun details: Semiautomatic handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that McMeen was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that McMeen exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Gargatha, VA, 12/15/2011

Esteban Quintero-Gonzales, 37, fatally shot two of his children, their mother, and the man they were living with before fatally shooting himself. Quintero-Gonzales was reportedly in a custody dispute with the woman at the time of her death.

Shooter name: Esteban Quintero-Gonzales, 37

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Quintero-Gonzales was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Quintero-Gonzales exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Bay City, TX, 11/20/2011

Jose Avila-Alva, 27, shot and injured his wife and fatally shot his four children, ages 2 to 5, before fatally shooting himself.

Shooter name: Jose Avila-Alva, 27

Gun details: .22-caliber handgun

Gun acquired: The handgun was reported stolen in 2010. It is unclear how Avila-Alva came to possess it.

Prohibiting criteria: Avila-Alva was not a legal resident of the U.S., and had been deported to Mexico in 2006 for unlawful entry, which would have prohibited him from purchasing firearms.

GVRO red flag: The week before the shooting, Avila-Alva was reported to police for domestic assault. His wife was taken to a women's crisis center, but she did not file charges.

Not a gun-free zone: The shooting took place in a private home.

Greensboro, NC, 11/20/2011

Mary Ann Holder, 36, fatally shot five children, shot and injured a man, and fatally shot herself in a shooting spree. The first shooting took place at Holder's home, where she fatally shot her older son, his girlfriend, a niece, and a nephew. The second shooting took place in the parking lot of the Guilford Technical Community College Aviation Center, where Holder shot and injured a married man she had been having an affair with. Finally, Holder went to pick up her younger son from a sleepover, and fatally shot him in the car, before fatally shooting herself.

Shooter name: Mary Ann Holder, 36

Gun details: .38-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence that Holder was prohibited from possessing firearms. The wife of the man Holder was having an affair with sought a restraining order against her; Holder responded by requesting a restraining order against the man and his wife. These restraining orders were dismissed or had expired.

GVRO red flag: There is no evidence that Holder exhibited recent behavior that would have qualified for a GVRO.

Gun-free zone: The shootings took place in a private home, the parking lot of a community college aviation center, and in a car. Guns were prohibited by law on the property of the community college at the time of the shooting.

Liberty, SC, 10/14/2011

Susan Diane Hendricks, 48, fatally shot her ex-husband, their two sons, and her stepmother. She admitted that she had murdered her family members so that she could collect \$700,000 in life insurance policies.

Shooter name: Susan Diane Hendricks, 48

Gun details: .380-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: In April 2006, Hendricks fatally shot a man after he allegedly entered her trailer without permission. She claimed self-defense and was not charged with a crime. There is no evidence that she was prohibited from possessing a firearm.

GVRO red flag: There is no evidence that Hendricks exhibited recent behavior that would have qualified her for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Seal Beach, CA, 10/12/2011

Scott Evans Dekraai, 41, fatally shot eight people, including his ex-wife, and injured one more at a hair salon.

Shooter name: Scott Evans Dekraai, 41

Gun details: Three handguns

Gun acquired: All three guns were purchased legally and registered in accordance with California law.

Prohibiting criteria: Dekraai was not prohibited from possessing firearms at the time of the shooting. He had been subject to a protection order that prohibited him from possessing firearms, but it expired in 2008.

GVRO red flag: There is no evidence to suggest that Dekraai exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: According to California law, the business owners would have been free to carry guns at the salon.

Laurel, IN, 9/25/2011

David E. Ison, 46, killed a man, the man's estranged wife, their two children, and one of their neighbors. The murdered father had sold the prescription pain-reliever Oxycontin to Ison in the past, and on the day of the shooting they argued over the terms of the sale.

Shooter name: David E. Ison, 46

Gun details: .357-caliber revolver, .380-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Ison was prohibited from possessing firearms due to a lengthy criminal record with at least twenty convictions, including armed robbery. He was on probation at the time of the shooting.

GVRO red flag: Ison was illegally buying prescription medication from one of the men he fatally shot. Despite this, there is no evidence to suggest that Ison exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Carson City, NV, 09/06/2011

Eduardo Sencion, 32, fatally shot four people at an IHOP restaurant, including three National Guard members, before fatally shooting himself. Seven others were shot and wounded.

Shooter name: Eduardo Sencion, 32

Gun details: Norinko Mak 90 assault rifle, .38-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Sencion was taken into protective custody during a mental health commitment in April 2000, but no court order was involved and it remains unclear if the incident would have prohibited Sencion from possessing firearms.

GVRO red flag: Family members reported that Sencion had paranoid schizophrenia, and was hearing voices telling him to do “bad things” to people in the months before the shooting.

Not a gun-free zone: According to Nevada law, a permit holder can carry a concealed firearm in restaurants. There is no evidence to suggest that this IHOP had a specific policy prohibiting firearms.

Monongalia County, WV, 09/06/2011

Shayne Riggleman, 22, fatally shot five people in a rural West Virginia home. Fleeing from police, he shot and injured a gas station attendant and eventually fatally shot himself.

Shooter name: Shayne Riggleman, 22

Gun details: A rifle was used. A second rifle and .22-caliber handgun were also recovered.

Gun acquired: Unknown

Prohibiting criteria: In 2008, Riggleman was convicted of armed robbery, and served 14 months at a state prison for young offenders. This offense would have prohibited him from possessing firearms, though it is possible his rights were restored under West Virginia law.

GVRO red flag: According to Riggleman’s mother, he suffered from bipolar disorder and schizophrenia, and had stopped taking his medications. Despite this, there is no evidence to suggest Riggleman exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shooting took place primarily in a private home, with a subsequent shooting occurring at a Pennsylvania gas station.

Chesterfield, VA, 08/27/2011

Leonard Eglund, 37, fatally shot his ex-wife, her boyfriend, his son, and another woman at a home. He then went to another home and fatally shot his former mother-in-law. As police chased him, he fired at several officers, wounding two. He then proceeded to fatally shoot himself.

Shooter name: Leonard Eglund, 37

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Eglund was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Eglund exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place between two private homes.

Copley Township, OH, 08/07/2011

Michael Hance, 51, fatally shot seven of his girlfriend’s neighbors and family members, and shot and wounded his girlfriend. He was fatally shot by a responding police officer.

Shooter name: Michael Hance, 51

Gun details: Two handguns

Gun acquired: Hance legally bought one of the handguns at a pawn shop five days before the shooting.

Prohibiting criteria: There is no evidence to suggest that Hance was prohibited from possessing firearms. He passed a background check to buy a gun days before the shooting.

GVRO red flag: There is no evidence to suggest that Hance exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in the area around a private home.

Marion County, FL, 08/05/2011

James Edward Bannister, 31, allegedly shot and killed his girlfriend, her mother, and his two children who lived in the house. He then set the house on fire. Bannister reportedly told a friend that he had smoked synthetic marijuana laced with cocaine before the shooting.

Shooter name: James Edward Bannister, 31 (alleged)

Gun details: Believed to be a handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Bannister was prohibited from possessing firearms.

GVRO red flag: Bannister reportedly told a friend that he had smoked synthetic marijuana laced with cocaine before the shooting.

Not a gun-free zone: The shooting took place in a private home.

Wheatland, Wyoming, 07/07/11

Everett E. Conant III, 35, fatally shot his three sons and his brother, and shot and injured his wife before surrendering to police. His sons were 11, 13, and 18. His wife later reported he had become upset because he wanted to keep the curtains of their home drawn to prevent the neighbors from looking inside.

Shooter name: Everett E. Conant III, 35

Gun details: Two semiautomatic handguns

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to indicate that Conant was prohibited from possessing firearms.

GVRO red flag: Media reports suggest that Conant attempted suicide a few months before the shooting.

Not a gun-free zone: The shooting took place in a private home.

Grand Rapids, MI, 07/07/2011

Rodrick Shonte Dantzler, 34, fatally shot seven people between two homes, including his ex-girlfriend, wife, and their daughter. He fatally shot himself after leading police on car chase, and taking three hostages at a nearby home.

Shooter name: Rodrick Shonte Dantzler, 34

Gun details: .40-caliber handgun

Gun acquired: The gun was reportedly stolen from a home in Kent County, MI.

Prohibiting criteria: Dantzler was prohibited from possessing firearms due to his past felony conviction for felony assault. He also had previous convictions for domestic violence, property destruction, and assault and battery.

GVRO red flag: There is no evidence to suggest that Dantzler exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place between two private homes.

Wagener, SC, 07/03/2011

Kenneth Myers, 46, fatally shot his wife, her twin sister, their mother, and his ex-girlfriend in two different residences. He was then confronted by law enforcement and fatally shot himself.

Shooter name: Kenneth Myers, 46

Gun details: Shotgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Myers was prohibited from possessing firearms.

GVRO red flag: Myers exhibited threatening behavior in the past. His friend said that Myers pointed a handgun at his head and threatened to kill him in October 2009.

Not a gun-free zone: The shootings took place between two private homes.

Grand Prairie, TX, 06/23/2011

Tan Do, 35, fatally shot his wife and four of her family members at his daughter's birthday party before fatally shooting himself. Four others were shot and wounded in the incident.

Shooter name: Tan Do, 35

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Do was prohibited from possessing firearms.

GVRO red flag: Do had a history of domestic violence. His wife filed a protective order against him in December 2010 because he had threatened her three times with a gun over the course of the year. But, she asked that the protective order be dismissed weeks later.

Gun-free zone: In a call with Forum Roller World, they confirmed to Everytown that they prohibit firearms on the premises, and have explicit signage indicating this.

Medford, NY, 06/19/2011

David Laffer, 33, fatally shot four people at a pharmacy, Haven Drugs, and stole thousands of pain pills, mostly hydrocodone, before fleeing in a vehicle. His wife participated in the robbery as a driver and lookout.

Shooter name: David Laffer, 33

Gun details: .45-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: The gun was legally registered to Laffer and there is no evidence to suggest he was prohibited from possessing firearms.

GVRO red flag: Months before the shooting, a Suffolk County detective was concerned about Laffer having guns. Five months before the shooting, a Suffolk County detective investigated an identity theft claim made by Laffer's mother, who said Laffer had stolen her debit card. After questioning Laffer and his mother, the detective advised the Suffolk County Pistol License Bureau that Laffer was dangerous and that his guns should be confiscated. Despite the detective's report, the guns were not removed.

Not a gun-free zone: There is no evidence to suggest that Haven Drugs posted a sign or had a policy prohibiting the carrying of firearms.

Yuma, AZ, 06/02/2011

Carey H. Dyess, 73, fatally shot his ex-wife, her lawyer, and three of her friends. He shot and injured another of his ex-wife's friends. Ultimately, Dyess fatally shot himself.

Shooter name: Carey H. Dyess, 73

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Dyess was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Dyess exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place over multiple locations, including private homes and an office building. There is no evidence to suggest that any of the locations prohibited the carrying of firearms.

Ammon, ID, 05/11/2011

Gaylin Leirmoe, 26, fatally shot his two infant children, their mother, and her sister before setting fire to the house and fatally shooting himself. He had separated from the victim several months before the incident.

Shooter name: Gaylin Leirmoe, 26

Gun details: .45-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Leirmoe was prohibited from possessing firearms.

GVRO red flag: In October 2009, Leirmoe was charged with misdemeanor battery for domestic violence with no traumatic injury. The charges were dismissed by the court.

Not a gun-free zone: The shooting took place in a private home.

Oak Harbor, OH, 04/16/11

Alan Atwater, 31, fatally shot his wife and their three children –ages 1, 2, and 4 –before fatally shooting himself. The shooting took place in the family's home.

Shooter name: Alan Atwater, 31

Gun details: .22-caliber rifle, shotgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest Atwater was prohibited from possessing a firearm.

GVRO red flag: Atwater had exhibited violent and threatening behavior in the past. Both he and his wife separately reported to friends that he had held her up against a wall and choked her. Five days before the shooting, Atwater reportedly told a friend that if his wife cheated on him he would kill her.

Not a gun-free zone: The shooting took place in a private home.

Willowbrook, CA, 02/11/2011

Three brothers and their cousin were shot and killed by an unknown assailant on the backyard patio of their home.

Shooter name: Unknown

Gun details: Unknown

Prohibiting criteria: Unknown

GVRO red flag: Unknown

Not a gun-free zone: The shooting took place in a private home.

Minot, ND, 01/28/2011

Omar Mohamed Kalmio, 28, fatally shot his ex-girlfriend in her home; he then fatally shot her brother, her mother, and her mother's boyfriend at a nearby home. The gun was never recovered.

Shooter name: Omar Mohamed Kalmio, 28

Gun details: Believed to be a 9mm handgun

Gun acquired: Unknown

Prohibiting criteria: Kalmio was prohibited from possessing firearms due to a 2006 felony conviction for second-degree assault with a dangerous weapon.

GVRO red flag: In the weeks leading up to the shooting, Kalmio threatened to kill his ex-girlfriend's mother and her entire family.

Not a gun-free zone: The shootings took place between two private homes.

Tucson, AZ, 01/08/2011

Jared Loughner, 22, attacked a constituent event hosted by Congresswoman Gabrielle Giffords, killing six and wounding 13, including Giffords, before he was apprehended.

Shooter name: Jared Loughner, 22

Gun details: Glock semiautomatic handgun

Gun acquired: Loughner passed a background check and purchased the Glock handgun at Sportsman's Warehouse in Tucson two months before the attack.

Prohibiting criteria: There is no evidence to suggest that Loughner was prohibited from possessing firearms; he purchased the gun used in the shooting legally.

GVRO red flag: Loughner had exhibited troubling behavior in the months before the shooting. He was dismissed from Pima Community College after making a video in which he railed against the college. Loughner's parents were also concerned about his behavior, suggesting that he had been laughing or talking to himself, and that he was growing increasingly angry with the government. As a result, they took away his shotgun, and forbade him from using the family vehicle after dark.

Not a gun-free zone: The shooting took place in a public parking lot where the carrying of firearms was lawful according to Arizona law.

Boston, MA, 09/28/2010

Dwayne Moore, 33, fatally shot four people including a 2-year-old boy, and wounded one more. The shooting occurred after a drug-related robbery.

Shooter name: Dwayne Moore, 33

Gun details: 9mm handgun, .40-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Moore was likely prohibited from possessing firearms. He had been convicted of manslaughter in 1996 after fatally stabbing someone, and was sentenced to 16 to 18 years in prison.

GVRO red flag: There is no evidence to suggest that Moore exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place on a public street.

Riviera Beach, FL 9/27/2010

Patrick Dell, 41, fatally shot his estranged wife and four of his stepchildren, ages 10, 11, 13, and 14. He shot and injured another one of his stepchildren, 15. As police arrived on the scene, Dell fatally shot himself.

Shooter name: Patrick Dell, 41

Gun details: Ruger .357 Magnum Revolver

Gun acquired: The gun had previously been reported stolen, but it is not clear how Dell came to possess the gun.

Prohibiting criteria: Based on a May 2010 protective order sought by his wife, active at the time of the shooting, Dell was prohibited from possessing firearms and required to relinquish any firearms in his possession.

GVRO red flag: Less than a year before the shooting, Dell was arrested for threatening his wife and another woman with a knife.

Not a gun-free zone: The shooting took place in a private home.

Jackson, KY, 09/10/2010

Stanley Neace, 46, fatally shot his wife, his step-daughter, and three neighbors following a domestic dispute with his wife. Neace then fatally shot himself. The shootings took place between three trailer homes.

Shooter name: Stanley Neace, 46

Gun details: Shotgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence that the shooter was prohibited from possessing firearms.

GVRO red flag: A neighbor reported that, a year before the shooting, Neace shot at his wife and put a hole in the bathtub.

Not a gun-free zone: The shooting took place between three private homes.

Chicago, IL, 09/02/2010

Raul Segura-Rodriguez, 36, allegedly shot and killed four people in a garage. Officials believe he was part of a drug-trafficking crew that had been involved in at least 10 killings.

Shooter name: Raul Segura-Rodriguez, 36 (alleged)

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Segura-Rodriguez was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Segura-Rodriguez exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: There is no evidence to suggest that the carrying of firearms was prohibited in the garage where the shooting took place.

Lake Havasu City, AZ, 08/29/2010

Brian Diez, 26, fatally shot his ex-girlfriend, her new boyfriend, and three other adults at a Lake Havasu City house. The house belonged to his ex-girlfriend, and she lived there with their 4-year-old daughter and 1-year-old son. Diez proceeded to drive the two children to his sister's house before fatally shooting himself in his car.

Shooter name: Brian Diez, 26

Gun details: .40 caliber handgun

Gun acquired: Unknown

Prohibiting criteria: Diez was prohibited from possessing firearms at the time of the shooting due to a prior conviction. In July 2010, one month before the killings, he was convicted of assaulting his infant son.

GVRO red flag: Diez was convicted of assaulting his infant son in the year before the shooting.

Not a gun-free zone: The shooting took place in a private home.

Buffalo, NY, 08/14/2010

Riccardo McCray, 23, opened fire on a group of people outside a restaurant, killing four and wounding four others.

Shooter name: Riccardo McCray, 23

Gun details: 9mm handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that McCray was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that McCray exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place on a public street outside of a restaurant.

Lanham, MD, 08/06/2010

Darrell Lynn Bellard, 43, fatally shot two children, their mother, and their paternal aunt in the home where they resided. Police say Bellard was involved in drug trafficking and the victims owed him money. Bellard's girlfriend helped commit the crime by blocking the door to prevent anyone from escaping.

Shooter name: Darrell Lynn Bellard, 43

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Bellard was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Bellard exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Manchester, CT, 08/03/2010

Omar Thornton, 34, fatally shot 8 of his coworkers at his place of employment, Hartford Distributors Inc; two other coworkers were seriously injured. Thornton proceeded to shoot and kill himself as police officers closed in. The shooting occurred immediately after Thornton was forced

to resign from his job as a truck driver; management had discovered evidence that he was stealing product from his delivery truck.

Shooter name: Omar Thornton, 34

Gun details: Two Ruger SR9 9mm handguns

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest Thornton was prohibited from possessing a gun.

GVRO red flag: The night before the shooting, Thornton made a disturbing comment to his uncle. He was showing his uncle a Ruger 9mm handgun, and made the comment, "that's 34 bullets...those guys at work".

Not a gun-free zone: The shooting took place at a distribution center; there is no evidence to suggest that the carrying of firearms was prohibited on site.

Hialeah, FL, 06/06/2010

Gerardo Regalado, 38, fatally shot his wife and three other women at a restaurant before fatally shooting himself.

Shooter name: Gerardo Regalado, 38

Gun details: .45-caliber handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Regalado was prohibited from possessing firearms. He had a permit to carry concealed handguns.

GVRO red flag: There is no evidence to suggest that Regalado exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: Under Florida law, the carrying of concealed firearms by permit holders is lawful in restaurants, except in areas primarily devoted to the serving of alcohol.

Chicago, IL, 4/14/2010

James A. Larry, 32, fatally shot his mother, his pregnant wife, their infant son, and two of his nieces in his sister's home. He also shot and injured his nephew. Larry was apprehended by police; investigators determined that he had converted to Islam in prison and committed the shootings because his family members would not go along with his conversion.

Shooter name: James A. Larry, 32

Gun details: Hi-Point 9mm semi-automatic pistol

Gun acquired: The gun belonged to an acquaintance of Larry's in Madison, WI. He did not know how Larry came into possession of the gun.

Prohibiting criteria: Larry was almost certainly prohibited from possessing firearms, having recently served a prison term in Wisconsin for a weapons conviction.

GVRO red flag: Approximately six months before the shooting, Larry attacked his wife in the parking lot of a Walmart. He pled no contest to misdemeanor battery.

Not a gun-free zone: The shooting took place in a private home.

Los Angeles, CA, 04/03/10

Nerses Arthur Galstyan, 28, fatally shot four and injured two at a San Fernando Valley restaurant after a dispute with other patrons. He was indicted in a separate investigation for selling firearms without a license, and possessing a firearm with the serial number removed.

Shooter name: Nerses Arthur Galstyan, 28

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Galstyan was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Galstyan exhibited recent behavior that would have qualified him for a GVRO.

Gun-free zone: There is no evidence to suggest that the restaurant prohibited permit holders from carrying concealed firearms.

Washington, DC, 03/30/2010

Four assailants shot 10 people, killing four and wounding six. The shootings were retaliation for an earlier shooting.

Shooter names: Nathaniel D. Simms, Orlando Carter, Robert Bost, and Jeffrey Best

Gun details: Glock 9mm handgun, .45-caliber handgun, AK-47 assault rifle

Gun acquired: Jeffrey Best provided the Glock 9mm handgun, Robert Bost provided the .45-caliber handgun, and another co-conspirator who was not present for the shooting provided the AK-47 assault rifle. It is unclear how each of these individuals acquired their gun.

Prohibiting criteria: Simms was likely prohibited from possessing firearms. He had four prior misdemeanor convictions, three for drug offenses and one for a violation of the Bail Reform Act. The criminal histories of the other shooters is unclear; there is no evidence to suggest they were prohibited from possessing firearms.

GVRO red flag: Three of the shooters were involved in committing another fatal shooting approximately 8 days before this mass shooting.

Gun free zone: The shooting likely took place in a gun free zone. According to DC law, the carrying of concealed firearms is prohibited in all areas within 1000 feet of a day care center, school, public swimming pool or playground, video arcade, youth center, public library, or public housing. It appears that there was public housing within this vicinity.

New Orleans, LA, 03/26/2010

Damian Jordan, 22, fatally shot his uncle's girlfriend, her two children, and her sister in their home.

Shooter name: Damian Jordan, 22

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: In 2009, Jordan pled guilty to burglary, a felony, prohibiting him from possessing firearms.

GVRO red flag: About a year before the shooting, Jordan struck his girlfriend in the face with the butt of a rifle, resulting in charges for home invasion and aggravated battery.

Not a gun-free zone: The shooting took place in a private home.

Appomattox, VA, 1/19/2010

Christopher Speight, 39, fatally shot 8 family members and acquaintances, including his sister, brother-in-law, niece, and nephew. He then fired at responding police officers before surrendering.

Shooter name: Christopher Speight, 39

Gun details: High-powered rifle

Gun acquired: Unknown

Prohibiting criteria: Speight was not prohibited from possessing firearms. He was a concealed carry permit holder.

GVRO red flag: There is no evidence to suggest that Speight exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home, immediately outside the home, and in the middle of a nearby road. It was lawful to carry a firearm in all of these places.

Belleville, TX, 01/16/2010

Maron Thomas, 20, fatally shot his mother, stepfather, sister, brother, and niece after a household argument.

Shooter name: Maron Thomas, 20

Gun details: Handgun and shotgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Thomas was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Thomas exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Madison, WI, 12/03/2009

Tyrone Adair, 38, fatally shot two women and each of their infant daughters. Adair was involved in paternity disputes with both women. Approximately four days after the shootings, Adair was found dead in his car with a self-inflicted gunshot wound.

Shooter name: Tyrone Adair, 38

Gun details: Two handguns were found inside the vehicle where Adair died, one believed to be the same caliber used in the shootings.

Gun acquired: Police reported that Adair bought one of the guns, a 9mm handgun, on the online site Craigslist.

Prohibiting criteria: Adair was prohibited from possessing firearms due to an active restraining order involving a third woman.

GVRO red flag: Approximately a year and a half before the shooting, Adair got into a fight with one of the women he eventually shot. Charges were referred to the District Attorney, but were not filed.

Not a gun-free zone: The bodies were found in the garage of a duplex and the trunk of a car. There is no evidence that either of the shootings took place in an area where the carrying of firearms was prohibited.

Lakewood, WA 11/29/2009

Maurice Clemmons, 37, fatally shot four police officers in a coffee shop. He eluded capture for two days before being shot and killed by police.

Shooter name: Maurice Clemmons

Gun details: Glock 17 9mm handgun, Smith and Wesson .38-caliber revolver

Gun acquired: The Glock 9mm was reported stolen in Seattle approximately three years before the shooting. The .38-caliber revolver could not be traced. It is not known how Clemmons came to possess either weapon.

Prohibiting criteria: Clemmons was prohibited from possessing firearms due to a long history of felony convictions. Just six days before the shooting, he was released on bail in connection with a child rape charge.

GVRO red flag: In an interview with investigators, Clemmons' cousin indicated that Clemmons threatened to kill police officers on Thanksgiving, days before the shooting.

Not a gun-free zone: There is no evidence that the coffee shop prohibited the carrying of firearms. The police officers were armed at the time of the shooting.

Osage, KS, 11/28/2009

James Kahler, 46, fatally shot his estranged wife, her grandmother, and their two daughters in the grandmother's home.

Shooter name: James Kahler, 46

Gun details: .223-caliber assault rifle

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Kahler was prohibited from possessing firearms. In March 2009, he was charged with misdemeanor domestic assault, but the case had not yet been adjudicated at the time of the shooting.

GVRO red flag: Kahler's wife alleged abuse in the past, including a New Year's Eve 2008 fight during which Kahler pushed her hard enough that she hit her head on the street.

Not a gun-free zone: The shooting took place in a private home.

Jupiter, FL, 11/26/2009

Paul Merhige, 35, fatally shot his two sisters, his aunt, and his 6-year-old cousin during a Thanksgiving celebration. Two other family members were shot and injured. Merhige fled the scene and eluded capture for over a month before police arrested him.

Shooter name: Paul Merhige, 35

Gun details: Semi-automatic handgun

Gun acquired: According to media reports, Merhige bought two handguns and a rifle from a licensed gun dealer in Fort Lauderdale the day before the shooting, although it is unclear if any of the handguns were the gun he used in the shooting

Prohibiting criteria: According to media reports, the shooter was involuntarily committed to mental health facilities at least three times in the decade before the killing, which, according to state, federal, and county officials, prohibited him under federal law from possessing guns. According to press reports, however, the relevant records were not submitted to the NICS database.

GVRO red flag: Although Merhige had a history of mental illness, there is no evidence to suggest that he exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Pearcy, AR, 11/12/2009

Three shooters—Samuel Conway, 23, Marvin Lamar Stringer, 22, and Jeremy Pickney, 23—fatally shot five people in connection with a robbery. Surviving family members reported missing guns, tires and rims, televisions, and two checkbooks. Stringer was shot and killed by police officers as they attempted to enter his hotel room; one officer was shot and injured in the exchange. Conway and Pickney were arrested during traffic stops.

Shooter names: Samuel Conway, 23; Marvin Lamar Stringer, 22; and Jeremy Pickney, 23

Gun details: .22, .25, and .45-caliber handguns

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that the shooters were prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that any of the shooters exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shootings took place on a private residence.

Oklahoma City, OK, 11/09/2009

Multiple shooters fatally shot four people in a house before setting the house on fire. Two of the victims were pregnant. Four men have been convicted for planning and committing the crime—David Allen Tyner, Jonathan Allen Cochran, Denny Edward Phillips, and Russell Lee Hogshooter. The shooting was tied to a drug-related robbery.

Shooter names: David Allen Tyner, Jonathan Allen Cochran, Denny Edward Phillips, and Russell Lee Hogshooter. All four men were in their thirties.

Gun details: .40 caliber & .380 caliber handguns

Gun acquired: Unknown

Prohibiting criteria: Phillips was prohibited from possessing firearms due to a lengthy criminal history including multiple felony convictions. Phillips was convicted in 1996 for assault with a deadly weapon, and other crimes including a jail escape. He was also convicted in 2010 for possession of a firearm by a felon. Cochran was prohibited because of a conviction for second degree burglary in 2002. There is no indication that Tyner or Hogshooter were prohibited, though they were reportedly involved with a local gang.

GVRO red flag: In the months leading up to the shooting, the conspirators discussed the crime in front of multiple witness.

Not a gun-free zone: The shooting took place in a private home.

Fort Hood, TX, 11/05/2009

Nidal Malik Hasan, 39, fatally shot 13 and wounded 32 soldiers during an attack at the Fort Hood army base.

Shooter name: Nidal Malik Hasan, 39

Gun details: An FN Herstal 5.7 semiautomatic handgun was used in the attack. A Smith and Wesson .357 revolver was also recovered.

Gun acquired: The FN Herstal 5.7 semiautomatic handgun used in the attack was purchased legally at a local gun store.

Prohibiting criteria: Hasan was investigated by the FBI for ties to terrorist organizations, but the inquiry was reportedly closed in early 2009. Hasan was not prohibited from possessing firearms, and bought the gun used in the attack legally.

GVRO red flag: There is no evidence to suggest that Hasan exhibited recent behavior that would have qualified him for a GVRO.

Gun-free zone: Due to Department of Defense regulations, it is likely that most personnel at the Fort Hood army base were prohibited from carrying firearms. But this prohibition would not have applied to authorized personnel, including those acting as security personnel or law enforcement. It is unclear from news reports the extent of armed law enforcement presence at the base.

Mount Airy, NC, 11/01/2009

Marcos Chavez Gonzalez, 29, fatally shot four people outside a television store before eventually surrendering to police.

Shooter name: Marcos Chavez Gonzalez, 29

Gun details: Assault rifle

Gun acquired: Unknown

Prohibiting criteria: Gonzalez was prohibited from possessing firearms having been convicted of kidnapping a minor, a felony, in 2002.

GVRO red flag: There is no evidence to suggest that Gonzalez exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a parking lot outside a television store. There is no evidence to suggest that the carrying of firearms was prohibited in this area.

Lawrenceville, GA, 08/27/2009

Richard Ringold, 44, fatally shot his girlfriend, her daughter, and two others in a domestic dispute. Another 4-year-old girl was shot and injured in the incident.

Shooter name: Richard Ringold, 44

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Ringold was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Ringold exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Kansas City, KS, 06/22/2009

Adrian Burks, 37, fatally shot his ex-girlfriend, and three others at the house where she was staying.

Shooter name: Adrian Burks, 37

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: Burks was prohibited from possessing firearms. He had served about 10 years in Kansas prisons for robbery and aggravated assault. He also fatally shot a man in March 2009, but was not charged in the incident, which his cousin later described as self-defense. In April 2009, he was charged with battery and a criminal threat against a woman and was ordered not to possess firearms.

GVRO red flag: Burks exhibited violent and threatening behavior in the months before the shooting, including the April 2009 charge for battery and criminal threatening.

Not a gun-free zone: The shooting took place in a private home.

Middletown, MD, 04/19/2009

Christopher Alan Wood, 34, fatally shot his wife and three children before fatally shooting himself. The incident took place in the family's home.

Shooter name: Christopher Alan Wood, 34

Gun details: .25-caliber pistol, shotgun

Gun acquired: The .25-caliber pistol was given to Wood twelve years before the shooting, by his

former girlfriend's father in Florida. It is unknown how Wood acquired the shotgun.

Prohibiting criteria: There is no evidence to suggest that Wood was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest Wood exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Green Hill, AL, 04/06/2009

Kevin Garner, 45, fatally shot his estranged wife, their teenage daughter, his sister, and his nephew a day before his divorce proceedings were scheduled to take place. He then lit the house on fire and fatally shot himself.

Shooter name: Kevin Garner, 45

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Garner was prohibited from possessing firearms.

GVRO red flag: In Garner's divorce proceedings, his estranged wife alleged that he had been both physically and emotionally abusive. Despite this, it is unclear when the alleged abuse occurred, and hence unclear if Garner would have qualified for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Graham, WA, 04/04/2009

After a dispute with his wife in which she told him she was ending their relationship, James Harrison, 34, returned home and fatally shot his five children, ages 7 to 16. Police believe he then made an unsuccessful attempt to find his wife again, before fatally shooting himself in his car.

Shooter name: James Harrison, 34

Gun details: Unspecified rifle

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Harrison was prohibited from possessing firearms.

GVRO red flag: The North Carolina State Children's Administration found that Harrison had abused one of his children in February 2007, but none of the children were removed from the home. Neighbors also reported that Harrison frequently threatened his children.

Not a gun-free zone: The shooting took place in a private home.

Binghamton, NY, 4/3/2009

Jiverly Wong, 42, fatally shot thirteen people and wounded four others before fatally shooting himself. The shooting took place at the American Civic Association, where Wong had been taking English classes.

Shooter name: Jiverly Wong, 42

Gun details: 9mm Beretta handgun, .45-caliber Beretta handgun

Gun acquired: The guns were purchased legally and registered to Wong's New York State pistol license.

Prohibiting criteria: Wong was not prohibited from possessing firearms, and had a New York State pistol license.

GVRO red flag: There is no evidence to suggest that Wong exhibited recent behavior that would have qualified him for a GVRO.

Gun-free zone: Because the American Civic Association offered a full range of educational programs, it is a gun-free zone according to New York state law.

Carthage, NC, 03/29/2009

Robert Stewart, 45, opened fire at a nursing home where his estranged wife worked, killing eight and injuring three before he was shot and arrested by responding police officers.

Shooter name: Robert Stewart, 45

Gun details: .357-caliber handgun, .22-caliber handgun, 12-gauge shotgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Stewart was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Stewart exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: There is no evidence to suggest that the nursing home prohibited the carrying of firearms.

Santa Clara, CA, 03/29/2009

Devan Kalathat, 45, fatally shot five family members, including three children, before fatally shooting himself. He also shot and wounded his wife. The shooting took place in the family's home.

Shooter name: Devan Kalathat

Gun details: Two .45-caliber handguns

Gun acquired: Kalathat legally bought the handguns in the weeks before the shooting.

Prohibiting criteria: Kalathat was not prohibited from purchasing firearms.

GVRO red flag: There is no evidence to suggest that Kalathat exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

East Oakland, CA, 03/21/2009

Lovelle Mixon, 26, fatally shot two police officers who pulled him over during a routine traffic stop. He then fled to a nearby apartment, where he fatally shot two SWAT officers and injured a third. Mixon was eventually shot and killed by responding SWAT officers.

Shooter name: Lovelle Mixon, 26

Gun details: Semiautomatic handgun, assault rifle

Gun acquired: Unknown

Prohibiting criteria: Mixon was prohibited from possessing firearms. He was convicted in 2002 of assault with a deadly weapon after an armed robbery in San Francisco, serving time in San Francisco County Jail and Corcoran State Prison. Mixon was released on parole in 2007 and remanded back to prison in 2008 after a parole violation.

GVRO red flag: According to the Oakland Police Department, Mixon had become the main suspect in a rape that occurred in February 2009.

Not a gun-free zone: Two of the victims were shot on a public roadway –the 7400 block of Macarthur Boulevard in East Oakland –where no state law prohibits a citizen with appropriate permit to carry a firearm.

Miami, FL, 03/15/2009

At a birthday party, Guillermo Lopez, 49, fatally shot his estranged wife, her mother, her daughter, and her daughter's boyfriend. He then returned to his house where he set the building on fire and fatally shot himself.

Shooter name: Guillermo Lopez, 49

Gun details: Semiautomatic handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Lopez was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Lopez exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Catawba, NC, 03/12/2009

Chiew Chan Saevang, 38, shot and stabbed a woman and her three children in their home. The killings were related to a drug robbery. Saevang later fatally shot himself and his girlfriend as police officers closed in on their car in Utah.

Shooter name: Chiew Chan Saevang, 38

Gun details: Unknown

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Saevang was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Saevang exhibited recent behavior that would have qualified for a GVRO.

Not a gun-free zone: The shootings took place in a private home and an automobile.

Geneva County, AL, 3/10/2009

Michael Kenneth McLendon, 28, fatally shot 10 people and wounded 6 in a spree-style shooting, before fatally shooting himself. Several of the victims were members of McLendon's family, including his mother and his uncle.

Shooter name: Michael Kenneth McLendon, 28

Gun details: Two assault rifles, one handgun, one shotgun

Gun acquired: Unknown.

Prohibiting criteria: McLendon was not prohibited from possessing firearms. According to the Geneva Police Chief, McLendon was licensed to carry a handgun.

GVRO red flag: There is no evidence to suggest that McLendon exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shootings took place between two private homes, a public street, and outside a convenience store. It was lawful to carry a firearm in all of these places.

Cleveland, OH, 03/05/2009

Davon Crawford, 33, fatally shot his wife and four of her relatives, before fatally shooting himself.

Shooter name: Davon Crawford, 33

Gun details: At least one handgun

Gun acquired: Unknown

Prohibiting criteria: Crawford was likely prohibited from possessing a firearm. He was convicted of manslaughter in 1995, and of felonious assault with a firearm in 2002; though Ohio enables felons to restore their gun rights, so it is possible he was no longer prohibited.

GVRO red flag: There is no evidence to suggest that Crawford exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Brockport, NY, 02/14/2009 Frank Garcia, 34, fatally shot a nurse in the parking lot of the Lakeside Memorial Hospital. He also fatally shot a motorist who intervened, and wounded the motorist's girlfriend. He then drove to Canandaigua and fatally shot another nurse and her husband in their home. Both nurses killed by Garcia had filed sexual harassment complaints against him.

Shooter Name: Frank Garcia, 34

Gun details: .40-caliber Glock handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Garcia was prohibited from possessing firearms. He had applied for concealed carry permits and been denied three times because of previous arrests on his record. But, in 2007, a judge reversed the denial and granted Garcia a concealed weapon permit.

GVRO red flag: A former coworker and friend of Garcia testified that Garcia told her about his plan to kill the couple in Canandaigua.

Not a gun-free zone: We found no indication that permit holders were prohibited from carrying guns in this area at the time of the incident.

Wilmington, CA, 1/27/2009

Ervin Lupoe, 40, fatally shot his wife and their five children, before fatally shooting himself.

Shooter name: Ervin Lupoe, 40

Gun details: Handgun

Gun acquired: Unknown

Prohibiting criteria: There is no evidence to suggest that Lupoe was prohibited from possessing firearms.

GVRO red flag: There is no evidence to suggest that Lupoe exhibited recent behavior that would have qualified him for a GVRO.

Not a gun-free zone: The shooting took place in a private home.

Exhibit 44

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September 27, 2012	Accent Signage Systems
Minneapolis, MN	Incident
Shooter Andrew John Engeldinger, 36	On September 27, 2012, after working his shift at Accent Signage Systems, Andrew Engeldinger was told by two company managers that he was being fired for chronic tardiness and poor performance. Upon hearing this news, Engeldinger pulled out a semiautomatic handgun equipped with a 15-round large capacity ammunition magazine, the managers tried to get the gun from him, unable to both managers were shot. The large capacity ammunition magazine was dropped during the struggle; Engeldinger reinserted the magazine into the firearm and began to move through the office, shooting at some employees but not others. Over approximately 15 minutes, Engeldinger shot seven employees and a UPS driver before turning the gun on himself. Four victims died at the scene, two died at the hospital (one the following day and the other two weeks later), and two others were injured.
Ammo Magazine Capacity 15-rounds	Weapons
Shots Fired >46 Killed 6 (plus shooter = 7) Wounded 2	GLOCK 19 9mm semiautomatic pistol equipped with a 15-round large capacity ammunition magazine. Engeldinger purchased the firearm one year before the shooting at KGS Guns and Ammo in Minneapolis after passing a background check and obtaining a permit to purchase. Police reportedly found packaging for 10,000 rounds of ammunition and another handgun in Engeldinger's home.
	Outcome Suicide.
August 5, 2012	Sikh Temple of Wisconsin
Oak Creek, WI	Incident
Shooter Wade Michael Page, 40	Around 10:30 AM, Wade Michael Page, a U.S. Army veteran, opened fire in the parking lot of a Sikh temple, then entered the building shooting congregants gathering for Sunday meditation. Police officers arrived on the scene in response to 911 calls, and exchanged fire with the shooter. Page killed six and injured three, including a responding officer, before committing suicide.
Ammo Magazine Capacity 19-rounds	Weapons
Shots Fired unknown Killed 6 (plus shooter = 7) Wounded 3	Springfield Armory XD(M) 9mm semiautomatic handgun equipped with a 19-round large capacity ammunition magazine. Weeks before the shooting, Wade legally purchased the handgun and three 19-round large capacity ammunition magazines from a federal firearms licensed dealer in nearby West Allis, WI. According to media reports, Wade served in the U.S. Army from 1992 until 1998, when he was given an other-than-honorable discharge or general discharge. In 1994, while stationed at Fort Bliss in Texas, he was arrested by El Paso police, and pled guilty to a misdemeanor charge of criminal mischief. Federal law does not prohibit persons with convictions for misdemeanors other than domestic violence misdemeanors or persons who have been discharged from the military for reasons other than "dishonorably" from purchasing firearms.
	Outcome Wade committed suicide after being shot by police at the scene. The FBI is leading the investigation which is being treated as a possible act of domestic terrorism .
July 20, 2012	The Dark Knight Rises: Movie theatre Shooting
Aurora, CO	Incident
Shooter James Holmes, 24	Shortly after the start of the midnight premiere screening of <i>Batman: The Dark Knight Rises</i> on July 20, 2012, at the Century Aurora 16 movie theatre in Aurora, CO, James Holmes exited the theatre through an emergency exit. He returned through the propped open emergency exit door, clad in ballistic body armor, wearing a gas mask, and armed with multiple firearms. After

Ammo Magazine
Capacity
100-rounds

Shots Fired >80
Killed 12
Wounded 70

tossing two canisters of tear gas into the theatre he began firing upon the audience. He first used an AR-15-type assault rifle equipped with a 100-round drum large capacity ammunition magazine, after the assault rifle jammed, he then continued with a 12-gauge shotgun and a handgun--killing 12 and wounding 70 (including three wounded when bullets went through a wall into an adjacent theatre).

Weapons

A Smith & Wesson M&P15 assault rifle equipped with a 100-round drum large capacity ammunition magazine, a Remington Model 870 12-gauge pump shotgun, and two GLOCK .40-caliber handguns, were recovered at the scene by police. In the months leading to the shooting, Holmes purchased the weapons and 6,000-rounds of ammunition at gun shops and over the Internet. In addition to the weapons used in the shooting, Holmes booby-trapped his apartment, rigging trip wire to detonate 30 plastic shells stuffed with gunpowder, several glass jars filled with gasoline and gunpowder, and 10 gallons of gasoline in canisters.

Outcome

Holmes was apprehended by the police in the theatre's rear parking lot within seven minutes of the first 911 calls from moviegoers. On July 30, 2012, Holmes appeared before the District Court of Arapahoe County, CO for formal charging on 142 counts. Later in the court process, the prosecution amended the charges to include 24 counts of murder in the first degree (two counts for each of the 12 victims killed); 140 counts of attempted murder in the first degree (two counts for each of the 70 victims injured); one count of possession of explosive or incendiary devices; and one count of unlawful use of a deadly weapon in the commission of a violent crime. On June 4, 2013, Holmes changed his original plea of not guilty to a plea of not guilty by reason of insanity. Trial began on April 27, 2015, and on July 16, 2015, the jurors found Holmes guilty on 24 counts of murder in the first degree, 134 counts of attempted murder in the first degree, 6 counts of the lesser included offense of attempted murder in the second degree, one count of possession of explosive or incendiary devices; and one count of unlawful use of a deadly weapon in the commission of a violent crime. On August 27, 2015, Holmes was sentenced to 12 consecutive life imprisonment sentences without the possibility of parole plus 3,318 years imprisonment.

September 6, 2011

Carson City, NV

Shooter
Eduardo Sencion, 32

Ammo Magazine
Capacity
30-rounds

Shots Fired unknown
Killed 4 (plus shooter = 5)
Wounded 7

Carson City IHOP

Incident

At about 9 AM, Sencion entered an IHOP restaurant and began shooting at a table of uniformed National Guard members. He hit all 5 of the members, in addition to 5 civilians inside the restaurant. He eventually moved out into the parking lot, where he shot one woman before turning the gun on himself. Though his eight-minute rampage seemed focused on the Guardsmen, Sencion had no known association with the military and his motives remain unknown. He had no criminal record, but his family has indicated that he had a history of mental illness.

Weapons

AK-47 type assault rifle equipped with a 30-round large capacity ammunition magazine. Two additional guns and two more magazines were found in his vehicle.

Outcome

Suicide.

July 7, 2011

Grand Rapids, MI

Shooter

Grand Rapids

Incident

On a Thursday afternoon, Dantzler went to two homes on a shooting rampage, killing two ex-girlfriends and members of their families, including his own ten-year-old daughter and

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Rodrick Shonte Dantzler,
34

**Ammo Magazine
Capacity**

30-rounds

Shots Fired >10
Killed 7 (plus shooter = 8)
Wounded 2

another child. He then led police on a high-speed chase, shooting two bystanders before crashing his car into an embankment. Dantzler fled, forced his way inside a nearby home, and held three occupants hostage for four hours before shooting himself in the head at about 11:30 PM. He had been arrested once before for assault with intent to do great bodily harm.

Weapons

GLOCK 9mm semiautomatic pistol (unknown model) equipped with a 30-round large capacity ammunition magazine.

Outcome

Suicide.

January 8, 2011

Tucson, AZ

Shooter
Jared Lee Loughner, 22

**Ammo Magazine
Capacity**

33-rounds

15-rounds

Shots Fired 33
Killed 6
Wounded 13

U.S. Rep. Gabriel Giffords Congress on Your Corner

Incident

During an outdoor constituent meet-and-greet at a Tucson grocery store, Loughner allegedly attempted to assassinate Rep. Giffords, and in the process murdered 6 and wounded 12 others. He first shot Rep. Giffords in the head from about three feet away and then turned to the crowd, firing over 30 rounds in just 15 seconds. Among those killed include a federal judge, Hon. John M. Roll, congressional staff, and civilians ranging in age from 9 to 79.

Weapons

GLOCK 19 9mm semiautomatic pistol equipped with a 33-round large capacity ammunition magazine. Loughner was also carrying two 15-round large capacity ammunition magazines, and a knife. The ATF determined Loughner legally purchased the GLOCK pistol with an extended magazine and one box of Winchester ammunition on November 30, 2010, from Sportsman's Warehouse in Tucson.

Outcome

Loughner was tackled while attempting to reload his firearm with another large capacity ammunition magazine. He was later taken into custody by Sheriff's deputies at the scene. The day following the shooting, Loughner was charged with five federal counts to which he pleaded not guilty. On March 4, 2011, he was charged with an additional 49 federal charges, to which he also pleaded not guilty. On May 25, 2011, Loughner was found not mentally competent to stand trial. A federal judge ruled on September 28, 2011, that efforts to treat him for mental illness in a federal facility should continue until he is mentally fit to be tried. Loughner was diagnosed with and treated for schizophrenia. After he was found mentally competent to stand trial, Loughner pleaded guilty on August 7, 2012, to 19 counts related to the date of the shooting. On November 8, 2012, Loughner was sentenced to seven consecutive life terms, plus 140 years in prison without the possibility of parole (one life term for the attempted assassination of Congresswoman Gabrielle Giffords; two life terms for the murder of two federal employees; four life terms for the murders of four participants at the event; two 20 year terms for the attempted murders of two federal employees; and ten 10 year terms for causing the injuring through the use of a firearm of ten participants at the event).

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August 3, 2010	Hartford Beer Distributor
Manchester, CT	Incident
Shooter Omar Thornton, 34	Thornton arrived at work early in the morning for a meeting with his employers. During the meeting he was shown video surveillance which proved he had been stealing beer from the company. Thornton was offered the choice to either resign from his position as a truck driver or be fired. Following the meeting, Thornton went into the employee kitchen to retrieve two handguns equipped with 17-round large capacity ammunition magazines he had previously hidden. He then traveled through the Distributor warehouse shooting deliberately. During the rampage, he murdered eight co-workers and wounded two more. Thornton eventually hid in a far office where he called the police to explain his motive prior to committing suicide. In his 911 call, Thornton claimed that the Hartford Beer Distributor was a "racist place." As he told the 911 dispatcher, "They treat me bad over here and they treat all the other black employees bad over here too."
Ammo Magazine Capacity 17-rounds	
Shots Fired >11 Killed 8 (plus shooter = 9) Wounded 2	
	Weapons Two Ruger SR9 9mm semiautomatic pistols equipped with 17-round magazines. Thornton purchased both firearms legally from an East Windsor, CT gun dealer.
	Outcome Suicide.
November 5, 2009	Fort Hood
Fort Hood, TX	Incident
Shooter Nidal Malik Hasan, 39	On the afternoon of November 5, 2009, Major Nidal Malik Hasan—an army psychiatrist—walked into a medical processing center and began firing upon those inside. The rampage began at 1:20 pm, and lasted for about four minutes, during which Hasan fired off about 214 shots, killing 13 and wounding 32 more. After running outside the building to chase down a wounded soldier, Hasan was confronted by a police officer. Engaging in a brief firefight, the officer managed to down Hasan with a shot to the torso. Reports have linked the incident to domestic terrorism .
Ammo Magazine Capacity 30-rounds 20-rounds	
Shots Fired 214 Killed 13 Wounded 32	Weapons FN Herstal 5.7 Tactical Pistol equipped with 20-round large capacity ammunition magazine. When Hasan was apprehended, investigators found in his possession 177-rounds in 30-round and 20-round large capacity ammunition magazines, another handgun, a revolver, and two gunsights (for different lighting conditions). Hasan purchased the FN Herstal 5.7 Tactical Pistol legally at Guns Galore, a shop in Killeen, TX.
	Outcome After he was shot, Hasan was arrested. In 2009, he was charged with 13 counts of premeditated murder and 32 counts of attempted murder under the Uniform Code of Military Justice. In August 2013, following a 22-day court-martial, during which he represented himself, Hasan was convicted of all charges. He was sentenced to the death penalty.
April 3, 2009	American Civic Association
Binghamton, NY	Incident
Shooter Jiverly Wong, 41	Armed with two handguns and 30- and 15-round large capacity ammunition magazines, Wong drove to the American Civic Association building, where he previously took classes. He first barricaded the back entrance of the building with a borrowed car, then entered through the front entrance and began firing. He first opened fire on the association's receptionists, killing one and wounding the other. The surviving receptionist, Shirley DeLucia, feigned death and, after Wong moved further into the building, called 911. Meanwhile, Wong entered a classroom and resumed
Ammo Magazine Capacity	

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<p>30-rounds 15-rounds</p> <hr/> <p>Shots Fired 99 Killed 13 (plus shooter = 14) Wounded 4</p>	<p>fire, killing 12 and wounding 3 students and association workers, before eventually turning his gun on himself. His exact motives remain unclear; however, a letter he wrote a month prior to the attack indicates great frustration both with the police and with his lack of employment.</p> <p>Weapons Beretta .45-caliber semiautomatic pistol, Beretta 9mm semiautomatic pistol (models unknown), and two 30-round large capacity ammunition magazines and two 15-round large capacity ammunition magazines.</p> <p>Outcome Suicide.</p>
<p>February 14, 2008</p> <hr/> <p>DeKalb, IL</p> <hr/> <p>Shooter Steven Phillip Kazmierczak, 27</p> <hr/> <p>Ammo Magazine Capacity 33-rounds 15-rounds</p> <hr/> <p>Shots Fired 54 Killed 5 (plus shooter = 6) Wounded 21</p>	<p>Northern Illinois University</p> <p>Incident Armed with four firearms and 33- and 15-round large capacity ammunition magazines, graduate student Steven Kazmierczak kicked in the door of a Cole Hall lecture room and began firing on the 162-person class. Firing approximately 54 shots, he killed 5 students and wounded 17 others, before taking his own life. Kazmierczak had a history of mental illness, erratic behavior, and self-mutilation, and had reportedly stopped taking his medication in the weeks leading up to the shooting.</p> <p>Weapons SIG SAUER Kurz 9mm semiautomatic pistol, Hi-Point CF380 .380 caliber semiautomatic pistol, GLOCK 19 9mm semiautomatic pistol, Remington Sportsman 48 12-gauge shotgun, and 33-round and 15-round large capacity ammunition magazines. Kazmierczak purchased all four weapons from Tony's Gun & Ammo in Champaign, IL between August 3, 2007 and February 9, 2008. Kazmierczak also purchased gun accessories from a website operated by TGSCOM, Inc., the same company patronized by the VA Tech shooter.</p> <p>Outcome Suicide.</p>
<p>December 5, 2007</p> <hr/> <p>Omaha, NE</p> <hr/> <p>Shooter Robert Hawkins, 19</p> <hr/> <p>Ammo Magazine Capacity 30-rounds</p> <hr/> <p>Shots Fired >14 Killed 8 (plus shooter = 9) Wounded 5</p>	<p>Westroads Mall</p> <p>Incident Armed with an assault rifle and two 30-round large capacity ammunition magazines, Hawkins opened fire from the third floor balcony of the Westroads Mall. He killed six employees and two customers, and wounded five more, before taking his own life. Police arrived on the scene about six minutes after the shooting began, by which time it was already over. Hawkins had a history of mental illness and a criminal record. Police say the shooting was random.</p> <p>Weapons WASR-10 semiautomatic assault rifle and two 30-round large capacity ammunition magazines.</p> <p>Outcome Suicide.</p>
<p>April 16, 2007</p> <hr/> <p>Blacksburg, VA</p> <hr/> <p>Shooter</p>	<p>Virginia Polytechnic Institute and State University</p> <p>Incident At about 7 AM, Cho entered West Ambler Johnston dormitory, shot and killed two students,</p>

Seung-Hui Cho, 23

Ammo Magazine
Capacity
15-rounds

Shots Fired 176
Killed 32 (plus shooter = 33)
Wounded 17

then returned to his dormitory to change out of his bloody clothes. At approximately 9:40 AM, he entered Norris Hall and began shooting at students and faculty in classrooms on the second floor. The rampage—during which 30 more people were killed and 17 wounded—lasted until approximately 9:51 AM, when Cho committed suicide. Exact motives remain unclear. Cho had a long history of mental and physical illness, depression, selective mutism, and wrote "dark and troubling" papers for his classes, which included fantasies about the [Columbine shooting](#).

Weapons

GLOCK 19 9mm semiautomatic pistol and Walther P22 .22-caliber semiautomatic pistol. Investigators found a total of 17 empty magazines at the scene of the shooting, a mix of several 15-round, and 10-round magazines loaded with hollow-point rounds (bullets with the tip hollowed out, designed to expand upon impact). He possessed over 400 rounds of ammunition. Cho ordered the Walther P22 from a website operated by TGSCOM, Inc. Kazmierczak patronized the same company before the [NIU shooting](#). On February 9, 2007, Cho picked up the pistol from J-N-D Pawn-brokers, located across the street from the VA Tech campus. In compliance with the state law limiting handgun purchases to one every 30 days, Cho purchased the GLOCK 19 on March 13, 2007. He also purchased five 10-round magazines from eBay in March. Cho's purchase of these firearms was in violation of federal law; he was disqualified from purchasing or possessing a firearm and ammunition, because a special justice of the Montgomery County General District Court had found him to be a danger to himself on December 14, 2005.

Outcome

Suicide.

January 30, 2006

Goleta, CA

Shooter
Jennifer San Marco, 44

Ammo Magazine
Capacity
15-rounds

Shots Fired unknown
Killed 7 (plus shooter = 8)
Wounded 0

Santa Barbara Postal Processing and Distribution Center

Incident

On the night of January 30, 2006, Jennifer San Marco sneaked into a Santa Barbara condominium where she shot and killed a former neighbor. Less than an hour later, her rampage continued at the Santa Barbara Postal Processing and Distribution Center where she had worked for about six years. Armed with a semiautomatic handgun equipped with a 15-round large capacity ammunition magazine, San Marco shot six postal employees (two in the parking lot and four in the building), before turning the gun on herself. Five victims died at the scene and one died in the hospital two days later. San Marco's employment at the postal facility ended in 2003 when she was placed on retirement disability for psychological reasons. No suicide note was left to explain her motive, but police reportedly found writings in San Marco's New Mexico home (where she moved in 2004) alluding to a conspiracy plot involving the postal facility where the shooting occurred, a local medical facility, and the Santa Barbara County Sheriff's Department.

Weapons

Smith & Wesson 915 9mm semiautomatic handgun equipped with a 15-round large capacity ammunition magazine. San Marco purchased the firearm at a pawn shop in New Mexico in August 2005.

Outcome

Suicide.

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November 21, 2004	Hunting Camp
Meteor, WI	Incident
Shooter Chai Vang, 36	On a hunting trip in Northwest Wisconsin, at about noon on a Sunday, Vang was sitting in a hunting stand used to look out for deer, when he encountered a group of other hunters who informed him that he was trespassing on private property. Police report that Vang began to walk away, then turned, and opened fire. During the course of the shooting, he shot nine people, five of whom died during the incident (the sixth victim succumbed to the gunshot wounds the following day). One of the wounded victims recorded the hunting license number posted on Vang's orange vest and supplied it to police.
Ammo Magazine Capacity 20-rounds	
Shots Fired 20 Killed 6 Wounded 3	Weapons SKS 7.62mm semiautomatic assault rifle equipped with a 20-round large capacity ammunition magazine.
	Outcome At about 5 PM that same day, police arrested Vang. At Vang's preliminary hearing, he pleaded not guilty to six counts of murder and three counts of attempted murder. During the trial, which lasted from September 11 to 18, 2005, Vang's defense argued that he had felt "under siege" from the other hunters, and that they had been using racial slurs against him. Vang was convicted of murder and eventually sentenced to six life sentences without the possibility of parole.
December 26, 2000	Edgewater Technology Office
Wakefield, MA	Incident
Shooter Michael McDermott, 42	Armed with multiple firearms and a 60-round large capacity ammunition magazine, McDermott arrived at his workplace at about 9 AM. After about two hours, he began his rampage by walking to the reception desk and shooting and killing the office manager. He moved throughout the building continuing to shoot at specific coworkers, firing 37 shots over the course of five to six minutes before he stopped firing, returned to the reception area and sat down. Authorities speculated that McDermott's motive centered on anger that his wages were to be collected by the IRS for the payment of back taxes.
Ammo Magazine Capacity 60-rounds	
Shots Fired 37 Killed 7 Wounded 0	Weapons AK-47-type semiautomatic assault rifle, unknown make and model 12-gauge shotgun, unknown make and model .32-caliber semiautomatic pistol, and 60-round large capacity ammunition magazine.
	Outcome McDermott was arrested at the scene. He was charged with seven counts of murder, to which he pleaded not guilty. Over the course of a 14-day trial in April 2002, McDermott's defense was based on insanity. During his testimony, he expressed a belief that he had been sent back in time to kill Nazis, a move which the prosecution claimed to be a fabricated "psychic alibi." At the end of the trial, McDermott was convicted of seven counts of murder and received seven life sentences.
November 2, 1999	Xerox Office Building
Honolulu, HI	Incident
Shooter Byran Uyesugi, 40	Armed with a handgun and three 17-round large capacity ammunition magazines, Uyesugi entered offices of the Xerox corporation in Honolulu and commenced firing. After firing approximately 28 shots, killing 7 people (he missed an 8th), Uyesugi promptly left and drove to the Hawaii Nature Center. After a 5-hour standoff with police, he surrendered. Uyesugi is said to have been a disgruntled employee—with a history of anger issues—who at the time was feeling work-related pressure.
Ammo Magazine Capacity	

Gordon Declaration 01724

<p>17-rounds</p> <hr/> <p>Shots Fired 28 Killed 7 Wounded 0</p>	<p>Weapons GLOCK 17 9mm semiautomatic pistol and three 17-round large capacity ammunition magazines, loaded with hollow point bullets (bullets with the tip hollowed out, designed to expand upon impact). Uyesugi legally purchased the GLOCK in 1989.</p> <p>Outcome On November 9, 1999, Uyesugi was indicted on nine felony counts, including one count of first degree murder, seven counts of murder in the second degree, and one count of attempted murder in the second degree. On May 15, 2000, the trial against Uyesugi began. He pleaded not guilty by reason of insanity, but the jury rejected that plea and found him guilty. Uyesugi was sentenced to life without the possibility of parole. In 2002, he appealed his conviction but the State of Hawai'i Supreme Court upheld his conviction.</p>
<p>September 15, 1999</p> <hr/> <p>Fort Worth, TX</p> <hr/> <p>Shooter Larry Gene Ashbrook, 47</p> <hr/> <p>Ammo Magazine Capacity 15-rounds</p> <hr/> <p>Shots Fired 30 Killed 7 (plus shooter = 8) Wounded 7</p>	<p>Wedgwood Baptist Church</p> <p>Incident Armed with two handguns and three 15-round large capacity ammunition magazines, Ashbrook walked into Wedgwood Baptist Church during a teen rally and began shooting. He killed 7 people (three of whom were teenagers) and wounded 7 more. Over the course of the attack, he fired approximately 30 shots and threw a pipe bomb in the church. Ashbrook then committed suicide. According to witnesses, during the shooting Ashbrook was yelling anti-religious invectives. In addition, a news report described him as one who "seethed with hostility, distrusted neighbors, and sometimes victimized the vulnerable."</p> <p>Weapons Ruger P85 9mm semiautomatic pistol, unknown make and model .380 caliber semiautomatic pistol, and three 15-round large capacity ammunition magazines. Ashbrook legally acquired both weapons from federally licensed firearms dealers in 1992.</p> <p>Outcome Suicide.</p>
<p>April 20, 1999</p> <hr/> <p>Littleton, CO</p> <hr/> <p>Shooter Eric Harris, 18 Dylan Klebold, 17</p> <hr/> <p>Ammo Magazine Capacity 52-rounds 32-rounds 28-rounds</p> <hr/> <p>Shots Fired 188 Killed 13 (plus shooters = 15) Wounded 24</p>	<p>Columbine High School</p> <p>Incident On the morning of April 20th, Harris and Klebold entered Columbine High School and placed two propane bombs in the cafeteria. They then returned to their cars, awaiting detonation. After the bombs failed to detonate, Harris and Klebold gathered their guns and large capacity ammunition magazines ranging from 28- to 52-rounds, they then approached the school's west entrance. At approximately 11:20 AM, they begin shooting at students outside the school. After entering the school, they commenced shooting and throwing pipe bombs at random, eventually proceeding to the library where they killed 10 and injured 12 more. Leaving the library, they continued wandering about the school, occasionally firing through windows at law enforcement, until—at around noon—they committed suicide. In less than an hour, Harris and Klebold killed 13 and wounded 24.</p> <p>Weapons Savage Springfield 67H 12-gauge pump-action shotgun, Savage Stevens 311D 12-gauge sawed-off shotgun, Hi-Point 995 9mm semiautomatic rifle, INTRATEC TEC-DC9 9mm semiautomatic pistol, and thirteen 10-round magazines, one 52-, one 32-, one 28-round large capacity ammunition magazines. Harris and Klebold illegally acquired the shotguns and Hi-Point rifle through a "straw purchase" (a transaction in which a legal buyer makes a purchase for someone who cannot legally purchase the firearm). Their friend, Robyn Anderson, purchased the three firearms at the Tanner Gun Show from unlicensed sellers in December of</p>

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1998. A pizza shop employee, Mark Manes, illegally sold them the INTRATEC TEC-DC9.

Outcome
Suicide.

May 20-21, 1998

Thurston High School

Springfield, OR

Incident

Shooter
Kipland Philip "Kip"
Kinkel, 15

At about 3 PM, Kinkel, who had earlier been suspended from school for illegal possession of a firearm, loaded a .22-caliber rifle and shot his father in the back of the head. Roughly 3 hours later, Kinkel's mother returned home and he fatally shot her six times. The next morning, Kinkel armed himself with multiple weapons including a 50-round large capacity ammunition magazine, then drove to his school, arriving at about 7:55 AM. Walking through a school hallway, he shot 27 students, killing 2 of them, before he was finally tackled to the ground by other students while trying to reload.

Ammo Magazine
Capacity
50-rounds

Shots Fired >50
Killed 4
Wounded 25

Weapons

GLOCK 19 9mm semiautomatic pistol, Ruger (unknown model) .22-caliber semiautomatic pistol, Ruger (unknown model) .22-caliber rifle, and a 50-round large capacity ammunition magazine. The GLOCK and rifle were legally purchased by Kinkel's father.

Outcome

Kinkel was taken into custody by the police at the scene. On the 16th of June, Kinkel was indicted on 58 charges, 4 of which were for aggravated murder. In September of the following year, Kinkel pleaded guilty to the aggravated murder charges and 25 counts of attempted murder, and pleaded no contest to one attempted murder count. During his sentencing hearing, psychiatrists testified that Kinkel showed signs of schizophrenia. Evidence was also presented that he expressed admiration for the [Westside Middle School shooting](#) which occurred two months earlier. On November 2nd, Kinkel was sentenced to 111 years and 8 months in prison without the possibility of parole. In 2002, he appealed his sentence, but the Court of Appeals of Oregon found the sentence did not violate the Oregon Constitution. In 2007, he petitioned for a new trial, but a Marion County judge denied the motion. Kinkel then appealed that decision but on January 12, 2011, the Oregon Court of Appeals affirmed the trial court decision denying his motion for a new trial.

March 24, 1998

Westside Middle School

Jonesboro, AR

Incident

Shooter
Andrew Golden, 11
Mitchell Johnson, 13

On the morning of March 24, Golden and Johnson stole a van owned by the Johnson family, drove to Golden's grandparents' house to acquire weaponry, including multiple 30- and 15-round large capacity ammunition magazines, and then continued on to Westside Middle School. Golden entered the school and pulled the fire alarm, then ran back outside to wait with Johnson. As students and teachers came running out of the school, the two boys opened fire, killing 5 (one of whom was a teacher) and wounding 10 (9 students and 1 teacher). Johnson claims Golden came up with the plan just to scare the kids who had bullied him.

Ammo Magazine
Capacity
30-rounds
15-rounds

Shots Fired >26
Killed 5
Wounded 10

Weapons

Universal M1 Carbine .30-caliber replica, Davis Industries .38-caliber two-shot derringer, Double Deuce Buddie .22-caliber two-shot derringer, Charter Arms .38-caliber revolver, Star .380-caliber pistol, FIE .380-caliber pistol, Ruger Security Six .357-caliber revolver, Ruger .44 magnum rifle, Smith & Wesson .38-caliber revolver, Remington 742 .30-06-caliber rifle, 15-round large capacity ammunition magazines, three 30-round large capacity ammunition magazines, and over 150-rounds of ammunition.

Outcome

Gordon Declaration 01726

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After the shooting, Golden and Johnson ran into the woods and were eventually caught by police. The boys were convicted as juveniles to the maximum sentence possible under state law, imprisonment until they turned 18. Prior to their 18th birthdays, they were convicted of a federal crime for bringing a gun to school. They were then transferred to federal prisons until their 21st birthdays. Upon release they would have no criminal record, making them legally eligible to purchase a firearm. Johnson was released on August 11, 2005, and Golden was released on May 25, 2007.

March 6, 1998	Connecticut State Lottery Headquarters
Newington, CT	Incident
Shooter Matthew Beck, 35	Nearly two weeks after retuning to work following several months of "stress-related" medical leave, Beck, a State Lottery employee, arrived at work armed with a handgun equipped with a 19-round large capacity ammunition magazine. He shot and killed four of his bosses. As police arrived, Beck shot and killed himself. Beck had a history of depression and was disgruntled with his employer over a salary dispute and being passed over for a promotion.
Ammo Magazine Capacity 19-rounds	Weapons GLOCK model unknown 9mm semiautomatic pistol equipped with a 19-round large capacity ammunition magazine. Beck had a permit for the 9mm pistol used in the shooting.
Shots Fired >5 Killed 4 (plus shooter = 5) Wounded 0	Outcome Suicide.
December 18, 1997	Caltrans Maintenance Yard
Orange, CA	Incident
Shooter Arturo Reyes Torres, 41	Armed with an assault rifle and five 30-round large capacity ammunition magazines, Torres fired 144 rounds in just over two minutes upon his former co-workers. He killed four, including his former supervisor, and wounded two more. Torres had recently been accused of stealing and selling government-owned materials and subsequently fired from his job at Caltrans. He is believed to have been seeking revenge against his former supervisor, who Torres felt set him up.
Ammo Magazine Capacity 30-rounds	Weapons Chinese-made AK-47-type 7.62mm semiautomatic assault rifle and five 30-round large capacity ammunition magazines. Torres legally purchased the rifle on April 30, 1988, from B&B Gun Sales in Orange County, CA.
Shots Fired 144 Killed 4 (plus shooter = 5) Wounded 2	Outcome Torres was shot and killed by police.
June 20, 1994	Fairchild Air Force Base
Fairchild Air Force Base, WA	Incident
Shooter Dean Allen Mellberg, 20	Weeks after receiving an involuntary honorable discharge from the Air Force, Dean Allen Mellberg took a cab to the Fairchild Air Force Base hospital armed with a Mak-90 semiautomatic assault rifle equipped with a 75-round drum large capacity ammunition magazine. He shot and killed two doctors, who he reportedly blamed for his discharge from the military. Mellberg then fired upon others in the hospital, chasing some outside the building. Once outside he encountered a military police officer who fatally shot him. In the few minutes Mellberg was shooting, he killed 5 and wounded 23.
Ammo Magazine Capacity 75-rounds	

Gordon Declaration 01727

Shots Fired unknown
 Killed 5 (plus shooter = 6)
 Wounded 23

Weapons
 Chinese-made Mak-90 semiautomatic assault rifle equipped with a 75-round drum large capacity ammunition magazine. He purchased the assault rifle on June 15, 1994, five days before the shooting, and the following day purchased 80 rounds of 7.62x39mm ammunition and a 75-round drum large capacity ammunition magazine.

Outcome
 Shot and killed by military police.

December 7, 1993

Long Island Railroad

Long Island, NY

Incident

Shooter
 Colin Ferguson, 35

Armed with a handgun and four 15-round large capacity ammunition magazines, Ferguson boarded a 5:33 PM Long Island bound commuter train from NYC's Pennsylvania Station. During the journey he began firing on passengers. He emptied approximately 30 rounds upon 25 people, killing 6. Ferguson's motives for the shooting are believed to stem from a variety of complaints. Police discovered a notebook in which Ferguson vented his hatred for "Caucasians and Uncle Tom Negroes," then-Governor Mario Cuomo, and the state Workers' Compensation Board.

Ammo Magazine Capacity
 15-rounds

Shots Fired 30
 Killed 6
 Wounded 19

Weapons
 Ruger P89 9mm semiautomatic pistol and four 15-round large capacity ammunition magazines. Ferguson legally acquired the weapon in California at an outlet of Turner's Outdoorsman.

Outcome
 Stopping to reload, Ferguson was tackled by three train passengers. Ferguson was indicted on January 19, 1994. A lengthy and controversial trial ensued, during which Ferguson's lawyers—William Kunstler and Ronald Kuby—insisted that he was overcome with "black rage." Ferguson rejected that defense and eventually dismissed Kunstler and Kuby. Maintaining his plea of not guilty, Ferguson was finally convicted of murder on February 17, 1995.

July 1, 1993

101 California Street Office of Pettit & Martin Law Firm

San Francisco, CA

Incident

Shooter
 Gian Luigi Ferri, 55

Armed with three firearms and 40- and 50-round large capacity ammunition magazines, Ferri opened fire on the offices of the law firm Pettit & Martin on the 34th floor of a San Francisco high-rise. He fired between 75 to 100 rounds, killing eight and wounding six, before killing himself. Ferri—a real estate speculator undergoing major financial trouble—had previously hired the law firm. His exact motives remain unclear, but police found a letter written by Ferri indicating frustrations with Pettit & Martin over real estate advice they had given him in 1981.

Ammo Magazine Capacity
 50-rounds
 40-rounds

Shots Fired >75
 Killed 8 (plus shooter = 9)
 Wounded 6

Weapons
 Two INTRATEC TEC-DC9 semiautomatic pistols, Colt (unknown model) .45-caliber semiautomatic pistol, and 40-round and 50-round large capacity ammunition magazines loaded with a mix of Black Talon and standard ammunition. According to the Las Vegas Metropolitan Police Department, Ferri purchased the pistols from two stores in Las Vegas: Super Pawn and Pacific Tactical Weapons.

Outcome
 Suicide.

October 16, 1991

Luby's Cafeteria

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Killeen, TX

Shooter
George Hennard, 35Ammo Magazine
Capacity
17-rounds
15-roundsShots Fired 100
Killed 23 (plus shooter =
24)
Wounded 20

Incident

Armed with two handguns and 17-round and 15-round large capacity ammunition magazines, Hennard crashed his pickup into Luby's Cafeteria during a busy lunch hour. Stepping out of the vehicle, he began shooting randomly, killing 23 and wounding 20. After firing approximately 100 shots over 10 minutes, Hennard shot himself in the head. His motives remain unclear, but neighbors described him as "combative and unstable."

Weapons

GLOCK 17 9mm semiautomatic pistol, Ruger P89 semiautomatic pistol, and 17-round and 15-round large capacity ammunition magazines. Hennard legally purchased the weapons from Mike's Gun Shop in Henderson, NV, in February and March of 1991.

Outcome

Suicide.

June 18, 1990

Jacksonville, FL

Shooter
James Edward Pough, 42Ammo Magazine
Capacity
30-roundsShots Fired >14
Killed 9 (plus shooter =
10)
Wounded 4

General Motors Acceptance Corporation Office

Incident

Armed with two firearms and a 30-round large capacity ammunition magazine, Pough opened fire in offices of General Motors. He killed nine and wounded four before taking his own life. It is believed Pough was angered by having his 1988 Pontiac Grand Am repossessed by the Corporation.

Weapons

Universal M1 .30-caliber semiautomatic assault rifle, unknown make and model .38-caliber revolver, and a 30-round large capacity ammunition magazine.

Outcome

Suicide.

September 14, 1989

Louisville, KY

Shooter
Joseph Wesbecker, 47Ammo Magazine
Capacity
30-roundsShots Fired >21
Killed 8 (plus shooter = 9)
Wounded 12

Standard Gravure Corporation

Incident

Armed with a duffle-bag full of firearms and 30-round large capacity ammunition magazines, Wesbecker opened fire at the offices of his former employer, shooting and killing 8 and wounding 12, before taking his own life. Wesbecker had been placed on permanent disability leave due to mental illness.

Weapons

Chinese-made AK-47-type semiautomatic assault rifle, two INTRATEC MAC-11 semiautomatic assault pistols, SIG SAUER unknown model 9mm semiautomatic pistol, unknown make and model .38-caliber revolver, and 30-round large capacity ammunition magazines. Wesbecker legally purchased the AK-47-type assault rifle from Tilford's Gun Sales in Louisville.

Outcome

Suicide.

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January 17, 1989	Cleveland Elementary School
Stockton, CA	Incident
Shooter Patrick Purdy, 24	Armed with two firearms and multiple 75- and 35-round large capacity magazines, Purdy first set his car on fire in the parking lot of Cleveland Elementary School. He then entered school grounds and began shooting. Over the course of the rampage, Purdy killed 5 students and wounded 30 others, including one teacher. After firing approximately 106 shots with an AK-47-type assault rifle over less than two minutes, he shot himself in the head with a pistol. Purdy's former acquaintances reported that he "developed a hate for everybody" including an intense dislike of Asian Americans. Of the five fatalities incurred during the Cleveland School Massacre, four were born in Cambodia and one in Vietnam.
Ammo Magazine Capacity 75-rounds 35-rounds	
Shots Fired 106 Killed 5 (plus shooter = 6) Wounded 30	Weapons Chinese-made AK-47-type semiautomatic assault rifle, Taurus unknown model 9mm semiautomatic pistol, a 75-round large capacity ammunition drum magazine, a 75-round large capacity ammunition rotary magazine, and four 35-round large capacity ammunition banana magazines. Purdy legally purchased the AK-47-type rifle at Sandy Trading Post, in Sandy, OR on August 3, 1988, and the Taurus 9mm pistol at Hunter Loan and Jewelry Co. in Stockton, CA on December 28, 1988.
	Outcome Suicide.
April 23, 1987	Palm Bay shopping center
Palm Bay, FL	Incident
Shooter William Cruse, Jr., 59	On April 23, 1987, William Cruse, Jr., loaded his car with a Strum, Ruger Mini-14 semiautomatic assault rifle equipped with a 30-round large capacity ammunition magazine, five 30-round large capacity ammunition magazines, 180 rounds of ammunition, a shotgun, and a pistol, and began to drive to a local shopping center. He first stopped at a neighbor's driveway, opened the car window, picked up his shotgun and opened fire upon two brothers and their father and mother, wounding one of the brothers. Cruse then continued on to the Palm Bay Center where he shot and killed three people and wounded three others with the assault rifle. He then drove across the street to the Sabal Palm Square shopping center, exited his car and again opened fire. As officers approached, Cruse reloaded his assault rifle and fired into the police car killing an officer. Another officer arrived and exited his police car, Cruse continued firing upon the officers, killing another officer. Cruse then fled into a grocery store firing upon the shoppers inside, killing one and wounding several more. He then found two women hiding in the restroom; he let one out of the store to negotiate with police and kept the other hostage. After several hours, Cruse released the hostage. Police then fired tear gas and stun grenades into the store, forcing Cruse out of the store and allowing officers to take him into custody. During the over 7 hour rampage, Cruse killed 6, including 2 police officers, and wounded 10 more. Police officers were so outgunned that a neighbor provided police an AR-15 assault rifle to help match Cruse's firepower.
Ammo Magazine Capacity 30-rounds	
Shots Fired unknown Killed 6 Wounded 10	Weapons Strum, Ruger Mini-14 semiautomatic assault rifle equipped with a 30-round large capacity ammunition magazine, five 30-round large capacity ammunition magazines, 180 rounds of ammunition, a shotgun (unknown make and model), and a pistol (unknown make and model). Cruse ordered the assault rifle on March 21, 1987. On April 17, 1987, he purchased 100-rounds of ammunition and six 30-round large capacity ammunition magazines.
	Outcome Cruse was arrested at the scene. He pleaded not guilty by reason of insanity. In 2009, a jury in Polk County, FL, convicted Cruse of 6 counts of first-degree murder, 22 counts of attempted first-degree murder, 2 counts of attempted second-degree murder, 1 count of false imprisonment, and 1 count of kidnapping. In 1989, Cruse was sentenced to the death penalty for

Gordon Declaration 01730

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the murders of the two officers and sentenced to consecutive life sentences for the other four murders and attempted murders. While on death row, Cruse died of natural causes in 2009.

<p>July 18, 1984</p> <hr/> <p>San Ysidro, CA</p> <hr/> <p>Shooter James Oliver Huberty, 41</p> <hr/> <p>Ammo Magazine Capacity 25-rounds</p> <hr/> <p>Shots Fired 257 Killed 21 (plus shooter = 22) Wounded 19</p>	<p>McDonald's Restaurant</p> <p>Incident</p> <p>Armed with multiple firearms and 25-round large capacity ammunition magazines, Huberty entered the McDonald's restaurant and opened fire. He shot 40 people, killing 21 and wounding 19. He expended 257 rounds over 77 minutes, before being killed by a police sniper. No motive has been established. Prior to the shooting, Huberty told his wife, "I'm going hunting humans."</p> <p>Weapons</p> <p>Browning P-35 9mm semiautomatic pistol, Winchester 1200 pump-action 12-gauge shotgun, Israeli Military Industries 9mm Model A Carbine (Uzi), and 25-round large capacity ammunition magazines.</p> <p>Outcome</p> <p>Huberty was shot and killed by police.</p>
<p>June 29, 1984</p> <hr/> <p>Dallas, TX</p> <hr/> <p>Shooter Abdelkrim Belachheb, 39</p> <hr/> <p>Ammo Magazine Capacity 14-rounds</p> <hr/> <p>Shots Fired unknown Killed 6 Wounded 1</p>	<p>Ianni's Club</p> <p>Incident</p> <p>On June 29, 1984, after offending his dancing partner at a Dallas night club, Abdelkrim Belachheb, a Moroccan in the U.S. illegally, left the club and returned with a Smith & Wesson 9mm semiautomatic pistol equipped with a 14-round large capacity ammunition magazine. He emptied the magazine into his dance partner, reloaded and fired into the crowd. Belachheb killed his dance partner, five others, and wounded one more.</p> <p>Weapons</p> <p>Smith & Wesson (unknown model) 9mm semiautomatic pistol and two 14-round large capacity ammunition magazines.</p> <p>Outcome</p> <p>Belachheb surrendered to police hours later. He pleaded not guilty by reason of insanity. On November 15, 1984, a jury found Belachheb guilty of the six murders. He was sentenced to six consecutive life sentences plus 20 years, and \$70,000 in fines.</p>

* *Disclaimer:* Information for this database has been compiled from publicly available news sources. Every effort has been made to obtain the most accurate information, however, contradictions may exist between this database and other sources. As the ATF does not require police departments to collect data related to the capacity of a firearm's ammunition magazine, this database is not an exhaustive list of mass shootings involving large capacity ammunition magazines.

Exhibit 45



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High-Capacity Ammunition Magazines are the Common Thread Running Through Most Mass Shootings in the United States



Columbine shooter armed with Intratec TEC-DC9 assault pistol equipped with high-capacity ammunition magazine

Since 1980, there have been at least 55 mass shootings (3 or more fatalities) where the shooter used high-capacity ammunition magazines. A total of 503 people were killed in these shootings and 495 were wounded. This number is likely a significant undercount of actual incidents since there is no consistent collection or reporting of this data. Even in many high-profile shootings information on magazine capacity is not released or reported.

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
House party Mukilteo, Washington July 30, 2016 Shooter: Allen Christopher Ivanov	3 dead, 1 wounded	Sturm Ruger AR-15 assault rifle	30-round magazine

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Baton Rouge, Louisiana July 17, 2016 Shooter: Gavin Long	3 law enforcement officers dead, 3 wounded	Tavor SAR assault rifle, Stag Arms M4 variant assault rifle, Springfield XD 9 mm semiautomatic pistol	High capacity ammunition magazines
Dallas, Texas July 7, 2016 Shooter: Micah Johnson	5 law enforcement officers dead, 9 officers and two citizens wounded	Saiga AK-74 assault rifle, Glock 19 Gen 4 and Fraser .25 semiautomatic pistols	Multiple high-capacity ammunition magazines
Pulse nightclub Orlando, Florida June 12, 2016 Shooter: Omar Mateen	50 dead (including shooter), 53 wounded	Sig Sauer MCX assault rifle	Multiple 30 round magazines, some taped together for faster reloading
Kalamazoo Michigan Multiple parking lots February 20, 2016 Shooter: Jason Dalton	6 dead, 2 wounded	Glock 19 semiautomatic pistol, Walther P99 9mm semiautomatic pistol	Extended magazine
Inland Regional Center San Bernardino, California December 2, 2015 Shooters: Syed Farook and Tashfeen Malik	14 dead, 21 wounded	Smith&Wesson M&P assault rifle, DPMS A15 assault rifle	4 30-round magazines
Navy Operational Support Center and Marine Corps Reserve Center Chattanooga, Tennessee July 16, 2015 Shooter: Muhammad Youssef Abdulazeez	6 dead (including shooter), 2 wounded	AK-variant assault rifle, Saiga assault shotgun, handgun	multiple 30-round magazines
Emanuel African Methodist Episcopal Church Charleston, South Carolina June 17, 2015 Shooter: Dylann Roof	9 dead	Glock .45 Model 41 pistol	13-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Marysville-Pilchuck High School, Marysville, Washington October 24, 2014 Shooter: Jaylen Fryberg	5 dead (including shooter)	Beretta .40 semiautomatic pistol	High-capacity, number of rounds unstated
Apartment complex Hialeah, Florida July 26, 2013 Shooter: Pedro Vargas	6 dead	Glock 17 semiautomatic pistol	17-round magazine
Santa Monica, California June 7, 2013 Shooter: John Zawahri	6 dead, (including shooter)	AR-type assault rifle built from parts	40 30-round magazines
Sandy Hook Elementary School Newtown, Connecticut December 14, 2012 Shooter: Adam Lanza	28 dead, (including shooter)	Bushmaster XM15 assault rifle, Glock 10mm pistol, 9mm Sig Sauer pistol	30-round magazines
Accent Signage Systems Minneapolis, Minnesota September 27, 2012 Shooter: Andrew Engeldinger	7 dead (including shooter), 3 wounded	Springfield XDM semiautomatic pistol	2 15-round magazines
Sikh Temple Oak Creek, Wisconsin August 5, 2012 Shooter: Wade Michael Page	7 dead (including shooter), 2 wounded	Glock 9mm semiautomatic pistol	3 19-round magazines
Café Racer Seattle, Washington May 30, 2012 Shooter: Ian Stawicki	6 dead (including shooter)	Colt .45 semiautomatic pistol	Extended magazine
Century Aurora 16 movie theater Aurora, Colorado July 20, 2012 Shooter: James Holmes	12 dead, 58 wounded	Smith & Wesson M&P15 assault rifle, .40 Glock pistol, Remington model 870 12 gauge shotgun	100-round magazine
IHOP Carson City, Nevada September 6, 2011 Shooter: Eduardo Sencion	5 dead, (including shooter), 7 wounded	MAK-90 assault rifle (illegally converted to full-auto)	20- and 30-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Safeway parking lot Tucson, Arizona January 8, 2011 Shooter: Jared Loughner	6 dead, 13 wounded	Glock 19 semiautomatic pistol	Two 31-round magazines Two 15-round magazines
Shreveport, Louisiana August 16, 2010 Shooter: Marcus Donte Reed	3 dead	Assault weapon	30-round magazine
Hartford Distributors Manchester, Connecticut August 3, 2010 Shooter: Omar Thornton	9 dead (including shooter), 2 wounded	Sturm, Ruger SR9 semiautomatic pistol	17- and 15-round magazines
ABB, Inc. St. Louis, Missouri January 7, 2010 Shooter: Timothy Hendron	4 dead (including shooter), 5 wounded	Romarm AK-47 assault rifle, Tristar 12 gauge shotgun, Hi-Point .40 pistol	Two "banana-style" high-capacity magazines (capacity not stated)
Fort Hood Fort Hood, Texas November 5, 2009 Shooter: Nidal Hasan	13 dead, 34 wounded	FN Five-seven 5.7mm semiautomatic pistol	30- and 20-round magazines
LA Fitness Center Collier, Pennsylvania August 4, 2009 Shooter: George Sodini	4 dead (including shooter), 9 wounded	Two 9mm semiautomatic pistols, .45 pistol, .32 pistol	30-round magazines
American Civic Association Binghamton, New York April 3, 2009 Shooter: Jiverly Wong	14 dead (including shooter), 4 wounded	9mm Beretta semiautomatic pistol, .45 handgun	30-round magazine
Oakland, California March 21, 2009 Shooter: Lovelle Mixon	4 dead	SKS assault rifle	Large capacity magazine
Alabama, multiple locations March 10, 2009 Shooter: Michael McLendon	11 dead (including shooter)	Two assault rifles	High-capacity magazines taped together
Walt Lou Trailer Park Stafford, Virginia May 5, 2008 Shooter: Aaron Poseidon Jackson	4 dead (including shooter)	WASR-10 assault rifle, Smith & Wesson .38 revolver	30-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Northern Illinois University DeKalb, Illinois February 14, 2008 Shooter: Steven Phillip Kazmierczak	6 dead (including shooter), 21 wounded	Glock19 9mm pistol, Hi-Point 380, Remington12 gauge Sportsman 48 shotgun	33- and 15-round magazines
Westroads Mall Omaha, Nebraska December 5, 2007 Shooter: Robert Hawkins	9 dead (including shooter), 5 wounded	WASR-10 assault rifle	Two 30-round magazines taped together
Virginia Tech Blacksburg, Virginia April 16, 2007 Shooter: Seung-Hui Cho	33 dead (including shooter), 17 wounded	Glock 19 semiautomatic pistol, Walther P22 pistol	15-round magazines
Mail Processing Plant Goleta, California January 30, 2006 Shooter: Jennifer San Marco	7 dead	Smith & Wesson 9mm model 915 semiautomatic pistol	15-round magazine
Living Church of God Brookfield, Wisconsin March 13, 2005 Shooter: Terry Ratzmann	8 dead (including shooter)	Beretta 9mm semiautomatic pistol	2 13-round magazines
Hunting Camp Birchwood, Wisconsin November 21, 2004 Shooter: Chai Vang	6 dead, 3 wounded	SKS assault rifle	20-round magazine
Edgewater Technology Inc. Wakefield, Massachusetts December 26, 2000 Shooter: Michael McDermott	7 dead	AK-47 assault rifle, 12 gauge pump- action shotgun	60-round, large-capacity feeding device
Xerox Honolulu, Hawaii November 2, 1999 Shooter: Byran Uyesugi	7 dead	Glock 17 9mm semiautomatic pistol	Three 15-round magazines
Wedgewood Baptist Church Fort Worth, Texas September 15, 1999 Shooter: Larry Gene Ashbrook	8 dead (including shooter), 7 wounded	Sturm, Ruger P85 9mm semiautomatic pistol, .380 pistol	Three 15-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Columbine High School Littleton, Colorado April 20, 1999 Shooters: Eric Harris and Dylan Klebold	15 dead (including shooters), 23 wounded	Intratec TEC-DC9 assault pistol, Hi-Point 9mm Carbine, Savage 67H pump- action shotgun, Savage 311-D 12- gauge shotgun	High-capacity magazines (capacity unstated)
Thurston High School Springfield, Oregon May 21, 1998 Shooter: Kip Kinkel	4 dead, 22 wounded	9mm Glock semiautomatic pistol, .22 Sturm Ruger rifle, .22 Sturm Ruger pistol	50-round magazine
Westside Middle School Jonesboro, Arkansas March 24, 1998 Shooters: Andrew Golden and Mitchell Johnson	5 dead, 10 wounded	M-1 rifle, Remington .30-06 rifle, various handguns	15-round magazine
Connecticut State Lottery Headquarters Newington, Connecticut March 6, 1998 Shooter: Matthew Beck	5 dead (including shooter)	Glock 9mm semiautomatic pistol	19-round magazine
Caltrans Maintenance Yard Orange, California December 18, 1997 Shooter: Arturo Reyes Torres	5 dead (including shooter), 2 wounded	AK-47 assault rifle	Five 30-round magazines
Piper Technical Center Los Angeles, California July, 19, 1995 Shooter: Willie Woods	4 dead	Glock semiautomatic pistol	19-round magazine
DC Police Headquarters Washington, DC November 22, 1994 Shooter: Bennie Lee Lawson	4 dead (including shooter), 1 wounded	Cobray —11 assault pistol	Extended magazine

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Fairchild Air Force Base hospital Spokane, Washington June 20, 1994 Shooter: Dean Mellberg	5 dead (including shooter), 23 wounded	MAK-90 assault rifle	75-round drum magazine
Long Island Railroad Long Island, New York December 7, 1993 Shooter: Colin Ferguson	6 dead, 19 wounded	Sturm, Ruger P-89 9mm semiautomatic pistol	Four 15-round magazines
Pettit & Martin Law Offices San Francisco, California July 1, 1993 Shooter: Gian Luigi Ferri	9 dead (including shooter), 6 wounded	Two Intratec TEC- DC9 assault pistols, .45 pistol	40- to 50-round magazines
Luby's Cafeteria Killeen, Texas October 16, 1991 Shooter: George Hennard	24 dead (including shooter), 20 wounded	Sturm, Ruger P-89 9mm semiautomatic pistol, Glock 9mm semiautomatic pistol	17- and 15-round magazines
General Motors Acceptance Corp. Jacksonville, Florida June 18, 1990 Shooter: James Pough	10 dead (including shooter), 4 wounded	M-1 rifle, .38 revolver	30-round magazines
Standard Gravure Corporation Louisville, Kentucky September 14, 1989 Shooter: Joseph Wesbecker	9 dead (including shooter), 12 wounded	AK-47 assault rifle, 2 MAC-11 assault pistols, .38 revolver, Sig Sauer 9mm pistol	30-round magazines
Cleveland Elementary School Stockton, California January 17, 1989 Shooter: Patrick Purdy	6 dead (including shooter), 30 wounded	AK-47 assault rifle, Taurus 9mm pistol, unidentified pistol	75-round drum magazine
Palm Bay shopping center Palm Bay, Florida April 23, 1987 Shooter: William Cruse	6 dead (including 2 police officers)	Sturm, Ruger Mini- 14 assault rifle	Five 30-round magazines
McDonald's San Ysidro, California July 18, 1984 Shooter: James Huberty	22 dead (including shooter), 19 wounded	Uzi Carbine, Browning 9mm pistol, Winchester 1200 pump-action 12-gauge shotgun	25-round magazine

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Ianni's Nightclub Dallas, Texas June 29, 1984 Shooter: Abdelkrim Belachheb	6 dead, 1 wounded	Smith & Wesson 9mm semiautomatic pistol	Two 14-round magazines
Pennsylvania, multiple locations September 25, 1982 Shooter: George Emil Banks	13 dead, 1 wounded	AR-15 semiautomatic assault rifle	30-round magazines
Oregon Museum Tavern Salem, Oregon May 7, 1981 Shooter: Lawrence Moore	4 dead, 19 wounded	Browning 9mm semiautomatic pistol	Two 14-round magazines

Exhibit 46

SENATE THIRD READING
 SB 1446 (Hancock)
 As Amended March 28, 2016
 Majority vote

SENATE VOTE: 22-15

Committee	Votes	Ayes	Noes
Public Safety	5-2	Jones-Sawyer, Lopez, Low, Quirk, Santiago	Melendez, Lackey

SUMMARY: Prohibits the possession of large-capacity magazines, with specified exceptions. Specifically, **this bill:**

- 1) Makes it an infraction, commencing July 1, 2017, for any person who possesses a large-capacity magazine punishable as follows:
 - a) A fine not to exceed \$100 for the first offense;
 - b) A fine not to exceed \$250 for the second offense; and,
 - c) A fine not to exceed \$500 for the third or subsequent offense.
- 2) Requires a person who, prior to July 1, 2017, legally possesses a large-capacity magazine to dispose of that magazine by any of the following means:
 - a) Remove the large-capacity magazine from the state;
 - b) Prior to July 1, 2017, sell the large-capacity magazine to a licensed firearms dealer;
 - c) Destroy the large-capacity magazine; or,
 - d) Surrender the large-capacity magazine to a law enforcement agency for destruction.
- 3) Specifies the following exceptions:
 - a) An individual who honorably retired from being a sworn peace officer, or an individual who honorably retired from being a sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties;
 - b) A federal, state, or local historical society, museum or institutional society, or museum or institutional collection, that is open to the public, provided that the large-capacity magazine is unloaded, properly housed within secured premises, and secured from unauthorized handling;
 - c) A person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition, and possessed it no longer than necessary to deliver or transport it to the nearest law enforcement agency;

- d) A forensic laboratory, or an authorized agent or employee thereof in the course and scope of his or her authorized activities;
- e) The receipt or disposition of a large-capacity magazine by a trustee of a trust, or an executor or administrator of an estate, including an estate that is subject to probate, that includes a large-capacity magazine; or,
- f) A person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds 10 or fewer rounds of ammunition is compatible with that firearm and the person possesses the large-capacity magazine solely for use with that firearm.

EXISTING LAW:

- 1) Defines a "large-capacity magazine" as any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:
 - a) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds;
 - b) A .22 caliber tube ammunition feeding device; or,
 - c) A tubular magazine that is contained in a lever-action firearm.
- 2) States, except as provided, commencing January 1, 2000, any person in California who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine is punishable by imprisonment in the county jail for either a misdemeanor or a felony.
- 3) Provides the following exceptions to the prohibition against manufacturing or causing to be manufactured, importing into the state, keeping for sale, or offering or exposing for sale, or giving, or lending, any large-capacity magazine:
 - a) Government agency charged with law enforcement;
 - b) Sworn peace officer who is authorized to carry a firearm in the course and scope of that officer's duties ;
 - c) Sale or purchase by a licensed person;
 - d) Loan under specified circumstances;
 - e) Importation by a person in legal possession prior to January 1, 2000;
 - f) Delivery to a gun smith;
 - g) Person with permit to sell to an out-of-state client;
 - h) Entity that operates armored vehicle business;
 - i) Manufacture for government agency or military;

- j) Use as a prop; or,
 - k) Holder of a special weapons permit for specified purposes.
- 4) Declares large-capacity magazines to be a nuisance.
- 5) Provides that the Attorney General, district attorney, or city attorney may bring an action to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving, lending, or possession of, any item that constitutes a nuisance under any of the specified code sections, including the code section relating to large-capacity magazines.
- 6) States that the weapons listed in the specified code sections constituting a nuisance shall be subject to confiscation and summary destruction whenever found within California.

FISCAL EFFECT: Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: According to the author, "In 1999, the Legislature passed SB 23 (Perata) [Chapter 129, Statutes of 1999] which prohibited the possession of assault weapons, such as the AK-47 and created a generic definition of an assault weapon. As part of that legislation, the importation, manufacture and sale of large capacity ammunition magazines was strictly prohibited. However, the possession of high capacity magazines was not prohibited.

"Federal law also outlawed possession of high capacity magazines as part of the 1994 federal assault weapons ban but allowed current owners to keep them under a 'grandfathering' provision. The federal assault weapons ban was allowed to expire in 2004. Research has shown that, prior to the implementation of the federal assault weapons ban, these high capacity magazines were used in between 14 and 26% of guns used in crime.

"High capacity ammunition magazines are ammunition feeding devices that hold more than ten rounds of ammunition. These mega-magazines can hold upwards of 100 rounds of ammunition and allow a shooter to rapidly fire without reloading.

"High capacity magazines are not designed for hunting or target shooting. High capacity magazines are military designed devices. They are designed for one purpose only – to allow a shooter to fire a large number of bullets in a short period of time.

"This bill will make clear that possession of these 'mega-magazines' is also prohibited. Law enforcement officers have told us that, because the Penal Code currently fails to specifically prohibit possession, the law is very difficult to enforce. This needs to be fixed and this measure addresses that by prohibiting the possession."

Analysis Prepared by: Stella Choe / PUB. S. / (916) 319-3744 FN: 0003530

Exhibit 47

[Home](#) [Table of Contents](#)**§ 5480. Requirements for Large-Capacity Magazine Permits Pursuant to Penal Code Section 32315.**

11 CA ADC § 5480

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 11. Law

Division 5. Firearms Regulations

Chapter 39. Assault Weapons and Large- Capacity Magazines

Article 4. Large-Capacity Magazine Permits

11 CCR § 5480

§ 5480. Requirements for Large-Capacity Magazine Permits Pursuant to Penal Code Section 32315.

(a) This article applies to Penal Code section 32315 permits for the out-of-state importation and exportation of large-capacity magazines as defined in Penal Code section 16740. Importation and exportation includes the transportation of magazines as necessary to complete a transfer to or from an out-of-state source.

(b) No permit shall be issued to any person who fails to establish "good cause" for issuance of the permit and that the permit would not endanger public safety. "Good cause" shall be established by the following:

(1) A statement from the applicant that a large-capacity magazine marketplace exists for their dealership; and

(2) Compliance with The Dangerous Weapons Control Law comprised of the provisions listed in Penal Code section 16580 relative to large-capacity magazines and record keeping requirements specified in section 5483 of these regulations.

(c) Large-capacity magazine permit applications shall be filed on a DOJ form, BOF 050 (Rev. 01/2012) which requires the following information: California Firearms Dealership (CFD) number; dealership name; dealership mailing address; statement of good cause; signature of dealership licensees; and date.

Note: Authority cited: Section 32315, Penal Code. Reference: Sections 16740, 32310, 32315, 32400, 32405, 32410, 32415, 32420, 32425, 32430, 32435, 32440, 32445 and 32450, Penal Code.

HISTORY

1. Change without regulatory effect renumbering section 978.40 to section 5480, including amendment of subsection (b)(2), filed 6-28-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 26).

2. Change without regulatory effect amending article heading, section heading, section and Note filed 12-27-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 52).

This database is current through 5/19/17 Register 2017, No. 20

11 CCR § 5480, 11 CA ADC § 5480

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[Home](#) [Table of Contents](#)**§ 5482. Term Length of Large-Capacity Magazine Permits.**

11 CA ADC § 5482

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 11. Law

Division 5. Firearms Regulations

Chapter 39. Assault Weapons and Large- Capacity Magazines

Article 4. Large-Capacity Magazine Permits

11 CCR § 5482

§ 5482. Term Length of Large-Capacity Magazine Permits.

(a) The term of a large-capacity magazine permit shall be from January 1 through December 31. It is the responsibility of the permittee to submit a completed renewal application prior to December 31 of each year in order to maintain uninterrupted status as a large-capacity magazine permittee. Renewal applications shall be submitted on the form BOF 050 (Rev. 01/2012) prescribed in section 5480, subdivision (b) of these regulations.

(b) If at any time a permittee is not among the licensed firearms dealers on the DOJ Centralized List of Firearms Dealers, the large-capacity magazine permit is no longer valid and shall be canceled.

Note: Authority cited: Section 32315, Penal Code. Reference: Sections 16740, 32310, 32315, 32400, 32405, 32410, 32415, 32420, 32425, 32430, 32435, 32440, 32445 and 32450, Penal Code.

HISTORY

1. Change without regulatory effect renumbering section 978.42 to section 5482, including amendment of subsection (a), filed 6-28-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 26).

2. Change without regulatory effect amending section heading, section and Note filed 12-27-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 52).

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11 CCR § 5482, 11 CA ADC § 5482

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WESTLAW California Code of Regulations[Home](#) [Table of Contents](#)**§ 5483. Large-Capacity Magazine Permit Record Keeping.**

11 CA ADC § 5483

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 11. Law

Division 5. Firearms Regulations

Chapter 39. Assault Weapons and Large- Capacity Magazines

Article 4. Large-Capacity Magazine Permits

11 CCR § 5483

§ 5483. Large-Capacity Magazine Permit Record Keeping.

Permittees shall maintain acquisition and disposition transaction records of the importation and exportation of large-capacity magazines. Records shall include transaction date, transaction volume; and the name, address, and Federal Firearms License number (if any) of the out of state transferee or transferor. Records must be maintained at the dealership for three years and be made available to representatives of the DOJ or any other law enforcement agency upon request.

Note: Authority cited: Section 32315, Penal Code. Reference: Sections 16740 and 32315, Penal Code.

HISTORY

1. Change without regulatory effect renumbering section 978.43 to section 5483 filed 6-28-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 26).

2. Change without regulatory effect amending section heading, section and Note filed 12-27-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 52).

This database is current through 5/19/17 Register 2017, No. 20

11 CCR § 5483, 11 CA ADC § 5483

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[Home](#) [Table of Contents](#)**§ 5484. Large-Capacity Magazine Permit Revocations.**

11 CA ADC § 5484

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 11. Law

Division 5. Firearms Regulations

Chapter 39. Assault Weapons and Large- Capacity Magazines

Article 4. Large-Capacity Magazine Permits

11 CCR § 5484

§ 5484. Large-Capacity Magazine Permit Revocations.

(a) Large-capacity magazine permits shall be subject to revocation for failure to comply with record keeping requirements specified in section 5483 of these regulations or for failure to comply with The Dangerous Weapons Control Law comprised of the provisions listed in Penal Code section 16580 relative to large-capacity magazines.

(b) All procedures and hearings related to the revocation of a large-capacity magazine permit shall be conducted in accordance with Government Code sections 11500 et seq.

Note: Authority cited: Section 32315, Penal Code. Reference: Sections 16740 and 32315, Penal Code.

HISTORY

1. Change without regulatory effect renumbering section 978.44 to section 5484, including amendment of subsection (a), filed 6-28-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 26).

2. Change without regulatory effect amending section heading, section and Note filed 12-27-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 52).

This database is current through 5/19/17 Register 2017, No. 20

11 CCR § 5484, 11 CA ADC § 5484

END OF DOCUMENT

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Exhibit 48


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SB-1446 Firearms: magazine capacity. (2015-2016)

Date	Action
07/01/16	Chaptered by Secretary of State. Chapter 58, Statutes of 2016.
07/01/16	Approved by the Governor.
06/30/16	Enrolled and presented to the Governor at 1:30 p.m.
06/30/16	In Senate. Ordered to engrossing and enrolling.
06/30/16	Read third time. Passed. (Ayes 44. Noes 31. Page 5575.) Ordered to the Senate.
06/23/16	Ordered to third reading.
06/23/16	Withdrawn from committee.
06/23/16	Assembly Rule 96 suspended. (Ayes 50. Noes 27. Page 5473.)
06/15/16	From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (June 14). Re-referred to Com. on APPR.
06/01/16	Referred to Com. on PUB. S.
05/19/16	In Assembly. Read first time. Held at Desk.
05/19/16	Read third time. Passed. (Ayes 22. Noes 15. Page 3901.) Ordered to the Assembly.
05/17/16	Read second time. Ordered to third reading.
05/16/16	From committee: Be ordered to second reading pursuant to Senate Rule 28.8.
05/11/16	Set for hearing May 16.
04/28/16	May 2 hearing postponed by committee.
04/22/16	Set for hearing May 2.
04/20/16	From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 3. Page 3615.) (April 19). Re-referred to Com. on APPR.
04/01/16	Set for hearing April 19.
03/30/16	April 5 hearing postponed by committee.
03/28/16	From committee with author's amendments. Read second time and amended. Re-referred to Com. on PUB. S.
03/15/16	Set for hearing April 5.
03/10/16	Referred to Com. on PUB. S.
02/22/16	Read first time.
02/22/16	From printer. May be acted upon on or after March 23.
02/19/16	Introduced. To Com. on RLS. for assignment. To print.

Exhibit 49

2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

CALIFORNIA 2016 LEGISLATIVE SERVICE

Additions are indicated by **Text**; deletions by

~~***~~

Vetoed are indicated by ~~Text~~;
stricken material by ~~Text~~.

PROPOSITION 63
PROPOSITION 63
SAFETY FOR ALL ACT

[Approved by the Voters on Nov. 8, 2016.]

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

PROPOSED LAW

The Safety for All Act of 2016

SECTION 1. Title.

This measure shall be known and may be cited as “The Safety for All Act of 2016.”

SEC. 2. Findings and Declarations.

The people of the State of California find and declare:

1. Gun violence destroys lives, families and communities. From 2002 to 2013, California lost 38,576 individuals to gun violence. That is more than seven times the number of U.S. soldiers killed in combat during the wars in Iraq and Afghanistan combined. Over this same period, 2,258 children were killed by gunshot injuries in California. The same number of children murdered in the Sandy Hook elementary school massacre are killed by gunfire in this state every 39 days.
2. In 2013, guns were used to kill 2,900 Californians, including 251 children and teens. That year, at least 6,035 others were hospitalized or treated in emergency rooms for non-fatal gunshot wounds, including 1,275 children and teens.
3. Guns are commonly used by criminals. According to the California Department of Justice, in 2014 there were 1,169 firearm murders in California, 13,546 armed robberies involving a firearm, and 15,801 aggravated assaults involving a firearm.
4. This tragic violence imposes significant economic burdens on our society. Researchers conservatively estimate that gun violence costs the economy at least \$229 billion every year, or more than \$700 per American per year. In 2013 alone, California gun deaths and injuries imposed \$83 million in medical costs and \$4.24 billion in lost productivity.
5. California can do better. Reasonable, common-sense gun laws reduce gun deaths and injuries, keep guns away from criminals and fight illegal gun trafficking. Although California has led the nation in gun safety laws, those laws still have

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loopholes that leave communities throughout the state vulnerable to gun violence and mass shootings. We can close these loopholes while still safeguarding the ability of law-abiding, responsible Californians to own guns for self-defense, hunting and recreation.

6. We know background checks work. Federal background checks have already prevented more than 2.4 million gun sales to convicted criminals and other illegal purchasers in America. In 2012 alone, background checks blocked 192,043 sales of firearms to illegal purchasers including 82,000 attempted purchases by felons. That means background checks stopped roughly 225 felons from buying firearms every day. Yet California law only requires background checks for people who purchase firearms, not for people who purchase ammunition. We should close that loophole.

7. Right now, any violent felon or dangerously mentally ill person can walk into a sporting goods store or gun shop in California and buy ammunition, no questions asked. That should change. We should require background checks for ammunition sales just like gun sales, and stop both from getting into the hands of dangerous individuals.

8. Under current law, stores that sell ammunition are not required to report to law enforcement when ammunition is lost or stolen. Stores should have to report lost or stolen ammunition within 48 hours of discovering that it is missing so law enforcement can work to prevent that ammunition from being illegally trafficked into the hands of dangerous individuals.

9. Californians today are not required to report lost or stolen guns to law enforcement. This makes it difficult for law enforcement to investigate crimes committed with stolen guns, break up gun trafficking rings, and return guns to their lawful owners. We should require gun owners to report their lost or stolen guns to law enforcement.

10. Under current law, people who commit felonies and other serious crimes are prohibited from possessing firearms. Yet existing law provides no clear process for those people to relinquish their guns when they become prohibited at the time of conviction. As a result, in 2014, the Department of Justice identified more than 17,000 people who possess more than 34,000 guns illegally, including more than 1,400 assault weapons. We need to close this dangerous loophole by not only requiring prohibited people to turn¹ in their guns, but also ensuring that it happens.

11. Military-style large-capacity ammunition magazines—some capable of holding more than 100 rounds of ammunition—significantly increase a shooter's ability to kill a lot of people in a short amount of time. That is why these large capacity ammunition magazines are common in many of America's most horrific mass shootings, from the killings at 101 California Street in San Francisco in 1993 to Columbine High School in 1999 to the massacre at Sandy Hook Elementary School in Newtown, Connecticut in 2012.

12. Today, California law prohibits the manufacture, importation and sale of military-style, large capacity ammunition magazines, but does not prohibit the general public from possessing them. We should close that loophole. No one except trained law enforcement should be able to possess these dangerous ammunition magazines.

13. Although the State of California conducts background checks on gun buyers who live in California, we have to rely on other states and the FBI to conduct background checks on gun buyers who live elsewhere. We should make background checks outside of California more effective by consistently requiring the state to report who is prohibited from possessing firearms to the federal background check system.

14. The theft of a gun is a serious and potentially violent crime. We should clarify that such crimes can be charged as felonies, and prevent people who are convicted of such crimes from possessing firearms.

SEC. 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting "The Safety for All Act of 2016" (the "Act") to be as follows:

1. To implement reasonable and common-sense reforms to make California's gun safety laws the toughest in the nation while still safeguarding the Second Amendment rights of all law-abiding, responsible Californians.

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2. To keep guns and ammunition out of the hands of convicted felons, the dangerously mentally ill, and other persons who are prohibited by law from possessing firearms and ammunition.
3. To ensure that those who buy ammunition in California—just like those who buy firearms—are subject to background checks.
4. To require all stores that sell ammunition to report any lost or stolen ammunition within 48 hours of discovering that it is missing.
5. To ensure that California shares crucial information with federal law enforcement by consistently requiring the state to report individuals who are prohibited by law from possessing firearms to the federal background check system.
6. To require the reporting of lost or stolen firearms to law enforcement.
7. To better enforce the laws that require people to relinquish their firearms once they are convicted of a crime that makes them ineligible to possess firearms.
8. To make it illegal in California to possess the kinds of military-style ammunition magazines that enable mass killings like those at Sandy Hook Elementary School; a movie theater in Aurora, Colorado; Columbine High School; and an office building at 101 California Street in San Francisco, California.
9. To prevent people who are convicted of the theft of a firearm from possessing firearms, and to effectuate the intent of Proposition 47 that the theft of a firearm is felony grand theft, regardless of the value of the firearm, in alignment with Sections 25400 and 1192.7 of the Penal Code.

SEC. 4. Lost or Stolen Firearms.

SEC. 4.1. Division 4.5 (commencing with Section 25250) is added to Title 4 of Part 6 of the Penal Code, to read:

pt. 6 t. 4 d. 4.5 pr. § 25250

DIVISION 4.5. LOST OR STOLEN FIREARMS

<< CA PENAL § 25250 >>

25250. (a) Commencing July 1, 2017, every person shall report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost.

(b) Every person who has reported a firearm lost or stolen under subdivision (a) shall notify the local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days if the firearm is subsequently recovered by the person.

(c) Notwithstanding subdivision (a), a person shall not be required to report the loss or theft of a firearm that is an antique firearm within the meaning of subdivision (c) of Section 16170.

<< CA PENAL § 25255 >>

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25255. Section 25250 shall not apply to the following:

- (a) Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.
- (b) Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.
- (c) Any person who is licensed, pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and who reports the theft or loss in accordance with Section 923(g)(6) of Title 18 of the United States Code, or the successor provision thereto, and applicable regulations issued thereto.
- (d) Any person whose firearm was lost or stolen prior to July 1, 2017.

<< CA PENAL § 25260 >>

25260. Pursuant to Section 11108, every sheriff or police chief shall submit a description of each firearm that has been reported lost or stolen directly into the Department of Justice Automated Firearms System.

<< CA PENAL § 25265 >>

25265. (a) Every person who violates Section 25250 is, for a first violation, guilty of an infraction, punishable by a fine not to exceed one hundred dollars (\$100).

(b) Every person who violates Section 25250 is, for a second violation, guilty of an infraction, punishable by a fine not to exceed one thousand dollars (\$1,000).

(c) Every person who violates Section 25250 is, for a third or subsequent violation, guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

<< CA PENAL § 25270 >>

25270. Every person reporting a lost or stolen firearm pursuant to Section 25250 shall report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

<< CA PENAL § 25275 >>

25275. (a) No person shall report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false. A violation of this section is an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250) for a first offense, and by a fine not exceeding one thousand dollars (\$1,000) for a second or subsequent offense.

(b) This section shall not preclude prosecution under any other law.

SEC. 4.2. Section 26835 of the Penal Code is amended to read:

<< CA PENAL § 26835 >>

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26835. A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(a) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(b) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(c) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(d) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO ONE THOUSAND DOLLARS (\$1,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(e) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(f) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(g) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(h) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

SEC. 5. Strengthening the National Instant Criminal Background Check System.

SEC. 5.1. Section 28220 of the Penal Code is amended to read:

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<< CA PENAL § 28220 >>

28220. (a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) ~~***~~The Department of Justice shall participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and ~~***~~shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the handgun or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the handgun or other firearm to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(f)(1)(A) The department shall immediately notify the dealer to delay the transfer of the firearm to the purchaser if the records of the department, or the records available to the department in the National Instant Criminal Background Check System, indicate one of the following:

(i) The purchaser has been taken into custody and placed in a facility for mental health treatment or evaluation and may be a person described in Section 8100 or 8103 of the Welfare and Institutions Code and the department is unable to ascertain whether the purchaser is a person who is prohibited from possessing, receiving, owning, or purchasing a firearm, pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(ii) The purchaser has been arrested for, or charged with, a crime that would make him or her, if convicted, a person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, and the department is unable to ascertain whether the purchaser was convicted of that offense prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(iii) The purchaser may be a person described in subdivision (a) of Section 27535, and the department is unable to ascertain whether the purchaser, in fact, is a person described in subdivision (a) of Section 27535, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

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(B) The dealer shall provide the purchaser with information about the manner in which he or she may contact the department regarding the delay described in subparagraph (A).

(2) The department shall notify the purchaser by mail regarding the delay and explain the process by which the purchaser may obtain a copy of the criminal or mental health record the department has on file for the purchaser. Upon receipt of that criminal or mental health record, the purchaser shall report any inaccuracies or incompleteness to the department on an approved form.

(3) If the department ascertains the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), after the waiting period described in Sections 26815 and 27540, but within 30 days of the dealer's original submission of the purchaser information to the department pursuant to this section, the department shall do the following:

(A) If the purchaser is not a person described in subdivision (a) of Section 27535, and is not prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer of that fact and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(B) If the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer and the chief of the police department in the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact in compliance with subdivision (c) of Section 28220.

(4) If the department is unable to ascertain the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), within 30 days of the dealer's original submission of purchaser information to the department pursuant to this section, the department shall immediately notify the dealer and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(g) Commencing July 1, 2017, upon receipt of information demonstrating that a person is prohibited from possessing a firearm pursuant to federal or state law, the department shall submit the name, date of birth, and physical description of the person to the National Instant Criminal Background Check System Index, Denied Persons Files. The information provided shall remain privileged and confidential, and shall not be disclosed, except for the purpose of enforcing federal or state firearms laws.

SEC. 6. Possession of Large-Capacity Magazines.

SEC. 6.1. Section 32310 of the Penal Code is amended to read:

<< CA PENAL § 32310 >>

32310. (a) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, ~~***~~any person in this state who manufactures or causes to be manufactured,

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imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, buys, or receives any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170.

(b) For purposes of this section, “manufacturing” includes both fabricating a magazine and assembling a magazine from a combination of parts, including, but not limited to, the body, spring, follower, and floor plate or end plate, to be a fully functioning large-capacity magazine.

(c) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing July 1, 2017, any person in this state who possesses any large-capacity magazine, regardless of the date the magazine was acquired, is guilty of an infraction punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, or is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(d) Any person who may not lawfully possess a large-capacity magazine commencing July 1, 2017 shall, prior to July 1, 2017:

(1) Remove the large-capacity magazine from the state;

(2) Sell the large-capacity magazine to a licensed firearms dealer; or

(3) Surrender the large-capacity magazine to a law enforcement agency for destruction.

SEC. 6.2. Section 32400 of the Penal Code is amended to read:

<< CA PENAL § 32400 >>

32400. Section 32310 does not apply to the sale of, giving of, lending of, **possession of**, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

SEC. 6.3. Section 32405 of the Penal Code is amended to read:

<< CA PENAL § 32405 >>

32405. Section 32310 does not apply to the sale to, lending to, transfer to, purchase by, receipt of, **possession of**, or importation into this state of, a large-capacity magazine by a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, **or sworn federal law enforcement officer**, who is authorized to carry a firearm in the course and scope of that officer’s duties.

SEC. 6.4. Section 32406 is added to the Penal Code, to read:

<< CA PENAL § 32406 >>

32406. Subdivision (c) of Section 32310 does not apply to an honorably retired sworn peace officer, as defined in Chapter 4.5

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(commencing with Section 830) of Title 3 of Part 2, or honorably retired sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties. "Honorably retired" shall have the same meaning as provided in Section 16690.

SEC. 6.5. Section 32410 of the Penal Code is amended to read:

<< CA PENAL § 32410 >>

32410. Section 32310 does not apply to the sale-***, purchase, **or possession** of any large-capacity magazine to or by a person licensed pursuant to Sections 26700 to 26915, inclusive.

<< Repealed: CA PENAL § 32420 >>

SEC. 6.6. Section 32420 of the Penal Code is repealed.

SEC. 6.7. Section 32425 of the Penal Code is amended to read:

<< CA PENAL § 32425 >>

32425. Section 32310 does not apply to **any** of the following:

(a) The lending or giving of any large-capacity magazine to a person licensed pursuant to Sections 26700 to 26915, inclusive, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(b) The possession of any large-capacity magazine by a person specified in subdivision (a) for the purposes specified in subdivision (a).

(c) The return to its owner of any large-capacity magazine by a person specified in subdivision (a).

SEC. 6.8. Section 32435 of the Penal Code is amended to read:

<< CA PENAL § 32435 >>

32435. Section 32310 does not apply to any of the following:

(a) The sale of, giving of, lending of, **possession of**, importation into this state of, or purchase of, any large-capacity magazine, to or by any entity that operates an armored vehicle business pursuant to the laws of this state.

(b) The lending of large-capacity magazines by an entity specified in subdivision (a) to its authorized employees, while in the course and scope of employment for purposes that pertain to the entity's armored vehicle business.

(c) The possession of any large-capacity magazines by the employees of an entity specified in subdivision (a) for purposes that pertain to the entity's armored vehicle business.

(d) The return of those large-capacity magazines to the entity specified in subdivision (a) by those employees specified in

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subdivision (b).

SEC. 6.9. Section 32450 of the Penal Code is amended to read:

<< CA PENAL § 32450 >>

32450. Section 32310 does not apply to the purchase **or possession** of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 31000, 32650, or 33300, or pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of this division, for any of the following purposes:

- (a) For use solely as a prop for a motion picture, television, or video production.
- (b) For export pursuant to federal regulations.
- (c) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

SEC. 7. Firearms Dealers.

SEC. 7.1. Section 26885 of the Penal Code is amended to read:

<< CA PENAL § 26885 >>

26885. (a) Except as provided in subdivisions (b) and (c) of Section 26805, all firearms that are in the inventory of a licensee shall be kept within the licensed location.

(b) Within 48 hours of discovery, a licensee shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located:

- (1) Any firearm **or ammunition** that is merchandise of the licensee.
- (2) Any firearm **or ammunition** that the licensee takes possession of pursuant to Chapter 5 (commencing with Section 28050), **or pursuant to Section 30312**.
- (3) Any firearm **or ammunition** kept at the licensee's place of business.

SEC. 7.2. Section 26915 of the Penal Code is amended to read:

<< CA PENAL § 26915 >>

26915. (a) ***** Commencing January 1, 2018, a** firearms dealer **shall** require any agent **or employee** who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the Department of Justice pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and California firearms dealer number of the firearms dealer with whom the person is employed.

(b) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility

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is or becomes prohibited from possessing firearms.

(c) If the local jurisdiction requires a background check of the agents or employees of a firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subdivision (a).

(d)(1) Nothing in this section shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105. The local jurisdiction may not charge a fee for the additional criminal history check.

(2) Nothing in this section shall be construed to preclude a local jurisdiction from prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility.

(e) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in subdivision (g).

(f) Nothing in this section shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents **or employees**.

(g) For purposes of this article, "secured" means a firearm that is made inoperable in one or more of the following ways:

(1) The firearm is inoperable because it is secured by a firearm safety device listed on the department's roster of approved firearm safety devices pursuant to subdivision (d) of Section 23655.

(2) The firearm is stored in a locked gun safe or long-gun safe that meets the standards for department-approved gun safes set forth in Section 23650.

(3) The firearm is stored in a distinct locked room or area in the building that is used to store firearms, which can only be unlocked by a key, a combination, or similar means.

(4) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

SEC. 8. Sales of Ammunition.

SEC. 8.1. Section 16150 of the Penal Code is amended to read:

<< CA PENAL § 16150 >>

16150. ***** (a) As used in this part, except in subdivision (a) of Section 30305 and in Section 30306, "ammunition" means one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles. "Ammunition" does not include blanks.**

(b) As used in subdivision (a) of Section 30305 and in Section 30306, "ammunition" includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence. "Ammunition" does not include blanks.

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SEC. 8.2. Section 16151 is added to the Penal Code, to read:

<< CA PENAL § 16151 >>

16151. (a) As used in this part, commencing January 1, 2018, “ammunition vendor” means any person, firm, corporation, or other business enterprise that holds a current ammunition vendor license issued pursuant to Section 30385.

(b) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Articles 2 (commencing with Section 30300) and 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4.

<< Repealed: CA PENAL § 16662 >>

SEC. 8.3. Section 16662 of the Penal Code is repealed.

SEC. 8.4. Section 17315 of the Penal Code is amended to read:

<< CA PENAL § 17315 >>

17315. As used in ~~***Articles 2 through 5~~ of Chapter 1 of Division 10 of Title 4, “vendor” means ~~***an~~ ammunition vendor.

SEC. 8.5. Section 30306 of the Penal Code is amended to read:

<< CA PENAL § 30306 >>

30306. (a) Any person, corporation, ~~***firm,~~ **or other business enterprise** who supplies, delivers, sells, or gives possession or control of, any ammunition to any person who he or she knows or using reasonable care should know is prohibited from owning, possessing, or having under custody or control, any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Any person, corporation, firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person whom the person, corporation, firm, or other business enterprise knows or has cause to believe is not the actual purchaser or transferee of the ammunition, with knowledge or cause to believe that the ammunition is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having under custody or control any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(c) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and another provision of law shall not be punished under more than one provision.

SEC. 8.6. Section 30312 of the Penal Code is amended to read:

<< CA PENAL § 30312 >>

30312. ~~***~~(a)(1) Commencing January 1, 2018, the sale of ammunition by any party shall be conducted by or processed through a licensed ammunition vendor.

(2) When neither party to an ammunition sale is a licensed ammunition vendor, the seller shall deliver the ammunition to a vendor to process the transaction. The ammunition vendor shall then promptly and properly deliver the ammunition to the purchaser, if the sale is not prohibited, as if the ammunition were the vendor's own merchandise. If the ammunition vendor cannot legally deliver the ammunition to the purchaser, the vendor shall forthwith return the ammunition to the seller. The ammunition vendor may charge the purchaser an administrative fee to process the transaction, in an amount to be set by the Department of Justice, in addition to any applicable fees that may be charged pursuant to the provisions of this title.

(b) Commencing January 1, 2018, the sale, delivery or transfer of ownership of ~~***~~ammunition by any party may only occur in a face-to-face transaction with the seller, deliverer, or transferor ~~***~~, provided, however, that ammunition may be purchased or acquired over the Internet or through other means of remote ordering if a licensed ammunition vendor initially receives the ammunition and processes the transaction in compliance with this section and Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of this part.

~~***~~(c) Subdivisions (a) and (b) shall not apply to ~~***~~the sale, delivery, or transfer of ~~***~~ammunition to any of the following:

(1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the ~~***~~ammunition, written authorization from the head of the agency employing the purchaser or transferee is obtained, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ~~***~~ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

(5) A person whose licensed premises are outside this state and who is licensed as a dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(6) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(7) ~~***~~An ammunition vendor.

(8) A consultant-evaluator.

(9) A person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.

(10) A person who purchases or receives ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

(d) A violation of this section is a misdemeanor.

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SEC. 8.7. Section 30314 is added to the Penal Code, to read:

<< CA PENAL § 30314 >>

30314. (a) Commencing January 1, 2018, a resident of this state shall not bring or transport into this state any ammunition that he or she purchased or otherwise obtained from outside of this state unless he or she first has that ammunition delivered to a licensed ammunition vendor for delivery to that resident pursuant to the procedures set forth in Section 30312.

(b) Subdivision (a) does not apply to any of the following:

(1) An ammunition vendor.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6.

(5) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(6) A person who acquired the ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

(c) A violation of this section is an infraction for any first time offense, and either an infraction or a misdemeanor for any subsequent offense.

SEC. 8.8. The heading of Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code is amended to read:

pt. 6 t. 4 d. 10 ch. 1 art. 3 pr. § 30342

Article 3. ~~***~~Ammunition Vendors

SEC. 8.9. Section 30342 is added to the Penal Code, immediately preceding Section 30345, to read:

<< CA PENAL § 30342 >>

30342. (a) Commencing January 1, 2018, a valid ammunition vendor license shall be required for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period.

(b) A violation of this section is a misdemeanor.

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SEC. 8.10. Section 30347 of the Penal Code is amended to read:

<< CA PENAL § 30347 >>

30347. (a) An ammunition vendor shall require any agent or employee who handles, sells, delivers, or has under his or her custody or control any ammunition, to obtain and provide to the vendor a certificate of eligibility from the Department of Justice issued pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and address of the ammunition vendor with whom the person is employed, or the name and California firearms dealer number of the ammunition vendor if applicable.

(b) The department shall notify the ammunition vendor in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing ammunition under subdivision (a) of Section 30305 or federal law.

~~***~~(c) An ammunition vendor shall not permit any agent or employee who the vendor knows or reasonably should know is a person described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, ~~***~~deliver, or have under his or her custody or control, any ~~***~~ammunition in the course and scope of employment.

SEC. 8.11. Section 30348 is added to the Penal Code, to read:

<< CA PENAL § 30348 >>

30348. (a) Except as provided in subdivision (b), the sale of ammunition by a licensed vendor shall be conducted at the location specified in the license.

(b) A vendor may sell ammunition at a gun show or event if the gun show or event is not conducted from any motorized or towed vehicle.

(c) For purposes of this section, "gun show or event" means a function sponsored by any national, state, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(d) Sales of ammunition at a gun show or event shall comply with all applicable laws including Sections 30347, 30350, 30352, and 30360.

SEC. 8.12. Section 30350 of the Penal Code is amended to read:

<< CA PENAL § 30350 >>

30350. ~~***~~An ammunition vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any ~~***~~ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

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SEC. 8.13. Section 30352 of the Penal Code is amended to read:

<< CA PENAL § 30352 >>

30352. (a) Commencing ~~***~~ **July 1, 2019, an ammunition** vendor shall not sell or otherwise transfer ownership of any ~~**~~ **ammunition without, at the time of delivery, legibly recording the following information on a form to be prescribed by the Department of Justice:**

- (1) The date of the sale or other **transfer**.
- (2) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued.
- (3) The brand, type, and amount of ammunition sold or otherwise transferred.
- (4) The purchaser's or transferee's **full name and** signature.
- (5) The name of the salesperson who processed the sale or other transaction.

~~***~~

- (6) The purchaser's or transferee's full residential address and telephone number.**
- (7) The purchaser's or transferee's date of birth.**

(b) Commencing July 1, 2019, an ammunition vendor shall electronically submit to the department the information required by subdivision (a) for all sales and transfers of ownership of ammunition. The department shall retain this information in a database to be known as the Ammunition Purchase Records File. This information shall remain confidential and may be used by the department and those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, only for law enforcement purposes. The ammunition vendor shall not use, sell, disclose, or share such information for any other purpose other than the submission required by this subdivision without the express written consent of the purchaser or transferee.

(c) Commencing on July 1, 2019, only those persons listed in this subdivision, or those persons or entities listed in subdivision (e), shall be authorized to purchase ammunition. Prior to delivering any ammunition, an ammunition vendor shall require bona fide evidence of identity to verify that the person who is receiving delivery of the ammunition is a person or entity listed in subdivision (e) or one of the following:

- (1) A person authorized to purchase ammunition pursuant to Section 30370.**
- (2) A person who was approved by the department to receive a firearm from the ammunition vendor, pursuant to Section 28220, if that vendor is a licensed firearms dealer, and the ammunition is delivered to the person in the same transaction as the firearm.**

(d) Commencing July 1, 2019, the ammunition vendor shall verify with the department, in a manner prescribed by the department, that the person is authorized to purchase ammunition by comparing the person's ammunition purchase authorization number to the centralized list of authorized ammunition purchasers. If the person is not listed as an authorized ammunition purchaser, the vendor shall deny the sale or transfer.

~~***~~ **(e) Subdivisions (a) and (d)** shall not apply to ~~***~~ sales or other transfers of ownership of ~~***~~ ammunition by ~~***~~ ammunition vendors to any of the following, if properly identified:

~~***~~

~~***~~ **(1) An** ammunition vendor.

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(2) A person who is on the centralized list of exempted federal firearms licensees maintained by the department pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

* * *

(3) A person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.

(4) A gunsmith.

(5) A wholesaler.

(6) A manufacturer or importer of firearms or ammunition licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

(7) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer of ownership is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the * * *-ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed.

(8) A properly identified sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or properly identified sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(f)(1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a full-time paid peace officer who is authorized to carry a firearm in the course and scope of the officer's duties.

(2) The certification shall be delivered to the vendor at the time of purchase or transfer and the purchaser or transferee shall provide bona fide evidence of identity to verify that he or she is the person authorized in the certification.

(3) The vendor shall keep the certification with the record of sale and submit the certification to the department.

(g) The department is authorized to adopt regulations to implement the provisions of this section.

SEC. 8.14. Section 30363 is added to the Penal Code, to read:

<< CA PENAL § 30363 >>

30363. Within 48 hours of discovery, an ammunition vendor shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the vendor's business premises are located:

(1) Any ammunition that is merchandise of the vendor.

(2) Any ammunition that the vendor takes possession of pursuant to Section 30312.

(3) Any ammunition kept at the vendor's place of business.

SEC. 8.15. Article 4 (commencing with Section 30370) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

pt. 6 t. 4 d. 10 ch. 1 art. 4 pr. § 30370

Article 4. Ammunition Purchase Authorizations

<< CA PENAL § 30370 >>

30370. (a)(1) Commencing on January 1, 2019, any person who is 18 years of age or older may apply to the Department of Justice for an ammunition purchase authorization.

(2) The ammunition purchase authorization may be used by the authorized person to purchase or otherwise seek the transfer of ownership of ammunition from an ammunition vendor, as that term is defined in Section 16151, and shall have no other force or effect.

(3) The ammunition purchase authorization shall be valid for four years from July 1, 2019, or the date of issuance, whichever is later, unless it is revoked by the department pursuant to subdivision (b).

(b) The ammunition purchase authorization shall be promptly revoked by the department upon the occurrence of any event which would have disqualified the holder from being issued the ammunition purchase authorization pursuant to this section. If an authorization is revoked, the department shall upon the written request of the holder state the reasons for doing so and provide the holder an appeal process to challenge that revocation.

(c) The department shall create and maintain an internal centralized list of all persons who are authorized to purchase ammunition and shall promptly remove from the list any persons whose authorization was revoked by the department pursuant to this section. The department shall provide access to the list by ammunition vendors for purposes of conducting ammunition sales or other transfers, and shall provide access to the list by law enforcement agencies for law enforcement purposes.

(d) The department shall issue an ammunition purchase authorization to the applicant if all of the following conditions are met:

(1) The applicant is 18 years of age or older.

(2) The applicant is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law.

(3) The applicant pays the fees set forth in subdivision (g).

(e)(1) Upon receipt of an initial or renewal application, the department shall examine its records, and the records it is authorized to request from the State Department of State Hospitals, pursuant to Section 8104 of the Welfare and Institutions Code, and if authorized, the National Instant Criminal Background Check System, as described in Section 922(t) of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or acquiring ammunition under subdivision (a) of Section 30305 or federal law.

(2) The applicant shall be approved or denied within 30 days of the date of the submission of the application to the department. If the application is denied, the department shall state the reasons for doing so and provide the applicant an appeal process to challenge that denial.

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- (3) If the department is unable to ascertain the final disposition of the application within 30 days of the applicant's submission, the department shall grant authorization to the applicant.
- (4) The ammunition purchase authorization number shall be the same as the number on the document presented by the person as bona fide evidence of identity.
- (f) The department shall renew a person's ammunition purchase authorization before its expiration, provided that the department determines that the person is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law, and provided the applicant timely pays the renewal fee set forth in subdivision (g).
- (g) The department may charge a reasonable fee not to exceed fifty dollars (\$50) per person for the issuance of an ammunition purchase authorization or the issuance of a renewal authorization, however, the department shall not set these fees any higher than necessary to recover the reasonable, estimated costs to fund the ammunition authorization program provided for in this section and Section 30352, including the enforcement of this program and maintenance of any data systems associated with this program.
- (h) The Ammunition Safety and Enforcement Special Fund is hereby created within the State Treasury. All fees received pursuant to this section shall be deposited into the Ammunition Safety and Enforcement Special Fund of the General Fund, and, notwithstanding Section 13340 of the Government Code, are continuously appropriated for purposes of implementing, operating and enforcing the ammunition authorization program provided for in this section and Section 30352, and for repaying the start-up loan provided for in Section 30371.
- (i) The department shall annually review and may adjust all fees specified in subdivision (g) for inflation.
- (j) The department is authorized to adopt regulations to implement the provisions of this section.

<< CA PENAL § 30371 >>

30371. (a) There is hereby appropriated twenty-five million dollars (\$25,000,000) from the General Fund as a loan for the start-up costs of implementing, operating and enforcing the provisions of the ammunition authorization program provided for in Sections 30352 and 30370.

(b) For purposes of repaying the loan, the Controller shall, after disbursing moneys necessary to implement, operate and enforce the ammunition authorization program provided for in Sections 30352 and 30370, transfer all proceeds from fees received by the Ammunition Safety and Enforcement Special Fund up to the amount of the loan provided by this section, including interest at the pooled money investment account rate, to the General Fund.

SEC. 8.16. Article 5 (commencing with Section 30385) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

pt. 6 t. 4 d. 10 ch. 1 art. 5 pr. § 30385

Article 5. Ammunition Vendor Licenses

<< CA PENAL § 30385 >>

30385. (a) The Department of Justice is authorized to issue ammunition vendor licenses pursuant to this article. The department shall, commencing July 1, 2017, commence accepting applications for ammunition vendor licenses. If an application is denied, the department shall inform the applicant of the reason for denial in writing.

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(b) The ammunition vendor license shall be issued in a form prescribed by the department and shall be valid for a period of one year. The department may adopt regulations to administer the application and enforcement provisions of this article. The license shall allow the licensee to sell ammunition at the location specified in the license or at a gun show or event as set forth in Section 30348.

(c)(1) In the case of an entity other than a natural person, the department shall issue the license to the entity, but shall require a responsible person to pass the background check pursuant to Section 30395.

(2) For purposes of this article, “responsible person” means a person having the power to direct the management, policies, and practices of the entity as it pertains to ammunition.

(d) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Article 2 (commencing with Section 30300) and Article 3 (commencing with Section 30342).

<< CA PENAL § 30390 >>

30390. (a) The Department of Justice may charge ammunition vendor license applicants a reasonable fee sufficient to reimburse the department for the reasonable, estimated costs of administering the license program, including the enforcement of this program and maintenance of the registry of ammunition vendors.

(b) The fees received by the department pursuant to this article shall be deposited in the Ammunition Vendors Special Account, which is hereby created. Notwithstanding Section 13340 of the Government Code, the revenue in the fund is continuously appropriated for use by the department for the purpose of implementing, administering and enforcing the provisions of this article, and for collecting and maintaining information submitted pursuant to Section 30352.

(c) The revenue in the Firearms Safety and Enforcement Special Fund shall also be available upon appropriation to the department for the purpose of implementing and enforcing the provisions of this article.

<< CA PENAL § 30395 >>

30395. (a) The Department of Justice is authorized to issue ammunition vendor licenses to applicants who the department has determined, either as an individual or a responsible person, are not prohibited from possessing, receiving, owning, or purchasing ammunition under subdivision (a) of Section 30305 or federal law, and who provide a copy of any regulatory or business license required by local government, a valid seller’s permit issued by the State Board of Equalization, a federal firearms license if the person is federally licensed, and a certificate of eligibility issued by the department.

(b) The department shall keep a registry of all licensed ammunition vendors. Law enforcement agencies shall be provided access to the registry for law enforcement purposes.

(c) An ammunition vendor license is subject to forfeiture for a breach of any of the prohibitions and requirements of Article 2 (commencing with Section 30300) or Article 3 (commencing with Section 30342).

SEC. 9. Nothing in this Act shall preclude or preempt a local ordinance that imposes additional penalties or requirements in regard to the sale or transfer of ammunition.

SEC. 10. Securing Firearms From Prohibited Persons.

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SEC. 10.1. Section 1524 of the Penal Code is amended to read:

<< CA PENAL § 1524 >>

1524. (a) A search warrant may be issued upon any of the following grounds:

- (1) When the property was stolen or embezzled.
- (2) When the property or things were used as the means of committing a felony.
- (3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.
- (4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.
- (5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.
- (6) When there is a warrant to arrest a person.
- (7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.
- (8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.
- (9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.
- (10) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.
- (11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.
- (12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

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(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 29800 or 29805, and the court has made a finding pursuant to paragraph (3) of subdivision (c) of Section 29810 that the person has failed to relinquish the firearm as required by law.

(16) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority described in Section 11472 of the Health and Safety Code.

(17) (A) When all of the following apply:

(i) A sample of the blood of a person constitutes evidence that tends to show a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code.

(ii) The person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 655.1 of the Harbors and Navigation Code.

(iii) The sample will be drawn from the person in a reasonable, medically approved manner.

(B) This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(b) The property, things, person, or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2)(A) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

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(B) At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make motions or present evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case, the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be tolled from the time of the seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for determination by the court, any item that appears to be privileged as provided by law.

(d)(1) As used in this section, a “special master” is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or his or her designee to accompany the special master as he or she conducts his or her search. However, that party or his or her designee may not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, “documentary evidence” includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films, and papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(i) Nothing in this section is intended to limit an attorney’s ability to request an in-camera hearing pursuant to the holding of the Supreme Court of California in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

(j) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute evidence that tends to show a violation of Section 530.5, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

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(k) This section shall not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

SEC. 10.2. Section 27930 of the Penal Code is amended to read:

<< CA PENAL § 27930 >>

27930. Section 27545 does not apply to deliveries, transfers, or returns of firearms made pursuant to any of the following:

- (a) Sections 18000 and 18005.
- (b) Division 4 (commencing with Section 18250) of Title 2.
- (c) Chapter 2 (commencing with Section 33850) of Division 11.
- (d) Sections 34005 and 34010.

(e) Section 29810.

SEC. 10.3. Section 29810 of the Penal Code is amended to read:

<< CA PENAL § 29810 >>

29810. (a) For any person who is subject to Section 29800 or 29805, the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this chapter from owning, purchasing, receiving, possessing, or having under custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. If the prohibition on owning or possessing a firearm will expire on a date specified in the court order, the form shall inform the defendant that he or she may elect to have his or her firearm transferred to a firearms dealer licensed pursuant to Section 29830.

(b) Failure to provide the notice described in subdivision (a) is not a defense to a violation of this chapter.

(c) This section shall be repealed effective January 1, 2018.

SEC. 10.4. Section 29810 is added to the Penal Code, to read:

<< CA PENAL § 29810 >>

29810. (a) (1) Upon conviction of any offense that renders a person subject to Section 29800 or Section 29805, the person shall relinquish all firearms he or she owns, possesses, or has under his or her custody or control in the manner provided in this section.

(2) The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited

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Persons Relinquishment Form developed by the Department of Justice.

(3) Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and that he or she shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that he or she owned, possessed, or had under his or her custody or control at the time of his or her conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that he or she owned, possessed, or had under his or her custody or control any firearms at the time of his or her conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate his or her consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that he or she is not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c)(1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under his or her custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court whether the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) Prior to final disposition or sentencing in the case, the court shall make findings concerning whether the probation

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officer's report indicates that the defendant has relinquished all firearms as required, and whether the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(4) If the court finds probable cause that the defendant has failed to relinquish any firearms as required, the court shall order the search for and removal of any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars (\$100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within five days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within five days following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within five days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within 14 days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(4) If the defendant is released from custody during the 14 days following conviction and a designee has not yet taken

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temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following his or her release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.

(g) The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, sale or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice, or if the defendant provides written notice of an intent to appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

(k) This section shall become operative on January 1, 2018.

SEC. 11. Theft of Firearms.

SEC. 11.1. Section 490.2 of the Penal Code is amended to read:

<< CA PENAL § 490.2 >>

(a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars (\$950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

(c) This section shall not apply to theft of a firearm.

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SEC. 11.2. Section 29805 of the Penal Code is amended to read:

<< CA PENAL § 29805 >>

29805. Except as provided in Section 29855 or subdivision (a) of Section 29800, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, paragraph (1) of subdivision (a) of Section 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, **Section 490.2 if the property taken was a firearm**, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

SEC. 12. Interim Standards.

Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the prompt implementation of the Safety for All Act of 2016, the California Department of Justice may adopt interim standards without compliance with the procedures set forth in the APA. The interim standards shall remain in effect for no more than two years, and may be earlier superseded by regulations adopted pursuant to the APA. "Interim standards" means temporary standards that perform the same function as "emergency regulations" under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that in order to provide greater opportunity for public comment on permanent regulations, the interim standards may remain in force for two years rather than 180 days.

SEC. 13. Amending the Measure.

This Act shall be broadly construed to accomplish its purposes. The provisions of this measure may be amended by a vote of 55 percent of the members of each house of the Legislature and signed by the Governor so long as such amendments are consistent with and further the intent of this Act.

SEC. 14. Conflicting Measures.

(a) In the event that this measure and another measure on the same subject matter, including but not limited to the regulation of the sale or possession of firearms or ammunition, shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

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SEC. 15. Severability.

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstance, is for any reason held to be invalid or unconstitutional, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

SEC. 16. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

Footnotes

¹ So in enrolled Prop. 63.

Exhibit 50

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PROPOSITION **FIREARMS. AMMUNITION SALES.**

63 INITIATIVE STATUTE.

63

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Requires individuals to pass a background check and obtain Department of Justice authorization to purchase ammunition.
- Prohibits possession of large-capacity ammunition magazines, and requires their disposal, as specified.
- Requires most ammunition sales be made through licensed ammunition vendors and reported to Department of Justice.
- Requires lost or stolen firearms and ammunition be reported to law enforcement.
- Prohibits persons convicted of stealing a firearm from possessing firearms.
- Establishes new procedures for enforcing laws prohibiting firearm possession.
- Requires Department of Justice to provide information about prohibited persons to federal

National Instant Criminal Background Check System.

SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Increased state and local court and law enforcement costs, potentially in the tens of millions of dollars annually, related to a new court process for removing firearms from prohibited persons after they are convicted.
- Potential increase in state costs, not likely to exceed the millions of dollars annually, related to regulating ammunition sales. These costs would likely be offset by fee revenues.
- Potential net increase in state and local correctional costs, not likely to exceed the low millions of dollars annually, related to changes in firearm and ammunition penalties.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Restrictions on Firearm and Ammunition Possession

Under federal and state law, certain individuals are not allowed to have firearms. These “prohibited persons” include individuals (1) convicted of felonies and some misdemeanors (such as assault or battery), (2) found by a court to be a danger to themselves or others due to mental illness, and (3) with a restraining order against them. In California, individuals who are not allowed to have firearms are also not allowed to have ammunition.

Regulation of Firearm Sales

Both federal and state law include various regulations related to firearm sales, including the licensing of firearm dealers. Such regulations include:

- **Background Checks.** Under federal law, firearm dealers must request background checks of individuals seeking to buy firearms from the National Instant Criminal Background

Check System (NICS). The NICS searches a number of federal databases to ensure that the buyer is not a prohibited person. As allowed by federal law, California processes all background check requests from firearm dealers in the state directly by using NICS and various state databases.

- **Removal of Firearms From Prohibited Persons.** The California Department of Justice (DOJ) maintains a database of individuals who have legally bought or registered a firearm with the state. DOJ agents use this information to remove firearms from individuals who are no longer allowed to have firearms.
- **Other Regulations.** Other state regulations related to firearms include: limits on the type of firearms that can be bought, a ten-day waiting period before a dealer may give a firearm to a buyer, and requirements for recording and reporting firearm sales.

Fees charged to firearm dealers and buyers generally offset the state’s costs to regulate firearm sales.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Regulation of Ammunition Sales

Prior to this year, the state did not regulate ammunition sales in the same manner as firearms. In July 2016, the state enacted legislation to increase the regulation of ammunition sales. Such regulations include:

- **Licenses to Sell Ammunition.** Beginning January 2018, individuals and businesses will be required to obtain a one-year license from DOJ to sell ammunition. Certain individuals and businesses would not be required to obtain a license, such as licensed hunters selling less than 50 rounds of ammunition per month to another licensed hunter while on a hunting trip. In order to obtain a license, ammunition dealers will need to demonstrate that they are not prohibited persons. In addition, certain entities will be able to automatically receive an ammunition license, such as firearm dealers licensed by both the state and federal government and firearm wholesalers. A vendor who fails to comply with ammunition sale requirements three times would have their ammunition dealer's license permanently revoked. DOJ could charge a fee to individuals and businesses seeking a license to sell ammunition to support its administrative and enforcement costs.
- **DOJ Approval to Buy Ammunition.** Beginning July 2019, ammunition dealers will be required to check with DOJ at the time of purchase that individuals seeking to buy ammunition are not prohibited persons. This requirement would not apply to some individuals, such as persons permitted to carry concealed weapons. In addition, ammunition dealers will generally be required to collect and report information—such as the date of the sale, the buyers' identification information, and the type of ammunition purchased—to DOJ for storage in a database for two years. Failure to comply with these requirements is a misdemeanor (punishable by a fine and/or imprisonment in county jail). DOJ could generally charge an individual seeking to purchase ammunition a fee of up to \$1 per

transaction to support its administrative and enforcement costs. DOJ could adjust this fee cap annually for inflation.

- **Other Regulations.** Beginning January 2018, state law generally will require that most ammunition sales (including Internet and out-of-state sales) take place through a licensed ammunition dealer. In addition, beginning July 2019, most California residents will be prohibited from bringing ammunition into the state without first having the ammunition delivered to a licensed ammunition dealer. Failure to comply with these requirements is a misdemeanor.

Status of Recent Legislation

As discussed above, the state recently enacted legislation to increase the regulation of ammunition sales. The state also recently enacted legislation to further limit the ownership of large-capacity magazines and to create a penalty for filing a false lost or stolen firearm report to law enforcement. These laws will take effect unless they are placed before the voters as referenda. If that occurs, voters will determine whether the laws take effect.

PROPOSAL

Proposition 63 (1) changes state regulation of ammunition sales, (2) creates a new court process to ensure the removal of firearms from prohibited persons after they are convicted of a felony or certain misdemeanors, and (3) implements various other provisions. Additionally, Proposition 63 states that the Legislature can change its provisions if such changes are "consistent with and further the intent" of the measure. Such changes can only be made if 55 percent of the members of each house of the Legislature passes them and the bill is enacted into law.

Changes to State Regulation of Ammunition Sales

Proposition 63 includes various regulations related to the sale of ammunition. Some of the regulations would replace existing law with similar provisions. However, other regulations proposed by Proposition 63 are different, as discussed below.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Requirements to Buy Ammunition. Proposition 63 includes various requirements for individuals seeking to buy ammunition and for DOJ to regulate such purchases. Specifically, the measure:

- Requires individuals to obtain a four-year permit from DOJ to buy ammunition and for ammunition dealers to check with DOJ that individuals buying ammunition have such permits.
- Requires DOJ to revoke permits from individuals who become prohibited.
- Allows DOJ to charge each person applying for a four-year permit a fee of up to \$50 to support its various administrative and enforcement costs related to ammunition sales.

The state, however, enacted legislation in July 2016 to replace the above provisions with alternative ones if Proposition 63 is approved by the voters. (This legislation was enacted pursuant to the provision of Proposition 63 allowing for changes that are “consistent with and further the intent” of the proposition, as described earlier.) Specifically, under the legislation: (1) ammunition dealers would be required to check with DOJ that individuals seeking to buy ammunition are not prohibited persons at the time of purchase and (2) DOJ could generally charge such individuals up to \$1 per transaction. These provisions are similar to current law. Fewer individuals, however, would be exempt from this check than under current law. For example, individuals permitted to carry concealed weapons would be subject to this check.

Licenses to Sell Ammunition. Similar to current law, Proposition 63 requires individuals and businesses to obtain a one-year license from DOJ to sell ammunition. However, the measure changes the types of individuals and businesses that would be exempt from obtaining a license. For example, the measure generally exempts individuals and businesses that sell a small number of rounds of ammunition from the requirement to get a license. The measure also makes various changes in the penalties for failure to follow ammunition sale requirements. For example, it establishes a new criminal penalty—specifically, a misdemeanor—for failing to follow vendor licensing requirements.

Other Ammunition Requirements. This measure prohibits most California residents from bringing ammunition into the state without first having the ammunition delivered to a licensed ammunition dealer beginning in January 2018—a year and a half earlier than under current law. Additionally, failure to comply with this requirement would change from a misdemeanor to an infraction (punishable by a fine) for the first offense and either an infraction or a misdemeanor for any additional offense. The measure also requires DOJ to store certain ammunition sales information in a database indefinitely, rather than for two years.

Creates New Court Process for Removal of Firearms

This measure creates a new court process to ensure that individuals convicted of offenses that prohibit them from owning firearms do not continue to have them. Beginning in 2018, the measure requires courts to inform offenders upon conviction that they must (1) turn over their firearms to local law enforcement, (2) sell the firearms to a licensed firearm dealer, or (3) give the firearms to a licensed firearm dealer for storage. The measure also requires courts to assign probation officers to report on what offenders have done with their firearms. If the court finds that there is probable cause that an offender still has firearms, it must order that the firearms be removed. Finally, local governments or state agencies could charge a fee to reimburse them for certain costs in implementing the measure (such as those related to the removal or storage of firearms).

Implements Other Provisions

Reporting Requirements. The measure includes a number of reporting requirements related to firearms and ammunition. For example, the measure requires that ammunition dealers report the loss or theft of ammunition within 48 hours. It also requires that most individuals report the loss or theft of firearms within five days to local law enforcement. An individual who does not make such a report within five days would be guilty of an infraction for the first two violations. Additional violations would be a misdemeanor. This measure

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

also reduces the penalty for an individual who knowingly submits a false report to local law enforcement from a misdemeanor to an infraction and eliminates the prohibition from owning firearms for ten years for such an individual. This measure also requires DOJ to submit the name, date of birth, and physical description of any newly prohibited person to NICS.

Large-Capacity Magazines. Since 2000, state law has generally banned individuals from obtaining large-capacity magazines (defined as those holding more than ten rounds of ammunition). The law, however, allowed individuals who had large-capacity magazines before 2000 to keep them for their own use. Beginning July 2017, recently enacted law will prohibit most of these individuals from possessing these magazines. Individuals who do not comply are guilty of an infraction. However, there are various individuals who will be exempt from this requirement—such as an individual who owns a firearm (obtained before 2000) that can only be used with a large-capacity magazine. Proposition 63 eliminates several of these exemptions, as well as increases the maximum penalty for possessing large-capacity magazines. Specifically, individuals who possess such magazines after July 2017 would be guilty of an infraction or a misdemeanor.

Penalty for Theft of Firearms. Under current state law, the penalty for theft of firearms worth \$950 or less is generally a misdemeanor punishable by up to one year in county jail. Under this measure, such a crime would be a felony and could be punishable by up to three years in state prison. Additionally, individuals previously convicted of a misdemeanor for the theft of a firearm would be prohibited from owning firearms for ten years. Currently, there is no such prohibition for a misdemeanor conviction for theft of firearms.

FISCAL EFFECTS

Increased Court and Law Enforcement Costs. The new court process for removing firearms from prohibited persons after they are convicted would result in increased workload for the state and local governments. For example, state courts and county probation departments would have some increased

workload to determine whether prohibited persons have firearms and whether they have surrendered them. In addition, state and local law enforcement would have new workload related to removing firearms from offenders who fail to surrender them as part of the new court process. They could also have increased costs related to the storage or return of firearms. Some of the increased law enforcement costs related to the removal, storage, or return of firearms would be offset to the extent that local governments and state agencies charge and collect fees for these activities, as allowed by this measure. The total magnitude of these state and local costs **could be in the tens of millions of dollars annually.** Actual costs would depend on how this measure was implemented.

Potential Increased State Regulatory Costs. On balance, the measure's changes to the regulation of ammunition sales could increase state costs. For example, more individuals or businesses would likely be subject to state ammunition requirements under the measure. The actual fiscal effect of the changes would depend on how they are implemented and how individuals respond to them. We estimate that the potential increase in state costs would not likely exceed the millions of dollars annually. These costs would likely be offset by the various fees authorized by the measure and existing state law.

Potential Net Increased Correctional Costs. This measure makes various changes to penalties related to firearms and ammunition. While some changes reduce penalties for certain offenses, other changes increase penalties for certain offenses. On net, these changes could result in increased correctional costs to state and local governments, such as to house individuals in prison and jail. The magnitude of such costs would depend primarily on the number of violations and how the measure is enforced. The potential net increase in correctional costs would **likely not exceed the low millions of dollars annually.**

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee's top 10 contributors.

★ ARGUMENT IN FAVOR OF PROPOSITION 63 ★

PROPOSITION 63 WILL KEEP US SAFER BY REDUCING GUN VIOLENCE

Police in Dallas doing their job . . . A nightclub in Orlando . . . An office holiday party in San Bernardino . . . A church in Charleston . . . A movie theater in Aurora . . . An elementary school in Newtown . . .

What's next? How many more people need to die from gun violence before we take bold action to save lives?

More than 300 Americans are shot each day, more than 80 of them fatally.

More than 1 million Americans were killed or seriously injured by guns from 2004–2014.

ENOUGH!

It's time to take action to keep guns and ammo out of the wrong hands.

Proposition 63—the Safety for All Act—will save lives by closing loopholes to prevent dangerous criminals, domestic abusers, and the dangerously mentally ill from obtaining and using deadly weapons.

PROPOSITION 63 WILL:

- Remove illegal guns from our communities by ensuring that dangerous criminals and domestic abusers sell or transfer their firearms after they're convicted.
• Require any business that sells ammunition to report if their ammunition is lost or stolen.
• Require people to notify law enforcement if their guns are lost or stolen, before the weapons end up in the wrong hands.
• Ensure people convicted of gun theft are ineligible to own guns.
• Strengthen our background check systems and ensure that California law enforcement shares data about dangerous people with the FBI.

Proposition 63 keeps guns and ammo out of the wrong hands, while protecting the rights of law-abiding

Californians to own guns for self-defense, hunting, and recreation.

Right now, thousands of dangerous felons remain illegally armed because we don't ensure that people convicted of violent crimes actually relinquish their guns after conviction. The Department of Justice identified more than 17,000 felons and other dangerous people with more than 34,000 guns, including more than 1,400 assault weapons.

Passing Proposition 63 will represent a historic and unprecedented step forward for gun safety.

LEADERS FROM ACROSS CALIFORNIA SUPPORT PROPOSITION 63, INCLUDING:

- Lieutenant Governor Gavin Newsom • U.S. Senator Dianne Feinstein • Law Center to Prevent Gun Violence • California Democratic Party • California Secretary of State Alex Padilla • Speaker Emeritus of the Assembly John Pérez • Sheriff Vicki Hennessy, San Francisco • Former Police Chief Ken James, Emeryville • SEIU • League of Women Voters of California • California Young Democrats • California Federation of Teachers • San Francisco Board of Education • Equality California • Courage Campaign • California American College of Physicians • California American College of Emergency Physicians • Southern California Public Health Association • Clergy and Laity United for Economic Justice • Coalition Against Gun Violence • Rabbis Against Gun Violence • States United to Prevent Gun Violence • Stop Handgun Violence • Stop Our Shootings • Women Against Gun Violence • Youth Alive!

To learn more please visit www.SafetyforAll.com.

GAVIN NEWSOM, Lieutenant Governor of California
DIANNE FEINSTEIN, United States Senator
ROBYN THOMAS, Executive Director
Law Center to Prevent Gun Violence

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★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 63 ★

Terrorists don't follow the law!

Gavin Newsom refuses to acknowledge that the Orlando and San Bernardino attacks were ISIS inspired Islamic radicalism. It is the same ideology that motivated the 9/11 terror attacks that killed 2,996 innocents.

Exploiting terrorist attacks to push sweeping laws affecting law-abiding peoples' civil liberties is misleading, wrong, and dangerous.

None of the proposed laws would prevent terrorist attacks. The reality is terrorists can always find the means to wreak havoc, a box cutter in a plane on 9/11, a homemade bomb in Boston, or a truck in Nice, France. Terrorists and criminals get weapons from the black market, make them, or steal them from law-abiding citizens.

Everyone agrees that preventing weapons from falling into the wrong hands is crucial. We all share the concern about the growing trends of terrorism and radicalization.

But, Prop. 63 is NOT the answer.

Spending tens of millions of taxpayer dollars year after year on useless lists of everyone who buys and sells

ammunition diverts critical resources and focus away from effective anti-terrorism efforts, leaving the public more vulnerable to attack and LESS SAFE.

There's a reason law enforcement overwhelmingly opposes Prop. 63.

The public interest would be better served if these resources were used to educate more Californians about what they can do to protect their families and communities from terrorist attacks or to further train law enforcement to do so.

Stop this dangerous abuse of public resources.

Vote NO on Prop. 63!

ALON STIVI, President
Direct Measures International, Inc.
WILLIAM "BILLY" BIRDZELL, U.S. Special Operations
Command Anti-Terrorism Instructor
RICHARD GRENNEL, Longest serving U.S. Spokesman at
the United Nations

★ ARGUMENT AGAINST PROPOSITION 63 ★

Prop. 63 is overwhelmingly opposed by the law enforcement community and civil rights groups because it will burden law abiding citizens without keeping violent criminals and terrorists from accessing firearms and ammunition.

The California State Sheriffs' Association, Association of Deputy District Attorneys for Los Angeles County, California Correctional Peace Officers Association, California Fish & Game Wardens' Association, California Reserve Peace Officers Association, and numerous other law enforcement and civic groups, representing tens of thousands of public safety professionals throughout California, are united in their opposition to this ineffective, burdensome, and costly proposal.

Prop. 63 would divert scarce law enforcement resources away from local law enforcement and overburden an already overcrowded court system with the enforcement of flawed laws that will turn harmless, law-abiding citizens into criminals. In fact, New York recently abandoned its enforcement of a similar proposal after it was passed, finding that it was impossible to implement and effectively maintain.

Doing what actually works to keep the public safe is the highest priority of law enforcement professionals who dedicate their lives to protecting Californians. Unfortunately, Prop. 63 will not make anyone safer. To the contrary, by directing resources away from measures that are truly effective at preventing the criminal element from acquiring guns and ammunition, it would make us all less safe. The immense public resources that Prop. 63

would waste should be used to hire more officers and to target, investigate, and prosecute dangerous individuals and terrorists.

After closely analyzing the language of Prop. 63, the law enforcement community found many problems in the details. Due to strict limitations on the Legislature's ability to amend voter-enacted propositions, most of these problems will be difficult or impossible for the Legislature to fix if Prop. 63 passes, saddling California with the burdens and costs of this flawed proposal forever.

By going around the Legislature, this initiative limits public safety professionals in developing future legislation that would truly promote public safety. California taxpayers should not waste hundreds of millions of their dollars on ineffective laws that have no value to law enforcement and will harm public safety by diverting resources away from effective law enforcement activities that are critical to public safety.

Please visit WWW.WHERESMYAMMO.COM for more information.

PLEASE VOTE NO ON PROP. 63.

DONNY YOUNGBLOOD, President
California State Sheriffs' Association

KEVIN BERNZOTT, Chief Executive Officer
California Reserve Peace Officers Association

TIFFANY CHEUVRONT, Principal Officer
Coalition for Civil Liberties

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★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 63 ★

As law enforcement and public safety officials, we're not surprised that groups such as the NRA and its affiliates oppose Proposition 63. Make no mistake, the so-called "Coalition for Civil Liberties" is actually an NRA front group.

The gun lobby often claims we should focus on enforcing existing gun laws, and that's exactly what this initiative does—*Prop. 63 closes loopholes and helps enforce existing laws to keep guns and ammo out of the wrong hands.*

For example, Prop. 63 *ensures dangerous convicts prohibited from owning weapons follow the law and get rid of their firearms.* Law enforcement professionals have found that felons and dangerous people currently possess thousands of guns illegally—so closing this loophole will save lives.

Prop. 63 also *requires reporting lost and stolen firearms*, to help police shut down gun trafficking rings and locate caches of illegal weapons. Prop. 63 will help police recover stolen guns before they're used in crimes and return them to their lawful owners.

Prop. 63 also *improves background check systems* so that law enforcement can prevent people banned from owning weapons—such as violent felons—from buying guns and ammo.

And Prop. 63 clarifies existing law so that any gun theft is a felony, *ensuring that people who steal guns can't own guns.* That's another common-sense reform to save lives overwhelmingly supported by law enforcement professionals.

Prop. 63 will close loopholes in our existing laws and prevent dangerous criminals, domestic abusers, and the dangerously mentally ill from obtaining and using deadly weapons.

NANCY O'MALLEY, District Attorney
Alameda County

JEFF ROSEN, District Attorney
Santa Clara County

VICKI HENNESSY, Sheriff
San Francisco

subdivision (h) of Section 1170, in connection with a civil action brought against a federal, state, or local jail, prison, or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against that person. The balance of the award shall be forwarded to the payee after full payment of all outstanding restitution orders and restitution fines, subject to subdivisions (e) and (i). The Department of Corrections and Rehabilitation shall make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages. For any prisoner punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency is authorized to make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages.

(o) (1) Amounts transferred to the California Victim Compensation Board for payment of direct orders of restitution shall be paid to the victim within 60 days from the date the restitution revenues are received by the California Victim Compensation Board. If the restitution payment to a victim is less than twenty-five dollars (\$25), then payment need not be forwarded to that victim until the payment reaches twenty-five dollars (\$25) or when the victim requests payment of the lesser amount.

(2) If a victim cannot be located, the restitution revenues received by the California Victim Compensation Board on behalf of the victim shall be held in trust in the Restitution Fund until the end of the state fiscal year subsequent to the state fiscal year in which the funds were deposited or until the time that the victim has provided current address information, whichever occurs sooner. Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.

(3) (A) A victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections and Rehabilitation, which shall verify that moneys were collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections and Rehabilitation, the California Victim Compensation Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (c) or (h).

(B) A victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the agency designated by the board of supervisors in the county where the prisoner punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170 is incarcerated, which may verify that moneys were collected on behalf of the victim. Upon receipt of that verified information from the agency, the California Victim Compensation Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (d) or (h).

SEC. 10. Retroactive Application of Act.

(a) In order to best achieve the purpose of this act as stated in Section 3 and to achieve fairness, equality, and uniformity in sentencing, this act shall be applied retroactively.

(b) In any case where a defendant or inmate was sentenced to death prior to the effective date of this act, the sentence

shall automatically be converted to imprisonment in the state prison for life without the possibility of parole under the terms and conditions of this act. The State of California shall not carry out any execution following the effective date of this act.

(c) Following the effective date of this act, the Supreme Court may transfer all death penalty appeals and habeas petitions pending before the Supreme Court to any district of the Court of Appeal or superior court, in the Supreme Court's discretion.

SEC. 11. Effective Date.

This act shall become effective on the day following the election at which it was approved, pursuant to subdivision (a) of Section 10 of Article II of the California Constitution.

SEC. 12. Severability.

The provisions of this act are severable. If any provision of this act or its application is held invalid, including but not limited to Section 10, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

PROPOSITION 63

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The Safety for All Act of 2016

SECTION 1. Title.

This measure shall be known and may be cited as "The Safety for All Act of 2016."

SEC. 2. Findings and Declarations.

The people of the State of California find and declare:

1. Gun violence destroys lives, families and communities. From 2002 to 2013, California lost 38,576 individuals to gun violence. That is more than seven times the number of U.S. soldiers killed in combat during the wars in Iraq and Afghanistan combined. Over this same period, 2,258 children were killed by gunshot injuries in California. The same number of children murdered in the Sandy Hook elementary school massacre are killed by gunfire in this state every 39 days.

2. In 2013, guns were used to kill 2,900 Californians, including 251 children and teens. That year, at least 6,035 others were hospitalized or treated in emergency rooms for non-fatal gunshot wounds, including 1,275 children and teens.

3. Guns are commonly used by criminals. According to the California Department of Justice, in 2014 there were 1,169 firearm murders in California, 13,546 armed robberies involving a firearm, and 15,801 aggravated assaults involving a firearm.

4. This tragic violence imposes significant economic burdens on our society. Researchers conservatively estimate that gun violence costs the economy at least \$229 billion every year, or more than \$700 per American

per year. In 2013 alone, California gun deaths and injuries imposed \$83 million in medical costs and \$4.24 billion in lost productivity.

5. California can do better. Reasonable, common-sense gun laws reduce gun deaths and injuries, keep guns away from criminals and fight illegal gun trafficking. Although California has led the nation in gun safety laws, those laws still have loopholes that leave communities throughout the state vulnerable to gun violence and mass shootings. We can close these loopholes while still safeguarding the ability of law-abiding, responsible Californians to own guns for self-defense, hunting and recreation.

6. We know background checks work. Federal background checks have already prevented more than 2.4 million gun sales to convicted criminals and other illegal purchasers in America. In 2012 alone, background checks blocked 192,043 sales of firearms to illegal purchasers including 82,000 attempted purchases by felons. That means background checks stopped roughly 225 felons from buying firearms every day. Yet California law only requires background checks for people who purchase firearms, not for people who purchase ammunition. We should close that loophole.

7. Right now, any violent felon or dangerously mentally ill person can walk into a sporting goods store or gun shop in California and buy ammunition, no questions asked. That should change. We should require background checks for ammunition sales just like gun sales, and stop both from getting into the hands of dangerous individuals.

8. Under current law, stores that sell ammunition are not required to report to law enforcement when ammunition is lost or stolen. Stores should have to report lost or stolen ammunition within 48 hours of discovering that it is missing so law enforcement can work to prevent that ammunition from being illegally trafficked into the hands of dangerous individuals.

9. Californians today are not required to report lost or stolen guns to law enforcement. This makes it difficult for law enforcement to investigate crimes committed with stolen guns, break up gun trafficking rings, and return guns to their lawful owners. We should require gun owners to report their lost or stolen guns to law enforcement.

10. Under current law, people who commit felonies and other serious crimes are prohibited from possessing firearms. Yet existing law provides no clear process for those people to relinquish their guns when they become prohibited at the time of conviction. As a result, in 2014, the Department of Justice identified more than 17,000 people who possess more than 34,000 guns illegally, including more than 1,400 assault weapons. We need to close this dangerous loophole by not only requiring prohibited people to turn in their guns, but also ensuring that it happens.

11. Military-style large-capacity ammunition magazines—some capable of holding more than 100 rounds of ammunition—significantly increase a shooter’s ability to kill a lot of people in a short amount of time. That is why these large capacity ammunition magazines are common in many of America’s most horrific mass shootings, from the killings at 101 California Street in San Francisco in 1993 to Columbine High School in 1999 to the massacre at Sandy Hook Elementary School in Newtown, Connecticut in 2012.

12. Today, California law prohibits the manufacture, importation and sale of military-style, large capacity

ammunition magazines, but does not prohibit the general public from possessing them. We should close that loophole. No one except trained law enforcement should be able to possess these dangerous ammunition magazines.

13. Although the State of California conducts background checks on gun buyers who live in California, we have to rely on other states and the FBI to conduct background checks on gun buyers who live elsewhere. We should make background checks outside of California more effective by consistently requiring the state to report who is prohibited from possessing firearms to the federal background check system.

14. The theft of a gun is a serious and potentially violent crime. We should clarify that such crimes can be charged as felonies, and prevent people who are convicted of such crimes from possessing firearms.

SEC. 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting “The Safety for All Act of 2016” (the “Act”) to be as follows:

1. To implement reasonable and common-sense reforms to make California’s gun safety laws the toughest in the nation while still safeguarding the Second Amendment rights of all law-abiding, responsible Californians.

2. To keep guns and ammunition out of the hands of convicted felons, the dangerously mentally ill, and other persons who are prohibited by law from possessing firearms and ammunition.

3. To ensure that those who buy ammunition in California—just like those who buy firearms—are subject to background checks.

4. To require all stores that sell ammunition to report any lost or stolen ammunition within 48 hours of discovering that it is missing.

5. To ensure that California shares crucial information with federal law enforcement by consistently requiring the state to report individuals who are prohibited by law from possessing firearms to the federal background check system.

6. To require the reporting of lost or stolen firearms to law enforcement.

7. To better enforce the laws that require people to relinquish their firearms once they are convicted of a crime that makes them ineligible to possess firearms.

8. To make it illegal in California to possess the kinds of military-style ammunition magazines that enable mass killings like those at Sandy Hook Elementary School; a movie theater in Aurora, Colorado; Columbine High School; and an office building at 101 California Street in San Francisco, California.

9. To prevent people who are convicted of the theft of a firearm from possessing firearms, and to effectuate the intent of Proposition 47 that the theft of a firearm is felony grand theft, regardless of the value of the firearm, in alignment with Sections 25400 and 1192.7 of the Penal Code.

SEC. 4. Lost or Stolen Firearms.

SEC. 4.1. Division 4.5 (commencing with Section 25250) is added to Title 4 of Part 6 of the Penal Code, to read:

DIVISION 4.5. LOST OR STOLEN FIREARMS

25250. (a) Commencing July 1, 2017, every person shall report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost.

(b) Every person who has reported a firearm lost or stolen under subdivision (a) shall notify the local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days if the firearm is subsequently recovered by the person.

(c) Notwithstanding subdivision (a), a person shall not be required to report the loss or theft of a firearm that is an antique firearm within the meaning of subdivision (c) of Section 16170.

25255. Section 25250 shall not apply to the following:

(a) Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.

(b) Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.

(c) Any person who is licensed, pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and who reports the theft or loss in accordance with Section 923(g)(6) of Title 18 of the United States Code, or the successor provision thereto, and applicable regulations issued thereto.

(d) Any person whose firearm was lost or stolen prior to July 1, 2017.

25260. Pursuant to Section 11108, every sheriff or police chief shall submit a description of each firearm that has been reported lost or stolen directly into the Department of Justice Automated Firearms System.

25265. (a) Every person who violates Section 25250 is, for a first violation, guilty of an infraction, punishable by a fine not to exceed one hundred dollars (\$100).

(b) Every person who violates Section 25250 is, for a second violation, guilty of an infraction, punishable by a fine not to exceed one thousand dollars (\$1,000).

(c) Every person who violates Section 25250 is, for a third or subsequent violation, guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

25270. Every person reporting a lost or stolen firearm pursuant to Section 25250 shall report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

25275. (a) No person shall report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false. A violation of this section is an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250) for a first offense, and by a fine not exceeding one thousand dollars (\$1,000) for a second or subsequent offense.

(b) This section shall not preclude prosecution under any other law.

SEC. 4.2. Section 26835 of the Penal Code is amended to read:

26835. A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(a) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(b) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(c) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(d) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO ONE THOUSAND DOLLARS (\$1,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(e) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(f) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(g) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(h) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

SEC. 5. Strengthening the National Instant Criminal Background Check System.

SEC. 5.1. Section 28220 of the Penal Code is amended to read:

28220. (a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) ~~To the extent that funding is available, the~~ Department of Justice ~~may shall~~ participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, ~~if that participation is implemented,~~ shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the handgun or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the handgun or other firearm to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of

that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(f) (1) (A) The department shall immediately notify the dealer to delay the transfer of the firearm to the purchaser if the records of the department, or the records available to the department in the National Instant Criminal Background Check System, indicate one of the following:

(i) The purchaser has been taken into custody and placed in a facility for mental health treatment or evaluation and may be a person described in Section 8100 or 8103 of the Welfare and Institutions Code and the department is unable to ascertain whether the purchaser is a person who is prohibited from possessing, receiving, owning, or purchasing a firearm, pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(ii) The purchaser has been arrested for, or charged with, a crime that would make him or her, if convicted, a person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, and the department is unable to ascertain whether the purchaser was convicted of that offense prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(iii) The purchaser may be a person described in subdivision (a) of Section 27535, and the department is unable to ascertain whether the purchaser, in fact, is a person described in subdivision (a) of Section 27535, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(B) The dealer shall provide the purchaser with information about the manner in which he or she may contact the department regarding the delay described in subparagraph (A).

(2) The department shall notify the purchaser by mail regarding the delay and explain the process by which the purchaser may obtain a copy of the criminal or mental health record the department has on file for the purchaser. Upon receipt of that criminal or mental health record, the purchaser shall report any inaccuracies or incompleteness to the department on an approved form.

(3) If the department ascertains the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), after the waiting period described in Sections 26815 and 27540, but within 30 days of the dealer's original submission of the purchaser information to the department pursuant to this section, the department shall do the following:

(A) If the purchaser is not a person described in subdivision (a) of Section 27535, and is not prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer of that fact and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or

record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(B) If the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer and the chief of the police department in the city or county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact in compliance with subdivision (c) of Section 28220.

(4) If the department is unable to ascertain the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), within 30 days of the dealer's original submission of purchaser information to the department pursuant to this section, the department shall immediately notify the dealer and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(g) *Commencing July 1, 2017, upon receipt of information demonstrating that a person is prohibited from possessing a firearm pursuant to federal or state law, the department shall submit the name, date of birth, and physical description of the person to the National Instant Criminal Background Check System Index, Denied Persons Files. The information provided shall remain privileged and confidential, and shall not be disclosed, except for the purpose of enforcing federal or state firearms laws.*

SEC. 6. Possession of Large-Capacity Magazines.

SEC. 6.1. Section 32310 of the Penal Code is amended to read:

32310. (a) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing January 1, 2000, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, buys, or receives any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170.

(b) For purposes of this section, "manufacturing" includes both fabricating a magazine and assembling a magazine from a combination of parts, including, but not limited to, the body, spring, follower, and floor plate or end plate, to be a fully functioning large-capacity magazine.

(c) *Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing July 1, 2017, any person in this state who*

possesses any large-capacity magazine, regardless of the date the magazine was acquired, is guilty of an infraction punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, or is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(d) *Any person who may not lawfully possess a large-capacity magazine commencing July 1, 2017 shall, prior to July 1, 2017:*

- (1) *Remove the large-capacity magazine from the state;*
- (2) *Sell the large-capacity magazine to a licensed firearms dealer; or*
- (3) *Surrender the large-capacity magazine to a law enforcement agency for destruction.*

SEC. 6.2. Section 32400 of the Penal Code is amended to read:

32400. Section 32310 does not apply to the sale of, giving of, lending of, *possession of*, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

SEC. 6.3. Section 32405 of the Penal Code is amended to read:

32405. Section 32310 does not apply to the sale to, lending to, transfer to, purchase by, receipt of, *possession of*, or importation into this state of, a large-capacity magazine by a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of that officer's duties.

SEC. 6.4. Section 32406 is added to the Penal Code, to read:

32406. *Subdivision (c) of Section 32310 does not apply to an honorably retired sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or honorably retired sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties. "Honorably retired" shall have the same meaning as provided in Section 16690.*

SEC. 6.5. Section 32410 of the Penal Code is amended to read:

32410. Section 32310 does not apply to the sale, or purchase, or *possession* of any large-capacity magazine to or by a person licensed pursuant to Sections 26700 to 26915, inclusive.

SEC. 6.6. Section 32420 of the Penal Code is repealed.

~~32420. Section 32310 does not apply to the importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the same large-capacity magazine.~~

SEC. 6.7. Section 32425 of the Penal Code is amended to read:

32425. Section 32310 does not apply to either *any* of the following:

(a) The lending or giving of any large-capacity magazine to a person licensed pursuant to Sections 26700 to 26915, inclusive, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(b) *The possession of any large-capacity magazine by a person specified in subdivision (a) for the purposes specified in subdivision (a).*

(c) The return to its owner of any large-capacity magazine by a person specified in subdivision (a).

SEC. 6.8. Section 32435 of the Penal Code is amended to read:

32435. Section 32310 does not apply to any of the following:

(a) The sale of, giving of, lending of, *possession of*, importation into this state of, or purchase of, any large-capacity magazine, to or by any entity that operates an armored vehicle business pursuant to the laws of this state.

(b) The lending of large-capacity magazines by an entity specified in subdivision (a) to its authorized employees, while in the course and scope of employment for purposes that pertain to the entity's armored vehicle business.

(c) *The possession of any large-capacity magazines by the employees of an entity specified in subdivision (a) for purposes that pertain to the entity's armored vehicle business.*

(d) The return of those large-capacity magazines to the entity specified in subdivision (a) by those employees specified in subdivision (b).

SEC. 6.9. Section 32450 of the Penal Code is amended to read:

32450. Section 32310 does not apply to the purchase or *possession* of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 31000, 32650, or 33300, or pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of this division, for any of the following purposes:

(a) For use solely as a prop for a motion picture, television, or video production.

(b) For export pursuant to federal regulations.

(c) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

SEC. 7. Firearms Dealers.

SEC. 7.1. Section 26885 of the Penal Code is amended to read:

26885. (a) Except as provided in subdivisions (b) and (c) of Section 26805, all firearms that are in the inventory of a licensee shall be kept within the licensed location.

(b) Within 48 hours of discovery, a licensee shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located:

(1) Any firearm or *ammunition* that is merchandise of the licensee.

(2) Any firearm or *ammunition* that the licensee takes possession of pursuant to Chapter 5 (commencing with Section 28050), or *pursuant to Section 30312*.

(3) Any firearm or *ammunition* kept at the licensee's place of business.

SEC. 7.2. Section 26915 of the Penal Code is amended to read:

26915. (a) *Commencing January 1, 2018, a* A firearms dealer ~~may~~ shall require any agent or employee who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the Department of Justice pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and California firearms dealer number of the firearms dealer with whom the person is employed.

(b) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing firearms.

(c) If the local jurisdiction requires a background check of the agents or employees of a firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subdivision (a).

(d) (1) Nothing in this section shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105. The local jurisdiction may not charge a fee for the additional criminal history check.

(2) Nothing in this section shall be construed to preclude a local jurisdiction from prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility.

(e) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in subdivision (g).

(f) Nothing in this section shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents or *employees*.

(g) For purposes of this article, "secured" means a firearm that is made inoperable in one or more of the following ways:

(1) The firearm is inoperable because it is secured by a firearm safety device listed on the department's roster of approved firearm safety devices pursuant to subdivision (d) of Section 23655.

(2) The firearm is stored in a locked gun safe or long-gun safe that meets the standards for department-approved gun safes set forth in Section 23650.

(3) The firearm is stored in a distinct locked room or area in the building that is used to store firearms, which can only be unlocked by a key, a combination, or similar means.

(4) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has

a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

SEC. 8. Sales of Ammunition.

SEC. 8.1. Section 16150 of the Penal Code is amended to read:

16150. (a) ~~As used in Section 30300, "ammunition" means handgun ammunition as defined in Section 16650. As used in this part, except in subdivision (a) of Section 30305 and in Section 30306, "ammunition" means one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles. "Ammunition" does not include blanks.~~

(b) As used in subdivision (a) of Section 30305 and in Section 30306, "ammunition" includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence. "Ammunition" does not include blanks.

SEC. 8.2. Section 16151 is added to the Penal Code, to read:

16151. (a) *As used in this part, commencing January 1, 2018, "ammunition vendor" means any person, firm, corporation, or other business enterprise that holds a current ammunition vendor license issued pursuant to Section 30385.*

(b) *Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Articles 2 (commencing with Section 30300) and 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4.*

SEC. 8.3. Section 16662 of the Penal Code is repealed.

~~16662. As used in this part, "handgun ammunition vendor" means any person, firm, corporation, dealer, or any other business enterprise that is engaged in the retail sale of any handgun ammunition, or that holds itself out as engaged in the business of selling any handgun ammunition.~~

SEC. 8.4. Section 17315 of the Penal Code is amended to read:

17315. ~~As used in Article 3 (commencing with Section 30345) Articles 2 through 5 of Chapter 1 of Division 10 of Title 4, "vendor" means a handgun ammunition vendor.~~

SEC. 8.5. Section 30306 of the Penal Code is amended to read:

30306. (a) Any person, corporation, or firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person who he or she knows or using reasonable care should know is prohibited from owning, possessing, or having under custody or control, any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) *Any person, corporation, firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person whom the person, corporation, firm, or other business enterprise*

knows or has cause to believe is not the actual purchaser or transferee of the ammunition, with knowledge or cause to believe that the ammunition is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having under custody or control any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

~~(b)~~ (c) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and another provision of law shall not be punished under more than one provision.

SEC. 8.6. Section 30312 of the Penal Code is amended to read:

30312. (a) ~~Commencing February 1, 2011, the~~ (1) *Commencing January 1, 2018, the sale of ammunition by any party shall be conducted by or processed through a licensed ammunition vendor.*

(2) *When neither party to an ammunition sale is a licensed ammunition vendor, the seller shall deliver the ammunition to a vendor to process the transaction. The ammunition vendor shall then promptly and properly deliver the ammunition to the purchaser, if the sale is not prohibited, as if the ammunition were the vendor's own merchandise. If the ammunition vendor cannot legally deliver the ammunition to the purchaser, the vendor shall forthwith return the ammunition to the seller. The ammunition vendor may charge the purchaser an administrative fee to process the transaction, in an amount to be set by the Department of Justice, in addition to any applicable fees that may be charged pursuant to the provisions of this title.*

(b) *Commencing January 1, 2018, the sale, delivery or transfer of ownership of handgun ammunition by any party may only occur in a face-to-face transaction with the seller, deliverer, or transferor being provided bona fide evidence of identity from the purchaser or other transferee, provided, however, that ammunition may be purchased or acquired over the Internet or through other means of remote ordering if a licensed ammunition vendor initially receives the ammunition and processes the transaction in compliance with this section and Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of this part.*

~~(b)~~ (c) ~~Subdivision~~ Subdivisions (a) and (b) shall not apply to or affect the sale, delivery, or transfer of handgun ammunition to any of the following:

(1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the handgun ammunition, written authorization from the head of the agency employing the purchaser or transferee is obtained, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of handgun ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

(5) A person whose licensed premises are outside this state and who is licensed as a dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(6) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(7) A handgun ammunition vendor.

(8) A consultant-evaluator.

(9) A person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.

(10) A person who purchases or receives ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

(e) (d) A violation of this section is a misdemeanor.

SEC. 8.7. Section 30314 is added to the Penal Code, to read:

30314. (a) Commencing January 1, 2018, a resident of this state shall not bring or transport into this state any ammunition that he or she purchased or otherwise obtained from outside of this state unless he or she first has that ammunition delivered to a licensed ammunition vendor for delivery to that resident pursuant to the procedures set forth in Section 30312.

(b) Subdivision (a) does not apply to any of the following:

(1) An ammunition vendor.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6.

(5) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of

eligibility issued by the Department of Justice pursuant to Section 26710.

(6) A person who acquired the ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

(c) A violation of this section is an infraction for any first time offense, and either an infraction or a misdemeanor for any subsequent offense.

SEC. 8.8. The heading of Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code is amended to read:

Article 3. Handgun Ammunition Vendors

SEC. 8.9. Section 30342 is added to the Penal Code, immediately preceding Section 30345, to read:

30342. (a) Commencing January 1, 2018, a valid ammunition vendor license shall be required for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period.

(b) A violation of this section is a misdemeanor.

SEC. 8.10. Section 30347 of the Penal Code is amended to read:

30347. (a) An ammunition vendor shall require any agent or employee who handles, sells, delivers, or has under his or her custody or control any ammunition, to obtain and provide to the vendor a certificate of eligibility from the Department of Justice issued pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and address of the ammunition vendor with whom the person is employed, or the name and California firearms dealer number of the ammunition vendor if applicable.

(b) The department shall notify the ammunition vendor in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing ammunition under subdivision (a) of Section 30305 or federal law.

(c) An ammunition vendor shall not permit any agent or employee who the vendor knows or reasonably should know is a person described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, or deliver, or have under his or her custody or control, any handgun ammunition in the course and scope of employment.

SEC. 8.11. Section 30348 is added to the Penal Code, to read:

30348. (a) Except as provided in subdivision (b), the sale of ammunition by a licensed vendor shall be conducted at the location specified in the license.

(b) A vendor may sell ammunition at a gun show or event if the gun show or event is not conducted from any motorized or towed vehicle.

(c) For purposes of this section, "gun show or event" means a function sponsored by any national, state, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(d) Sales of ammunition at a gun show or event shall comply with all applicable laws including Sections 30347, 30350, 30352, and 30360.

SEC. 8.12. Section 30350 of the Penal Code is amended to read:

30350. A An ammunition vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

SEC. 8.13. Section 30352 of the Penal Code is amended to read:

30352. (a) Commencing February 1, 2011, a July 1, 2019, an ammunition vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording the following information on a form to be prescribed by the Department of Justice:

- (1) The date of the sale or other transaction transfer.
- (2) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued.
- (3) The brand, type, and amount of ammunition sold or otherwise transferred.
- (4) The purchaser's or transferee's full name and signature.
- (5) The name of the salesperson who processed the sale or other transaction.
- ~~(6) The right thumbprint of the purchaser or transferee on the above form.~~
- (7) (6) The purchaser's or transferee's full residential address and telephone number.
- ~~(8) (7) The purchaser's or transferee's date of birth.~~

(b) Commencing July 1, 2019, an ammunition vendor shall electronically submit to the department the information required by subdivision (a) for all sales and transfers of ownership of ammunition. The department shall retain this information in a database to be known as the Ammunition Purchase Records File. This information shall remain confidential and may be used by the department and those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, only for law enforcement purposes. The ammunition vendor shall not use, sell, disclose, or share such information for any other purpose other than the submission required by this subdivision without the express written consent of the purchaser or transferee.

(c) Commencing on July 1, 2019, only those persons listed in this subdivision, or those persons or entities listed in subdivision (e), shall be authorized to purchase ammunition. Prior to delivering any ammunition, an ammunition vendor shall require bona fide evidence of identity to verify that the person who is receiving delivery of the ammunition is a person or entity listed in subdivision (e) or one of the following:

- (1) A person authorized to purchase ammunition pursuant to Section 30370.
- (2) A person who was approved by the department to receive a firearm from the ammunition vendor, pursuant to Section 28220, if that vendor is a licensed firearms dealer,

and the ammunition is delivered to the person in the same transaction as the firearm.

(d) Commencing July 1, 2019, the ammunition vendor shall verify with the department, in a manner prescribed by the department, that the person is authorized to purchase ammunition by comparing the person's ammunition purchase authorization number to the centralized list of authorized ammunition purchasers. If the person is not listed as an authorized ammunition purchaser, the vendor shall deny the sale or transfer.

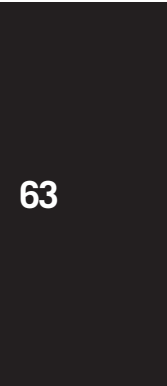
~~(b) (e) Subdivision Subdivisions (a) and (d) shall not apply to or affect sales or other transfers of ownership of handgun ammunition by handgun ammunition vendors to any of the following, if properly identified:~~

- ~~(1) A person licensed pursuant to Sections 26700 to 26915, inclusive.~~
- ~~(2) (1) A handgun An ammunition vendor.~~
- ~~(3) (2) A person who is on the centralized list of exempted federal firearms licensees maintained by the department pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.~~
- ~~(4) (3) A target facility that holds a business or regulatory license person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.~~
- ~~(5) (4) A gunsmith.~~
- ~~(6) (5) A wholesaler.~~
- ~~(7) (6) A manufacturer or importer of firearms or ammunition licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.~~
- ~~(8) (7) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer of ownership is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the handgun ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed.~~

(8) A properly identified sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or properly identified sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(f) (1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a full-time paid peace officer who is authorized to carry a firearm in the course and scope of the officer's duties.

(2) The certification shall be delivered to the vendor at the time of purchase or transfer and the purchaser or transferee shall provide bona fide evidence of identity to verify that he or she is the person authorized in the certification.



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(3) The vendor shall keep the certification with the record of sale and submit the certification to the department.

(g) The department is authorized to adopt regulations to implement the provisions of this section.

SEC. 8.14. Section 30363 is added to the Penal Code, to read:

30363. Within 48 hours of discovery, an ammunition vendor shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the vendor's business premises are located:

(1) Any ammunition that is merchandise of the vendor.

(2) Any ammunition that the vendor takes possession of pursuant to Section 30312.

(3) Any ammunition kept at the vendor's place of business.

SEC. 8.15. Article 4 (commencing with Section 30370) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

Article 4. Ammunition Purchase Authorizations

30370. (a) (1) Commencing on January 1, 2019, any person who is 18 years of age or older may apply to the Department of Justice for an ammunition purchase authorization.

(2) The ammunition purchase authorization may be used by the authorized person to purchase or otherwise seek the transfer of ownership of ammunition from an ammunition vendor, as that term is defined in Section 16151, and shall have no other force or effect.

(3) The ammunition purchase authorization shall be valid for four years from July 1, 2019, or the date of issuance, whichever is later, unless it is revoked by the department pursuant to subdivision (b).

(b) The ammunition purchase authorization shall be promptly revoked by the department upon the occurrence of any event which would have disqualified the holder from being issued the ammunition purchase authorization pursuant to this section. If an authorization is revoked, the department shall upon the written request of the holder state the reasons for doing so and provide the holder an appeal process to challenge that revocation.

(c) The department shall create and maintain an internal centralized list of all persons who are authorized to purchase ammunition and shall promptly remove from the list any persons whose authorization was revoked by the department pursuant to this section. The department shall provide access to the list by ammunition vendors for purposes of conducting ammunition sales or other transfers, and shall provide access to the list by law enforcement agencies for law enforcement purposes.

(d) The department shall issue an ammunition purchase authorization to the applicant if all of the following conditions are met:

(1) The applicant is 18 years of age or older.

(2) The applicant is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law.

(3) The applicant pays the fees set forth in subdivision (g).

(e) (1) Upon receipt of an initial or renewal application, the department shall examine its records, and the records it is authorized to request from the State Department of State Hospitals, pursuant to Section 8104 of the Welfare

and Institutions Code, and if authorized, the National Instant Criminal Background Check System, as described in Section 922(t) of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or acquiring ammunition under subdivision (a) of Section 30305 or federal law.

(2) The applicant shall be approved or denied within 30 days of the date of the submission of the application to the department. If the application is denied, the department shall state the reasons for doing so and provide the applicant an appeal process to challenge that denial.

(3) If the department is unable to ascertain the final disposition of the application within 30 days of the applicant's submission, the department shall grant authorization to the applicant.

(4) The ammunition purchase authorization number shall be the same as the number on the document presented by the person as bona fide evidence of identity.

(f) The department shall renew a person's ammunition purchase authorization before its expiration, provided that the department determines that the person is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law, and provided the applicant timely pays the renewal fee set forth in subdivision (g).

(g) The department may charge a reasonable fee not to exceed fifty dollars (\$50) per person for the issuance of an ammunition purchase authorization or the issuance of a renewal authorization, however, the department shall not set these fees any higher than necessary to recover the reasonable, estimated costs to fund the ammunition authorization program provided for in this section and Section 30352, including the enforcement of this program and maintenance of any data systems associated with this program.

(h) The Ammunition Safety and Enforcement Special Fund is hereby created within the State Treasury. All fees received pursuant to this section shall be deposited into the Ammunition Safety and Enforcement Special Fund of the General Fund, and, notwithstanding Section 13340 of the Government Code, are continuously appropriated for purposes of implementing, operating and enforcing the ammunition authorization program provided for in this section and Section 30352, and for repaying the start-up loan provided for in Section 30371.

(i) The department shall annually review and may adjust all fees specified in subdivision (g) for inflation.

(j) The department is authorized to adopt regulations to implement the provisions of this section.

30371. (a) There is hereby appropriated twenty-five million dollars (\$25,000,000) from the General Fund as a loan for the start-up costs of implementing, operating and enforcing the provisions of the ammunition authorization program provided for in Sections 30352 and 30370.

(b) For purposes of repaying the loan, the Controller shall, after disbursing moneys necessary to implement, operate and enforce the ammunition authorization program provided for in Sections 30352 and 30370, transfer all proceeds from fees received by the Ammunition Safety and Enforcement Special Fund up to the amount of the loan provided by this section, including interest at the pooled money investment account rate, to the General Fund.

SEC. 8.16. Article 5 (commencing with Section 30385) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

Article 5. Ammunition Vendor Licenses

30385. (a) The Department of Justice is authorized to issue ammunition vendor licenses pursuant to this article. The department shall, commencing July 1, 2017, commence accepting applications for ammunition vendor licenses. If an application is denied, the department shall inform the applicant of the reason for denial in writing.

(b) The ammunition vendor license shall be issued in a form prescribed by the department and shall be valid for a period of one year. The department may adopt regulations to administer the application and enforcement provisions of this article. The license shall allow the licensee to sell ammunition at the location specified in the license or at a gun show or event as set forth in Section 30348.

(c) (1) In the case of an entity other than a natural person, the department shall issue the license to the entity, but shall require a responsible person to pass the background check pursuant to Section 30395.

(2) For purposes of this article, "responsible person" means a person having the power to direct the management, policies, and practices of the entity as it pertains to ammunition.

(d) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Article 2 (commencing with Section 30300) and Article 3 (commencing with Section 30342).

30390. (a) The Department of Justice may charge ammunition vendor license applicants a reasonable fee sufficient to reimburse the department for the reasonable, estimated costs of administering the license program, including the enforcement of this program and maintenance of the registry of ammunition vendors.

(b) The fees received by the department pursuant to this article shall be deposited in the Ammunition Vendors Special Account, which is hereby created. Notwithstanding Section 13340 of the Government Code, the revenue in the fund is continuously appropriated for use by the department for the purpose of implementing, administering and enforcing the provisions of this article, and for collecting and maintaining information submitted pursuant to Section 30352.

(c) The revenue in the Firearms Safety and Enforcement Special Fund shall also be available upon appropriation to the department for the purpose of implementing and enforcing the provisions of this article.

30395. (a) The Department of Justice is authorized to issue ammunition vendor licenses to applicants who the department has determined, either as an individual or a responsible person, are not prohibited from possessing, receiving, owning, or purchasing ammunition under subdivision (a) of Section 30305 or federal law, and who provide a copy of any regulatory or business license required by local government, a valid seller's permit issued by the State Board of Equalization, a federal firearms license if the person is federally licensed, and a certificate of eligibility issued by the department.

(b) The department shall keep a registry of all licensed ammunition vendors. Law enforcement agencies shall be

provided access to the registry for law enforcement purposes.

(c) An ammunition vendor license is subject to forfeiture for a breach of any of the prohibitions and requirements of Article 2 (commencing with Section 30300) or Article 3 (commencing with Section 30342).

SEC. 9. Nothing in this Act shall preclude or preempt a local ordinance that imposes additional penalties or requirements in regard to the sale or transfer of ammunition.

SEC. 10. Securing Firearms From Prohibited Persons.

SEC. 10.1. Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

- (1) When the property was stolen or embezzled.
- (2) When the property or things were used as the means of committing a felony.
- (3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.
- (4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.
- (5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.
- (6) When there is a warrant to arrest a person.
- (7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.
- (8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.
- (9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.
- (10) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.

(11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 29800 or 29805, and the court has made a finding pursuant to paragraph (3) of subdivision (c) of Section 29810 that the person has failed to relinquish the firearm as required by law.

~~(15)~~ (16) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority described in Section 11472 of the Health and Safety Code.

~~(16)~~ (17) (A) When all of the following apply:

(i) A sample of the blood of a person constitutes evidence that tends to show a violation of subdivision (b), (c), (d),

(e), or (f) of Section 655 of the Harbors and Navigation Code.

(ii) The person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 655.1 of the Harbors and Navigation Code.

(iii) The sample will be drawn from the person in a reasonable, medically approved manner.

(B) This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(b) The property, things, person, or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2) (A) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

(B) At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make motions or present evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case, the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be tolled from the time of the seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for

determination by the court, any item that appears to be privileged as provided by law.

(d) (1) As used in this section, a “special master” is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or his or her designee to accompany the special master as he or she conducts his or her search. However, that party or his or her designee may not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, “documentary evidence” includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films, and papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(i) Nothing in this section is intended to limit an attorney’s ability to request an in-camera hearing pursuant to the holding of the Supreme Court of California in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

(j) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute evidence that tends to show a violation of Section 530.5, the magistrate may

issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

(k) This section shall not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

SEC. 10.2. Section 27930 of the Penal Code is amended to read:

27930. Section 27545 does not apply to deliveries, transfers, or returns of firearms made pursuant to any of the following:

- (a) Sections 18000 and 18005.
- (b) Division 4 (commencing with Section 18250) of Title 2.
- (c) Chapter 2 (commencing with Section 33850) of Division 11.
- (d) Sections 34005 and 34010.
- (e) *Section 29810.*

SEC. 10.3. Section 29810 of the Penal Code is amended to read:

29810. (a) For any person who is subject to Section 29800 or 29805, the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this chapter from owning, purchasing, receiving, possessing, or having under custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. If the prohibition on owning or possessing a firearm will expire on a date specified in the court order, the form shall inform the defendant that he or she may elect to have his or her firearm transferred to a firearms dealer licensed pursuant to Section 29830.

(b) Failure to provide the notice described in subdivision (a) is not a defense to a violation of this chapter.

(c) *This section shall be repealed effective January 1, 2018.*

SEC. 10.4. Section 29810 is added to the Penal Code, to read:

29810. (a) (1) *Upon conviction of any offense that renders a person subject to Section 29800 or Section 29805, the person shall relinquish all firearms he or she owns, possesses, or has under his or her custody or control in the manner provided in this section.*

(2) *The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited Persons Relinquishment Form developed by the Department of Justice.*

(3) *Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party*

who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and that he or she shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that he or she owned, possessed, or had under his or her custody or control at the time of his or her conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that he or she owned, possessed, or had under his or her custody or control any firearms at the time of his or her conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate his or her consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that he or she is not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c) (1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under his or her custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court whether

the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) Prior to final disposition or sentencing in the case, the court shall make findings concerning whether the probation officer's report indicates that the defendant has relinquished all firearms as required, and whether the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(4) If the court finds probable cause that the defendant has failed to relinquish any firearms as required, the court shall order the search for and removal of any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars (\$100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within five days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within five days following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within five days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within 14 days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(4) If the defendant is released from custody during the 14 days following conviction and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following his or her release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.

(g) The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, sale or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice,

or if the defendant provides written notice of an intent to appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

(k) This section shall become operative on January 1, 2018.

SEC. 11. Theft of Firearms.

SEC. 11.1. Section 490.2 of the Penal Code is amended to read:

(a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars (\$950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

(c) This section shall not apply to theft of a firearm.

SEC. 11.2. Section 29805 of the Penal Code is amended to read:

29805. Except as provided in Section 29855 or subdivision (a) of Section 29800, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, paragraph (1) of subdivision (a) of Section 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, Section 490.2 if the property taken was a firearm, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not

exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

SEC. 12. Interim Standards.

Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the prompt implementation of the Safety for All Act of 2016, the California Department of Justice may adopt interim standards without compliance with the procedures set forth in the APA. The interim standards shall remain in effect for no more than two years, and may be earlier superseded by regulations adopted pursuant to the APA. "Interim standards" means temporary standards that perform the same function as "emergency regulations" under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that in order to provide greater opportunity for public comment on permanent regulations, the interim standards may remain in force for two years rather than 180 days.

SEC. 13. Amending the Measure.

This Act shall be broadly construed to accomplish its purposes. The provisions of this measure may be amended by a vote of 55 percent of the members of each house of the Legislature and signed by the Governor so long as such amendments are consistent with and further the intent of this Act.

SEC. 14. Conflicting Measures.

(a) In the event that this measure and another measure on the same subject matter, including but not limited to the regulation of the sale or possession of firearms or ammunition, shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 15. Severability.

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstance, is for any reason held to be invalid or unconstitutional, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

SEC. 16. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court

of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

PROPOSITION 64

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Business and Professions Code, the Food and Agricultural Code, the Health and Safety Code, the Labor Code, the Revenue and Taxation Code, and the Water Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This measure shall be known and may be cited as the Control, Regulate and Tax Adult Use of Marijuana Act ("the Adult Use of Marijuana Act").

SEC. 2. Findings and Declarations.

A. Currently in California, nonmedical marijuana use is unregulated, untaxed, and occurs without any consumer or environmental protections. The Control, Regulate and Tax Adult Use of Marijuana Act will legalize marijuana for those over 21 years old, protect children, and establish laws to regulate marijuana cultivation, distribution, sale and use, and will protect Californians and the environment from potential dangers. It establishes the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry.

B. Marijuana is currently legal in our state for medical use and illegal for nonmedical use. Abuse of the medical marijuana system in California has long been widespread, but recent bipartisan legislation signed by Governor Jerry Brown is establishing a comprehensive regulatory scheme for medical marijuana. The Control, Regulate and Tax Adult Use of Marijuana Act (hereafter called the Adult Use of Marijuana Act) will consolidate and streamline regulation and taxation for both nonmedical and medical marijuana.

C. Currently, marijuana growth and sale is not being taxed by the State of California, which means our state is missing out on hundreds of millions of dollars in potential tax revenue every year. The Adult Use of Marijuana Act will tax both the growth and sale of marijuana to generate hundreds of millions of dollars annually. The revenues will cover the cost of administering the new law and will provide funds to: invest in public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law with a focus on DUI enforcement; invest in communities to reduce the illicit market and create job opportunities; and provide for environmental cleanup and restoration of public lands damaged by illegal marijuana cultivation.

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those

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Exhibit 51


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SB-23 Firearms: assault weapons. (1999-2000)

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Senate Bill No. 23

CHAPTER 129

An act to amend Sections 245, 12001, 12020, 12022, 12022.5, 12280, 12285, and 12289 of, and to add Sections 12079 and 12276.1 to, the Penal Code, relating to firearms.

[Filed with Secretary of State July 19, 1999. Approved by Governor July 19, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 23, Perata. Firearms: assault weapons.

(1) Existing law makes it a misdemeanor for any person to manufacture, cause to be manufactured, import into this state, keep or offer for sale, give, lend, or possess specified weapons and explosives.

This bill would make it a misdemeanor or a felony, beginning January 1, 2000, for any person, except as provided, to manufacture, import into the state, keep or offer for sale, give, or lend any large-capacity magazine. A large-capacity magazine would be defined to mean any ammunition feeding device with the capacity to accept more than 10 rounds. By expanding the definition of, and increasing the penalty for, a crime, this bill imposes a state-mandated local program.

(2) Existing law requires imposition of a longer term of imprisonment on any person convicted of assault with a deadly weapon, and for enhanced terms of imprisonment for a person convicted of a felony, if that person was either armed with, or personally used, an assault weapon or machinegun, as defined, in the commission of, or attempted commission of that felony.

Existing law makes it a crime to engage in specified activities regarding assault weapons and regulates the lawful possession of those weapons. Existing law defines the term "assault weapon" by, among other things, designating a list of specified semiautomatic firearms.

This bill would further define the term "assault weapon" by providing descriptive definitions concerning the capacity and function of the weapon. These expanded definitions would specifically apply to the above-mentioned increased term and enhancement provisions and to related provisions. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3) Existing law makes it a crime, punishable either as a felony or a misdemeanor, for any person to possess any assault weapon, as defined. However, if a person charged with a first-time violation of that offense presents proof that he or she lawfully possessed the assault weapon within a specified period, and has since registered the weapon or relinquished it, the offense is punishable as an infraction, if the person has also complied with specified conditions. Existing law also provides a period of forgiveness to persons in possession of an assault weapon during a specified period under specified conditions. In addition, existing law exempts specified law enforcement agencies from the prohibition against possession, purchase, or sale of assault weapons.

This bill would make it an infraction, punishable by a fine up to \$500, for a first-time violation of the above-mentioned offense, if the offender was found in possession of no more than 2 firearms in compliance with specified provisions and proves that he or she lawfully possessed the assault weapon prior to the date it was

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defined as an assault weapon under the proposed provision set forth in (2). This bill would also add an additional period of forgiveness for persons in possession of assault weapons, as defined, pursuant to the proposed provision set forth in (2), to extend to the one-year period after the weapon was defined as an assault weapon under that proposed provision. By defining a new crime, this bill would impose a state-mandated local program. The bill would also exempt certain additional off-duty and certain retired law enforcement personnel from the prohibition against possession, purchase, or sale of assault weapons.

(4) Existing law requires any person who lawfully possesses an assault weapon, as defined, prior to specified periods, to register that weapon with the Department of Justice, within a specified period of time.

This bill would require any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to the proposed provision mentioned in (2) above, to register the weapon within one year of the effective date of that provision.

(5) Existing law requires the Department of Justice to conduct a public education and notification program regarding the registration of assault weapons, the limited forgiveness period of the registration requirement and the consequences of nonregistration.

This bill would require that the public education and notification program include the new definition of assault weapons discussed in paragraph (2) above.

(6) The bill would state legislative intent.

(7) The bill would provide that its provisions are severable.

(8) This bill would incorporate additional changes in Section 12020 of the Penal Code proposed by SB 359, to be operative if SB 359 and this bill are both enacted and become effective on or before January 1, 2000, and this bill is enacted last. (9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 245 of the Penal Code is amended to read:

245. (a) (1) Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(2) Any person who commits an assault upon the person of another with a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars (\$10,000) and imprisonment.

(3) Any person who commits an assault upon the person of another with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.

(b) Any person who commits an assault upon the person of another with a semiautomatic firearm shall be punished by imprisonment in the state prison for three, six, or nine years.

(c) Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.

(d) (1) Any person who commits an assault with a firearm upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years.

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(2) Any person who commits an assault upon the person of a peace officer or firefighter with a semiautomatic firearm and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(3) Any person who commits an assault with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.

(e) When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance, and it shall be confiscated and disposed of in the manner provided by Section 12028.

(f) As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

SEC. 2. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and paragraph (7) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section 12072, the term "firearm" does not include an unloaded firearm that is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term "BB device" means any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun.

(h) As used in this title, "wholesaler" means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

"Wholesaler" shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, or 12084, "application to purchase" means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

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(2) The initial completion of the LEFT by the purchaser, transferee, or person being loaned the firearm as required by subdivision (d) of Section 12084.

(3) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be "loaded" whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term "any firearm" may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(l) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

(n) As used in this chapter, a "personal handgun importer" means an individual who meets all of the following criteria:

(1) He or she is not a person licensed pursuant to Section 12071.

(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.

(5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.

(6) He or she moves into this state on or after January 1, 1998, as a resident of this state.

(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.

(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.

(13) The person is 18 years of age or older.

(o) For purposes of paragraph (6) of subdivision (n):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

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(2) In the case of members of the armed forces of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.

SEC. 3. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition.

(4) Carries concealed upon his or her person any dirk or dagger.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.29) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by regular, salaried, full-time members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of

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these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed, or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

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(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(c) (1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

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(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a "fléchette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a "ballistic knife" means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a "camouflaging firearm container" means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

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(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an "unconventional pistol" means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2 1/2 inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an "undetectable firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

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All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, "large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds nor shall it include any .22 caliber tube ammunition feeding device.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 3.5. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition.

(4) Carries concealed upon his or her person any dirk or dagger.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.29) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties and the peace officer has

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completed a training course in the use of these weapons certified by the Commission on Peace Officer Standards and Training.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

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(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

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(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(c) (1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

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(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a "fléchette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a "ballistic knife" means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a "camouflaging firearm container" means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an "unconventional pistol" means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2 1/2 inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

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(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an "undetectable firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, "large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds nor shall it include any .22 caliber tube ammunition feeding device.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 4. Section 12022 of the Penal Code is amended to read:

12022. (a) (1) Except as provided in subdivisions (c) and (d), any person who is armed with a firearm in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in

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addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one year, unless the arming is an element of the offense of which he or she was convicted. This additional term shall apply to any person who is a principal in the commission or attempted commission of a felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if the firearm is an assault weapon, as defined in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, the additional term described in this subdivision shall be three years whether or not the arming is an element of the offense of which he or she was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission or attempted commission of a felony if one or more of the principals is armed with an assault weapon or machinegun whether or not the person is personally armed with an assault weapon or machinegun.

(b) (1) Any person who personally uses a deadly or dangerous weapon in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one year, unless use of a deadly or dangerous weapon is an element of the offense of which he or she was convicted.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be one, two, or three years.

(3) When a person is found to have personally used a deadly or dangerous weapon in the commission or attempted commission of a felony as provided in this subdivision and the weapon is owned by that person, the court shall order that the weapon be deemed a nuisance and disposed of in the manner provided in Section 12028.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who is personally armed with a firearm in the commission or attempted commission of a violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall, upon conviction of that offense and in addition and consecutive to the punishment prescribed for that offense of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for three, four, or five years in the court's discretion. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(d) Notwithstanding the enhancement set forth in subdivision (a), any person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission or attempted commission of an offense specified in subdivision (c), shall, upon conviction of that offense, be punished by an additional term of one, two, or three years in the court's discretion. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(e) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

(f) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in subdivision (c) or (d) in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

SEC. 5. Section 12022.5 of the Penal Code is amended to read:

12022.5. (a) (1) Except as provided in subdivisions (b) and (c), any person who personally uses a firearm in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an element of the offense of which he or she was convicted.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be 4, 5, or 10 years. The court shall order imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state its reasons for its enhancement choice on the record at the time of sentencing.

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(b) (1) Notwithstanding subdivision (a), any person who is convicted of a felony or an attempt to commit a felony, including murder or attempted murder, in which that person discharged a firearm at an occupied motor vehicle which caused great bodily injury or death to the person of another, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the sentence prescribed for the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for 5, 6, or 10 years.

(2) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, in the commission or attempted commission of a felony, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the sentence prescribed for the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for 5, 6, or 10 years.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who personally uses a firearm in the commission or attempted commission of a violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall, upon conviction of that offense and in addition and consecutive to the punishment prescribed for the offense of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for 3, 4, or 10 years in the court's discretion. The court shall order the imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record.

(d) The additional term provided by this section may be imposed in cases of assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or assault with a deadly weapon which is a firearm under Section 245, or murder if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, or a machinegun in the commission or attempted commission of a felony as provided in this section and the firearm, assault weapon, or machinegun is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

SEC. 6. Section 12079 is added to the Penal Code, to read:

12079. (a) Upon a showing that good cause exists, the Department of Justice may issue permits for the possession, transportation, or sale between a person licensed pursuant to Section 12071 and an out-of-state client, of large capacity magazines.

(b) For purposes of this section, "large capacity magazine" shall have the same meaning as that set forth in paragraph (25) of subdivision (c) of Section 12020.

SEC. 7. Section 12276.1 is added to the Penal Code, to read:

12276.1. (a) Notwithstanding Section 12276, "assault weapon" shall also mean any of the following:

(1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:

(A) A pistol grip that protrudes conspicuously beneath the action of the weapon.

(B) A thumbhole stock.

(C) A folding or telescoping stock.

(D) A grenade launcher or flare launcher.

(E) A flash suppressor.

(F) A forward pistol grip.

(2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.

(3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

(4) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:

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- (A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.
- (B) A second handgrip.
- (C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel.
- (D) The capacity to accept a detachable magazine at some location outside of the pistol grip.
- (5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.
- (6) A semiautomatic shotgun that has both of the following:
 - (A) A folding or telescoping stock.
 - (B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.
- (7) A semiautomatic shotgun that has the ability to accept a detachable magazine.
- (8) Any shotgun with a revolving cylinder.
- (b) "Assault weapon" does not include any antique firearm.
- (c) The following definitions shall apply under this section:
 - (1) "Magazine" shall mean any ammunition feeding device.
 - (2) "Capacity to accept more than 10 rounds" shall mean capable of accommodating more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.
 - (3) "Antique firearm" means any firearm manufactured prior to January 1, 1899.
 - (d) This section shall become operative January 1, 2000.

SEC. 8. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, and in subdivisions (c) and (d), any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm specified by Section 12276 or 12276.5 pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars (\$500), but not less than three hundred fifty dollars (\$350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) A first-time violation of subdivision (b) shall be an infraction punishable by a fine of up to five hundred dollars (\$500), if the person was found in possession of no more than two firearms in compliance with subdivision (c) of Section 12285 and the person meets all of the following conditions:

- (1) The person proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1.
- (2) The person is not found in possession of a firearm specified as an assault weapon pursuant to Section 12276 or Section 12276.5.

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- (3) The person has not previously been convicted of violating this section.
- (4) The person was found to be in possession of the assault weapons within one year following the end of the one-year registration period established pursuant to subdivision (a) of Section 12285.
- (5) The person has since registered the firearms and any other lawfully obtained firearms defined by Section 12276.1, pursuant to Section 12285, except as provided for by this section, or relinquished them pursuant to Section 12288.
- (d) Firearms seized pursuant to subdivision (c) shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.
- (e) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.
- (f) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Youth and Adult Corrections Agency, the Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.
- (g) Subdivision (b) shall not prohibit the possession or use of assault weapons by sworn peace officer members of those agencies specified in subdivision (f) for law enforcement purposes, whether on or off duty.
- (h) Subdivisions (a) and (b) shall not prohibit the sale or transfer of assault weapons by an entity specified in subdivision (f) to a person, upon retirement, who retired as a sworn officer from that entity.
- (i) Subdivision (b) shall not apply to the possession of an assault weapon by a retired peace officer who received that assault weapon pursuant to subdivision (h).
- (j) Subdivision (b) shall not apply to the possession of an assault weapon, as defined in Section 12276, by any person during the 1990 calendar year, during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to Section 12276.1, if all of the following are applicable:
- (1) The person is eligible under this chapter to register the particular assault weapon.
 - (2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, if the weapon is specified as an assault weapon pursuant to Section 12276, or prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.
 - (3) The person is otherwise in compliance with this chapter.
- (k) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:
- (1) Exempt entities listed in subdivision (f).
 - (2) Entities and persons who have been issued permits pursuant to Section 12286.
 - (3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.
 - (4) Federal military and law enforcement agencies.
 - (5) Law enforcement and military agencies of other states.
 - (6) Foreign governments and agencies approved by the United States State Department.
- (l) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i) which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.
- (m) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i), if the

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assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(n) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon.

(C) The assault weapon is possessed at any of the following locations:

(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(o) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (n).

(p) Subdivisions (a) and (b) shall not apply to the possession and importation of an assault weapon into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon.

(2) The competition or match is conducted on the premises of one of the following:

(i) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(q) Subdivision (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12286.

(2) A person who has a permit to possess an assault weapon issued pursuant to Section 12286 when he or she is acting in accordance with Section 12285 or 12286.

(r) Subdivisions (a) and (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286 or 12290.

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(s) Subdivision (b) shall not apply to the registered owner of an assault weapon possessing that firearm in accordance with subdivision (c) of Section 12285.

(t) Subdivision (a) shall not apply to the importation into this state of an assault weapon by the registered owner of that assault weapon, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(u) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (b) of that section.

SEC. 9. Section 12285 of the Penal Code is amended to read:

12285. (a) Any person who lawfully possesses an assault weapon, as defined in Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5 shall register the firearm within 90 days with the Department of Justice pursuant to those procedures that the department may establish. Except as provided in subdivision (a) of Section 12280, any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1, and which was not specified as an assault weapon under Section 12276 or 12276.5, shall register the firearm within one year of the effective date of Section 12276.1, with the department pursuant to those procedures that the department may establish. The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate. The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(b) (1) Except as provided in paragraph (2), no assault weapon possessed pursuant to this section may be sold or transferred on or after January 1, 1990, to anyone within this state other than to a licensed gun dealer, as defined in subdivision (c) of Section 12290, or as provided in Section 12288. Any person who (A) obtains title to an assault weapon registered under this section or that was possessed pursuant to subdivision (g) or (i) of Section 12280 by bequest or intestate succession, or (B) lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to Section 12276.5, or subsequently defined as an assault weapon pursuant to Section 12276.1, shall, within 90 days, render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state. A person who lawfully possessed a firearm that was subsequently declared to be an assault weapon pursuant to Section 12276.5 may alternatively register the firearm within 90 days of the declaration issued pursuant to subdivision (f) of Section 12276.5.

(2) A person moving into this state, otherwise in lawful possession of an assault weapon, shall do one of the following:

(A) Prior to bringing the assault weapon into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

(B) The person shall cause the assault weapon to be delivered to a licensed gun dealer, as defined in subdivision (c) of Section 12290, in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that assault weapon to the person. If the licensed gun dealer, as defined in subdivision (c) of Section 12290, is prohibited from delivering the assault weapon to a person pursuant to this paragraph, the dealer shall possess or dispose of the assault weapon as allowed by this chapter.

(c) A person who has registered an assault weapon under this section may possess it only under any of the following conditions unless a permit allowing additional uses is first obtained under Section 12286:

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- (1) At that person's residence, place of business, or other property owned by that person, or on property owned by another with the owner's express permission.
- (2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.
- (3) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.
- (4) While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.
- (5) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.
- (6) While on publicly owned land if the possession and use of a firearm described in Section 12276 or 12276.1 is specifically permitted by the managing agency of the land.
- (7) While transporting the assault weapon between any of the places mentioned in this subdivision, or to any licensed gun dealer, as defined in subdivision (c) of Section 12290, for servicing or repair pursuant to subdivision (b) of Section 12290, if the assault weapon is transported as required by Section 12026.1.
- (d) No person who is under the age of 18 years, no person who is prohibited from possessing a firearm by Section 12021 or 12021.1, and no person described in Section 8100 or 8103 of the Welfare and Institutions Code may register or possess an assault weapon.
- (e) The department's registration procedures shall provide the option of joint registration for assault weapons owned by family members residing in the same household.
- (f) For 90 days following January 1, 1992, a forgiveness period shall exist to allow persons specified in subdivision (b) of Section 12280 to register with the Department of Justice assault weapons that they lawfully possessed prior to June 1, 1989.
- (g) Any person who registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2000, where the assault weapon is thereafter defined as an assault weapon pursuant to Section 12276.1, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this section.
- (h) Any person who registers his or her assault weapon during the 90-day forgiveness period described in subdivision (f), and any person whose registration form was received by the Department of Justice after January 1, 1991, and who was issued a temporary registration prior to the end of the forgiveness period, shall not be charged with a violation of subdivision (b) of Section 12280, if law enforcement becomes aware of that violation only as a result of the registration of the assault weapon. This subdivision shall have no effect upon persons charged with a violation of subdivision (b) of Section 12280 of the Penal Code prior to January 1, 1992, provided that law enforcement was aware of the violation before the weapon was registered.

SEC. 10. Section 12287 of the Penal Code is amended to read:

12287. (a) The Department of Justice may, upon a finding of good cause, issue permits for the manufacture of assault weapons to federally licensed manufacturers of firearms for the sale to, purchase by, or possession of assault weapons by, any of the following:

- (1) The agencies listed in subdivision (f) of Section 12280.
- (2) Entities and persons who have been issued permits pursuant to Section 12286.
- (3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.
- (4) Federal law enforcement and military agencies.
- (5) Law enforcement and military agencies of other states.
- (6) Foreign governments and agencies approved by the United States State Department.

(b) Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

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SEC. 11. Section 12289 of the Penal Code is amended to read:

12289. (a) The Department of Justice shall conduct a public education and notification program regarding the registration of assault weapons and the definition of the weapons set forth in Section 12276.1. The public education and notification program shall include outreach to local law enforcement agencies and utilization of public service announcements in a variety of media approaches, to ensure maximum publicity of the limited forgiveness period of the registration requirement specified in subdivision (f) of Section 12285 and the consequences of nonregistration. The department shall develop posters describing gunowners' responsibilities under this chapter which shall be posted in a conspicuous place in every licensed gun store in the state during the forgiveness period.

(b) Any costs incurred by the Department of Justice to implement this section which cannot be absorbed by the department shall be funded from the Dealers' Record of Sale Special Account, as set forth in subdivision (d) of Section 12076, upon appropriation by the Legislature.

SEC. 12. It was the original intent of the Legislature in enacting Chapter 19 of the Statutes of 1989 to ban all assault weapons, regardless of their name, model number, or manufacture. It is the purpose of this act to effectively achieve the Legislature's intent to prohibit all assault weapons.

SEC. 13. If any phrase, clause, sentence, section, or provision of this act or application thereof is held invalid as to any person or circumstance, such invalidity shall not affect any other phrase, clause, sentence, section, provision, or application of this act, that can be given effect without the invalid phrase, clause, sentence, section, provision, or application and to this end the provisions of the act are declared to be severable.

SEC. 14. Section 3.5 of this bill incorporates amendments to Section 12020 of the Penal Code proposed by this bill and SB 359. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12020 of the Penal Code, and (3) this bill is enacted after SB 359, in which case Section 12020 of the Penal Code, as amended by SB 359, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Exhibit 52

**Proposals to Reduce Gun Violence:
Protecting Our Communities While Respecting the Second Amendment.**

Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights

February 12, 2013

Prepared Testimony by Laurence H. Tribe*

Mr. Chairman and members of the Committee:

I am honored and grateful for the invitation to testify before you today. I know I am not alone in wanting us to do all we can, consistent with the Constitution, to reduce the awful specter of rampant gun violence and the far too frequent massacres of our children, our friends, and our fellow citizens.

Like all decent Americans, I felt a pang of unspeakable horror on December 14, when I learned that twenty first-grade children had been brutally slaughtered in their first-grade classroom in Newtown, Connecticut. Those children, and the brave grown-ups who died at Adam Lanza's hands as they tried to save the young lives entrusted to their care, deserve every effort to translate our shared grief into shared national action. That action must not be deterred by the defeatist argument that, because we will never solve this problem in its entirety, we might as well give up. Nor should it be deterred by distorted interpretations of the United States Constitution. As others have often reminded us about that great and enduring document, it is many things to many people, but one thing it is *not* is a suicide pact.

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While we debate the pending proposals to reduce gun violence through measures focused on gun safety as part of a holistic national response, it's crucial that we not permit any part of our Constitution to become a collateral casualty of our conversation. Proposals to disarm the American people, to leave firearms solely in the hands of the military and the police, have been decisively taken off the table – if they were ever truly *on* the table – by the Supreme Court's Second Amendment decisions in 2008 and 2010. "Slippery slope" arguments predicated on the unsettled state of the law prior to 2008 have been rendered irrelevant. The only proposals under serious consideration in this body are reasonable measures that would fully respect the basic rights of responsible citizens to use ordinary firearms for self-defense and other lawful purposes. They cannot lead to unacceptably extreme measures as long as the Supreme Court sits.

Having examined those proposals, having looked at the steps announced by the President under his power faithfully to execute the laws of the United States, and having studied the decisions of the Supreme Court and lower courts around the country, I am convinced that nothing under discussion in the Senate Judiciary Committee represents a threat to the Constitution or even comes close to violating the Second Amendment or the Constitution's structural limits either on congressional power or on executive authority.

Undoubtedly we should have a national debate about how best to reconcile the Second Amendment rights of every individual with the full range of proposals to reduce gun violence in America. As someone who has studied and taught constitutional law for four decades and argued dozens of cases in the Supreme Court and dozens more in the lower courts, I am obviously interested in engaging those questions. In today's testimony, however, I will focus not on

competing theories of how the Second Amendment ought to have been interpreted but on the law as it stands. I am here not as an academic theorist but as a constitutional lawyer. As a lawyer, I've won some and I've lost some, and I know a losing argument when I see it. And the argument that any of the proposals to reduce gun violence currently being considered here might be struck down as unconstitutional is decidedly a losing argument.

There is plenty of room for policy debate over the best steps to take to reduce gun violence, but we mustn't confuse those policy differences or the ideological and cultural divisions that underlie them with genuine constitutional doubts about whether any of those steps crosses the constitutional line. Everyone in this room knows that anything Congress or the President does in this field will confront opposition. And in a nation as litigious as ours, some of that opposition will no doubt find its way into the courts. But there is no basis to suppose that the courts will or should rebuff any of the steps being debated here today. They should not, and they will not.

What I hope to do this morning, setting all hyperbole aside and approaching the law on the books with a fair-minded eye, is explain why reforms such as those this committee is considering clearly pass constitutional muster.

I. Introduction:

Taking the Second Amendment Seriously, But Applying it Cautiously

I begin by reaffirming my agreement with the Supreme Court that the Second Amendment guarantees Americans the right as individuals to possess guns for reasonable self-defense. Some of my friends and colleagues devoted to the cause of responsible firearms regulation evidently wish to relitigate this point. They continue to insist that the best reading of the Second Amendment would secure gun rights only in connection with service in the state militia and not for individual possession and use. For nearly a decade and a half, I have disagreed with them and have defended the individual rights view ultimately taken by the Supreme Court in 2008. In October of 1999, for example, I joined a fellow constitutional law scholar in publishing an op-ed in *The New York Times* arguing that “bearing arms [is] a ‘privilege’ of each citizen.”¹ I continue to defend this position today.

That matters only insofar as it bears on my credibility as a witness in today’s hearing. If I were among those who had *opposed* the individual rights interpretation adopted by the Supreme Court in *Heller*, some might wonder whether my conclusions about the regulations *Heller* permits Congress to adopt reflect wishful thinking rather than a realistic and sympathetic appraisal of what the Court that decided *Heller* would in fact permit. But there is no wishful thinking here. I am being a hard-headed realist in reading the *Heller* decision and extrapolating conclusions from the majority opinion.

¹ Laurence H. Tribe & Akhil Reed Amar, *Well Regulated Militias and More*, N.Y. TIMES, Oct. 28, 1999, at A25; 1 Laurence H. Tribe, *American Constitutional Law* 900–902 (3d ed. 2000).

Although many in the community advocating gun rights had long assumed that the individual rights interpretation governed the scope of the Second Amendment, it was not until the Supreme Court's 2008 ruling in *District of Columbia v. Heller*² that a majority of the Court's Justices agreed. In so doing, the Court recognized that the core individual liberty protected by the amendment affords Americans the right to purchase and store operable firearms for self-defense in the home. Two years later, in *McDonald v. City of Chicago*,³ the Court extended the *Heller* ruling to cover restrictions imposed by state and local governments, making it unmistakably clear that the right at issue was not and is not simply a right of the state-organized militia against being overrun by federal authority.

Despite this fundamental affirmation, the *Heller* decision is exceedingly narrow in many important respects. As Judge Brett Kavanaugh of the D.C. Circuit Court of Appeals recently put it, "It bears emphasis that *Heller*, while enormously significant jurisprudentially, was not revolutionary in terms of its immediate real-world effects on American gun regulation." "Indeed," he continued, "*Heller* largely preserved the status quo of gun regulation in the United States."⁴ To understand what he meant, it helps to look first to the Washington, DC ordinance implicated in the *Heller* case. The District had in place one of the most restrictive firearms regulations in the nation; it essentially outlawed the possession of handguns in the home, where the need for self-defense is, as Justice Scalia wrote, "most acute."⁵ For the majority on the Court, a policy like the one the District had adopted, a policy on the outer edge of gun control's reach in the United States, was irreconcilable with the Second Amendment.

² 554 U.S. 570 (2008).

³ 130 S.Ct. 3020 (2010).

⁴ *Heller v. Dist. of Columbia*, 670 F.3d 1244, 1270 (D.C. Cir. 2011) (Kavanaugh, J., dissenting).

⁵ *Heller*, 544 U.S. at 628.

The *Heller* decision took great pains to emphasize its relative modesty. It repeated the mantra that the Second Amendment right “is not unlimited”⁶ and devoted an entire section to listing types of regulation – for example, limits on gun ownership “by felons and the mentally ill” and, most relevant to today’s hearing, regulation of “dangerous and unusual weapons” – the constitutionality of which the Court had no intention of casting into doubt.⁷ The decision paused to note that, by specifically giving a constitutional green light to some regulatory efforts, the Court did not mean to signal that others were constitutionally dubious.⁸ Justice Scalia closed his opinion for the Court with an expression of solicitude for the regulatory goals that Washington, DC sought to advance and, more importantly, an invitation to pursue those goals with the “variety of tools” still available to the District and to other states and localities across the country even in *Heller*’s wake.⁹

Since that decision and its extension to state and local laws in 2010, the vast majority of federal and state courts to adjudicate Second Amendment claims have responsibly hewed to the cautious approach espoused by the Supreme Court in *Heller* and *McDonald*. For example, in a ruling highly relevant to the topic of this hearing, the D.C. Circuit recently upheld the constitutionality of Washington D.C.’s assault weapons ban, which included a restriction on

⁶ *Id.* at 595, 626.

⁷ *Id.* at 626 – 28.

⁸ *Id.* at 627 n. 26. There is no doubt, for instance, that regulatory provisions targeting firearms and ammunitions *manufacturers* in addition to those who transfer, possess, carry, or use the resulting weapons are at least as easy to defend from Second Amendment challenge as are measures that do not take effect until the point of sale.

⁹ *Id.* at 636.

high-capacity magazines, as well as gun registration requirements.¹⁰ The majority in the case, following the broad consensus that has emerged among federal and state judges,¹¹ evaluated the regulations against a standard of heightened judicial scrutiny while preserving both the option to adopt a more skeptical mode of review for restrictions on core self-defense firearm possession and the option to exempt other laws from Second Amendment review entirely when they do not enter the amendment's zone of protected conduct.¹² In another notable decision staking out a similar approach, a panel of the Seventh Circuit Court of Appeals struck down Chicago's firing-range ban given the close nexus between regular firing practice and training and safe, responsible self-defense in the home.¹³ And state appellate courts from North Carolina to Wisconsin to California have joined with their federal brethren in upholding state restrictions on firearms ownership under this middle-of-the-road approach that molds the degree of judicial scrutiny to the extent of a law's burden on the core self-defense right secured by the Second Amendment.¹⁴

The central message of *Heller* and its lower-court progeny is thus to take the application of the Second Amendment seriously but also cautiously. When necessary to vindicate the core right to self-defense respected by *Heller*, neither courts nor lawmakers should be shy about invoking the Second Amendment. But because few public responsibilities are as important to

¹⁰ *Heller v. Dist. of Columbia*, 670 F.3d 1244 (D.C. Cir. 2011).

¹¹ *See, e.g.*, *Kachalsky v. County of Westchester*, 701 F.3d 81, 93 – 94 (2d Cir. 2012); *United States v. Booker*, 644 F.3d 12, 25 (1st Cir. 2011) cert. denied, 132 S. Ct. 1538 (U.S. 2012); *United States v. Masciandaro*, 638 F.3d 458, 469-70 (4th Cir. 2011) cert. denied, 132 S. Ct. 756 (U.S. 2011); *United States v. Marzzarella*, 614 F.3d 85, 97 (3d Cir. 2010);

¹² *Heller*, 670 F.3d at 1256 – 58.

¹³ The court applied what it called “not quite strict scrutiny” because the law's burden struck so close to the core Second Amendment right to self-defense in the home. *Ezell v. City of Chicago*, 651 F.3d 684, 708 (7th Cir. 2011).

¹⁴ *See, e.g.*, *Johnston v. State*, 735 S.E.2d 859 (N.C. Ct. App. 2012); *State v. Brown*, 815 N.W.2d 407 (Ct. App. Wisc. 2012); *People v. Ellison*, 196 Cal. App. 4th 1342, 1347 (2011).

good governance as legislating to secure public safety, lawmakers and jurists should not casually give the amendment an expansive scope nor unduly scrutinize reasonable firearm regulations. In the wake of the Newtown massacre and the push to propose sensible new rules about firearms, the Obama administration and many leaders in Congress have conducted themselves precisely along these lines.

II. The Second Amendment Propriety of Recent Policy Proposals

Limits on Large-Capacity Magazines

A core feature of the Assault Weapons Ban of 2013, introduced by Senator Dianne Feinstein, as well as the primary component of a freestanding bill championed by Senator Frank Lautenberg, is a ban on magazines capable of firing more than ten rounds of ammunition without reloading.¹⁵ Before moving into the weeds of the constitutional analysis, it would be useful to contrast such a high-capacity magazine restriction to the law *Heller* struck down. *Heller* axed a local ordinance that adopted about as blunt an approach to restraining gun violence as possible: By its very design, the DC law espoused disagreement with the whole idea of law-abiding gun ownership for self-defense in the home. A limit on large-capacity magazines, by contrast, is a regulation of an entirely different caliber. It does not challenge the fundamental recognition that gun possession for self-defense is a right of every citizen; it merely seeks to reset the parameters of responsible ownership to advance the cause of public safety. It operates with a scalpel rather than an ax. Even Robert Levy, the man who largely funded the challenge to DC's sweeping

¹⁵ The Assault Weapons Ban of 2013 also prohibits firearms with fixed magazines capable of holding more than ten rounds of ammunition.

handgun ban in *Heller* and served as an attorney on the case, concedes that bans on both high-capacity magazines and assault weapons almost certainly do not infringe the Second Amendment rights he successfully fought to vindicate in court.¹⁶

By any reasonable reckoning, this crucial measure might not even trigger heightened Second Amendment review at the threshold stage that the *Heller* ruling requires courts to undertake. But even if the high-capacity magazine prohibition does require further analysis, it safely falls within a zone of regulations that do not unconstitutionally abridge Second Amendment rights.

Most constitutional challenges require lawyers and scholars to carry out two stages of analysis. First, we must assess whether a given government policy even *implicates* a given right in the first place. For example, in 1915, the Supreme Court entertained a First Amendment challenge to a filmmaker's punishment under an Ohio censorship law but, in a clear misjudgment the Court would later correct, decided that movies were not even a form of "speech" entitled to First Amendment protection.¹⁷ More recently, in a ruling that may perhaps give pause to members of this committee (despite the distinct protections of the Constitution's Speech and Debate Clause), the Court concluded that votes by legislators are not a form of "speech" over which any public official can claim a personal First Amendment right.¹⁸ Assuming that a law *does* implicate the right in question, the government must then proceed to justify the challenged

¹⁶ Interview with Robert A. Levy by the Washington Post (Jan. 10, 2013), *transcript available at* http://articles.washingtonpost.com/2013-01-10/lifestyle/36272630_1_assault-weapons-high-capacity-magazines-military-style-guns.

¹⁷ *Mut. Film Corp. v. Indus. Comm'n of Ohio*, 236 U.S. 230, 243 (1915).

¹⁸ *Nevada Comm'n on Ethics v. Carrigan*, 131 S. Ct. 2343, 2350 (2011).

law so that the court hearing the challenge may evaluate, roughly speaking, whether the justification is strong enough to permit the law to stand or, alternatively, whether the measure goes too far and thus violates the Constitution.

I begin with this return to fundamentals because it never ceases to surprise me how often those engaged in legal debate talk past one another by conflating these distinct steps. In the Second Amendment context particularly, there is no excuse for making that mistake. For *Heller* itself makes it absolutely plain that not every gun regulation even triggers Second Amendment review. In other words, sometimes governments may enact regulations addressing the manufacture, transfer, possession or use of firearms that categorically fall outside the Second Amendment's scope, freeing governments of any burden even to make detailed defenses of the provisions in question. For example, the *Heller* opinion specifically named "longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings" as illustrative examples of regulations that should not even receive further constitutional review.¹⁹ The importance of this point should not be underemphasized. If too many entirely reasonable firearm regulations, like assault weapon bans and background checks, or rules about trafficking and straw purchases, are subjected to heightened Second Amendment review, it will become difficult if not impossible to separate those regulations categorically from the restrictions that *Heller* specifically approved without subjecting them to any "scrutiny" at all.

¹⁹ *Dist. of Columbia v. Heller*, 554 U.S. 570, 626 - 27 (2008).

Beyond the examples appearing in the decision, *Heller* also identifies the three primary factors to consider in judging whether other types of regulation trip the Second Amendment's alarm. First, the Court carefully frames the scope of the Second Amendment to cover *only* firearms "in common use at the time."²⁰

Second, *Heller* recognized that "dangerous or unusual" weapons may be and have historically been heavily regulated or banned.²¹ It is not inconceivable – indeed, it seems quite likely – that the Court's pause to distinguish unusually dangerous weapons from widely possessed handguns had precisely the 1994 Assault Weapons Ban, which included a prohibition on high-capacity magazines, in mind. At the very least, the *Heller* majority recognized that the government could keep machine guns —"M-16 rifles and the like"—out of the hands of civilians.²² The Supreme Court thus emphatically rejected the extravagant, or as Justice Scalia characterized it, "startling" notion, still promoted by some, that the Second Amendment could fulfill its original purposes only if citizens were guaranteed a right to arm themselves to the teeth, matching in their private armories essentially the full array of weapons possessed by the United States Military.²³

Third and finally, the Court emphasized the importance of a nexus to core self-defense needs.²⁴ The majority in *Heller* had no trouble recognizing that handguns represented the

²⁰ *Id.* at 627.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 624.

²⁴ *Id.* at 599 ("Justice Breyer's assertion that individual self-defense is merely a 'subsidiary interest' of the right to keep and bear arms . . . is profoundly mistaken. He bases that assertion

“quintessential self-defense weapon,” particularly in the home.²⁵ Moreover, handguns were not categorically more dangerous than other types of firearms. So Washington D.C.’s handgun ban clearly fell within the scope of the Second Amendment.

The clarity of *Heller*’s guidance on how to apply these threshold factors begins to dissipate, however, when they no longer align so strikingly in one direction. To begin with, the Court left “dangerousness” undefined, and what the Court meant by that term is not entirely self-evident. In an obvious sense, *all* firearms are dangerous; that is what makes them effective instruments of self-defense. The *Heller* ruling, therefore, asks us to balance any *exceptional* dangerousness of particular firearm design features against the potential self-defense value of those features. For example, even if home possession of machine guns for self-defense might, on rare occasion, deter criminal trespassers more than home possession of handguns, that benefit is simply not sufficient to overcome the substantial hazards to innocent bystanders and intentional targets, in particular the police. *Heller* obviously does not contemplate asking the government to provide an intricately reasoned justification for banning machine guns; instead, it recognizes – and it surely authorizes Congress, and indeed all of us, to recognize – excessive dangerousness in the inherent design of the weapon²⁶ so as to cut off Second Amendment review at the threshold.

solely upon the prologue—but that can only show that self-defense had little to do with the right’s *codification*; it was the *central component* of the right itself.” (emphasis in original).

²⁵ *Heller*, 544 U.S. at 629.

²⁶ Throughout this debate, opponents of restrictions on large-capacity magazines have repeatedly demanded empirical evidence showing a link between magazine capacity and gun violence. Studies in that mold certainly exist, and I discuss them later. *See, e.g.*, text accompanying notes 48 – 50. But at this threshold stage of the Second Amendment inquiry, the *Heller* decision’s meaning of dangerousness cannot be equivalent to an empirically demonstrated effect on public safety. Rather, the standard is one that asks us to examine design features to assess whether the

All things considered, I conclude that reasonably restricting magazine size and availability does not implicate the core Second Amendment right as *Heller* conceived of it. The reason is not the first factor, that of “common use,” because, of course, large-capacity ammunition magazines and the firearms outfitted for them are, by any reasonable measure, in quite common use in the United States. I note here just a few examples. The standard Glock pistol, the firearm that one reporter called “America’s handgun” in a recent book on the subject, comes equipped with a seventeen-round magazine.²⁷ And America’s most popular rifle, the AR-15 model,²⁸ typically comes with a thirty-round magazine and can accommodate magazines with even larger capacities.²⁹

But to contend that the sizeable market presence of a particular firearm feature is sufficient in itself to trigger full Second Amendment scrutiny is to misrepresent the lesson of *Heller*. The relative dangerousness and self-defense-serving capacity of a firearm or design

weapon poses an aggravated threat to safety as a common-sense matter. First, if the former were the meaning of dangerousness, the threshold inquiry, which may lead courts to conclude that the Second Amendment does not even apply, would become indistinguishable from the more advanced stage of review, in which courts scrutinize a government’s public safety rationale. Second, making empirical evidence of salutary public-safety impacts a prerequisite to gun regulation would defeat efforts to respond to new technologies and lethal features that pose a substantial threat to public safety. The Second Amendment does not require that Americans afford the gun industry a “wait and see” grace period on the (in)famous theory that even a vicious dog deserves one free bite.

²⁷ Erin McCarthy, *Why the Glock Became America’s Handgun*, POPULAR MECHANICS (Jan. 12, 2012, 6:30 AM), <http://www.popularmechanics.com/technology/military/weapons/why-the-glock-became-americas-handgun>

²⁸ Erica Goode, *Rifle Used in Killings, America’s Most Popular, Highlights Regulation Debate*, N.Y. TIMES (Dec. 16, 2012), <http://www.nytimes.com/2012/12/17/us/lanza-used-a-popular-ar-15-style-rifle-in-newtown.html?pagewanted=all>.

²⁹ Steven Almasy, *Newton Shooter’s Guns: What We Know*, CNN (Dec. 19, 2012, 10:11 AM), <http://www.cnn.com/2012/12/18/us/connecticut-landa-guns/index.html>.

feature are also crucial considerations. This approach makes complete sense. The common use and possession of a given firearm feature is, at best, just one helpful indicator of whether restricting that feature will stymie or frustrate the exercise of the core Second Amendment protection of lawful self-defense to a constitutionally cognizable degree. For instance, in the case of high-capacity magazines, significant market presence does not necessarily translate into heavy reliance by American gun owners on those magazines for self-defense. Analysis of the modern development of the U.S. gun market demonstrates that the firearms industry, driven by an obvious profit motive, ushered in a revolution in the state of the market during the 1980s. Manufacturers began to roll out increasing numbers of pistols with ever-larger-capacity magazines rather than revolvers, which take just six rounds of ammunition and had traditionally been the most popular firearm for personal self-defense.³⁰ The frequent purchase of such large-capacity magazines, then, may not be attributable purely or even primarily to actual gun-owner preferences, much less to gun-owner needs. Rather, guns equipped with or ready for large-capacity magazines may simply be the weapons most readily made available on the market. And even if this market presence begins to influence more Americans to purchase firearms with high-capacity magazines because they fear attacks from criminals possessing guns outfitted with the same high-capacity magazines, nothing in *Heller* suggests that it is improper for the government to halt the escalation of this arms race in its tracks. The one-way ratchet of ever more powerful firearms is not a constitutional inevitability. For unlike the doctrine of mutually assured destruction that some say maintained an uneasy peace during the nuclear arms buildup of the

³⁰ See DC Reedy & CS Koper, *Impact of handgun types on gun assault outcomes: a comparison of gun assaults involving semiautomatic pistols and revolvers*, 9 INJURY PREVENTION 151, 151 (2002), available at <http://injuryprevention.bmj.com/content/9/2/151.full#aff-1>.

VIOLENCE POLICY CENTER, BACKGROUND ON GLOCK 19 PISTOL AND AMMUNITION MAGAZINES USED IN ATTACK ON REPRESENTATIVE GABRIELLE GIFFORDS AND OTHERS 1 (2011), available at www.vpc.org/fact_sht/AZbackgrounder.pdf.

Cold War, the propagation of increasingly dangerous guns on American streets has already taken an all-too-violent toll. In other words, tempering the trend toward more dangerous weapons actually *vindicates* the core Second Amendment right of self-defense and personal safety that *Heller* recognizes. In this context, as in many others, less is more.

But even looking beyond the market saturation of large-capacity magazines, this feature runs headlong into the other threshold obstacles that *Heller* requires Second Amendment claims to clear. As experts in effective firearms regulation have preached for years and particularly fervently in recent weeks, higher-capacity magazines pose greater dangers to public safety. By permitting shooters using semi-automatic weapons to continue firing more bullets without interruption, these magazines increase the potential lethality of armed killers.³¹ Though well-trained gun users can change magazines quickly, this interruption may, as we saw last year in the Arizona shooting of Rep. Gabby Giffords, afford time for heroic men or women to intervene and disarm the shooter.³² Moreover, this interruption gives our police a chance to return fire.³³ And it may even provide time for reflection and rethinking before murder becomes massacre.

³¹ BRADY CAMPAIGN TO PREVENT GUN VIOLENCE, ASSAULT-STYLE WEAPONS: HIGH-CAPACITY MAGAZINES, <http://www.bradycampaign.org/legislation/msassaultweapons/highcapacity> (last visited Feb. 2, 2013).

³² Ken Dolak & Justin Wealer, *Woman Wrestled Fresh Ammo Clip From Tucson Shooter as He Tried to Reload*, ABC NEWS (Jan. 9, 2011), <http://abcnews.go.com/Politics/patricia-maisch-describes-stopping-gunman-reloading/story?id=12577933>.

³³ I believe I can speak for many Americans when I thank Baltimore County Police Chief Jim Johnson for the illuminating insights he has publicly offered on the threats of high-capacity weapons not just to public safety in general but also law enforcement officer safety more specifically. See, e.g., John Quinones, *Baltimore Police Chief Wants to Ban High-Capacity Firepower*, ABC NEWS (Dec. 20, 2012), <http://abcnews.go.com/US/baltimore-police-chief-ban-high-capacity-firepower/story?id=18030163>

Against the evident dangerousness of high-capacity magazines as a design feature, we must evaluate the strength and plausibility of asserted self-defense interests. Critics of recent proposals to reestablish a limit on high-capacity magazines have argued that firing more than ten rounds without changing a magazine is necessary for effective self-defense. While I have no doubt that subscription to this perspective among some law-abiding gun owners is sincere, I doubt that it is well-founded. It's rhetorically effective to ask, "How many bullets do *you* want in your magazine when an intruder breaks into your home?" But the answer tells us little that is of relevance to the Second Amendment as *Heller* conceives that provision. I might want a magazine with twice as many bullets as any possible home intruder; I might want a machine gun too. But in the end that can't be the measure of what the Second Amendment says I have a *right* to own and deploy.

Despite the emotional resonance of this kind of appeal, incidents like burglaries and home invasions – even when they lead to the exchange of fire – are unlikely to *require* firing many shots. The NRA publishes a regular column featuring newspaper clippings of gun owners protecting themselves against intruder attacks, and an analysis of these reports over a five-year period demonstrated that in 50% of all cases, two or fewer shots were fired, and the average number of shots fired across the entire data sample was also about two.³⁴ Of course, this data comes from the episodes the NRA chooses to report, so selection bias is possible, meaning the

³⁴ Claude Verner performed the analysis of reporting over the period 1997 to 2001. The findings further show that when many shots were fired, a (presumably frightened) gun owner finished an entire magazine rather than firing the number of shots that necessarily had to be fired in light of the scenario. The analysis can be found reprinted with the author's permission at *Analysis of Five Years of Armed Encounters (With Data Tables)*, GunsSaveLives.net (March 12, 2012), <http://gunssavelives.net/self-defense/analysis-of-five-years-of-armed-encounters-with-data-tables/>.

average number of shots fired per incident could be even lower.³⁵ Even police officers traditionally found revolvers with six-bullet magazines sufficient for their own safety until more dangerous guns flooded the market.³⁶ And we should not lose track of the bigger picture: studies show that self-defense in the home with firearms is rare.³⁷ Additionally, firearms accidents are all too common: between 1965 and 2000, unintentional shootings accounted for the deaths of over 60,000 Americans.³⁸ Firing more bullets quickly may compound their damage.

Another version of the critics' response is that in scary situations, like home invasions, gun owners may go through bullets too quickly in a fit of nervousness or panic.³⁹ That may be true, but it also aggravates the downside hazard in cases of error,⁴⁰ so it is not at all clear that increased access to large-capacity magazines for shooters subject to fragile nerves represents a

³⁵ It seems likely, for example, that merely brandishing a weapon may often lead intruders to flee. A non-exhaustive review of the NRA column reveals several examples of exactly this scenario, giving me the impression that the NRA's reporting is not demonstrably biased toward extreme scenarios or even those in which some shots are fired. See, e.g., Armed Citizen, NRA (March 2012), <http://www.nrapublications.org/index.php/12492/armed-citizen-23/> (“[The resident] met the intruder at her bedroom door, pointed the gun at him and demanded he leave. The trespasser fled without hesitation.”).

³⁶ See Eugene Volokh, *Implementing the Right to Keep and Bear Arms for Self-Defense: An Analytical Framework and A Research Agenda*, 56 UCLA L. REV. 1443, 1489 (2009).

³⁷ A study of Atlanta police records, for example, found that victims of burglaries used guns in self-defense just 3% of the time. For a description of the study and a rich discussion of self-defense uses for firearms, see DAVID HEMENWAY, PRIVATE GUNS, PUBLIC HEALTH 67 (2004). The study is A.L. Kellermann et al., *Weapon involvement in home invasion crises*, 273 J. OF THE AM. MED. ASSOC. 1759 (1995).

³⁸ HEMENWAY, *supra* note 38, at 27 – 35.

³⁹ See, e.g., *Heller v. Dist. of Columbia*, 670 F.3d 1244, 1261 (D.C. Cir. 2011); Emily Miller, *The High Capacity Magazine Myth*, WASHINGTON TIMES (Jan. 27, 2013), <http://www.washingtontimes.com/news/2013/jan/27/the-high-capacity-magazine-myth/>; Jacob Sullum, *The Threat Posed by Gun Magazine Limits*, REASON (Jan. 16, 2013), <http://reason.com/archives/2013/01/16/the-threat-posed-by-gun-magazine-limits>.

⁴⁰ *Heller*, 670 F.3d at 1263 - 64 (“[T]he tendency is for defenders to keep firing until all bullets have been expended, which poses grave risks to others in the household, passersby, and bystanders.” (internal quotations omitted)).

net gain for home security or public safety. Finally, some critics of magazine-capacity limits have pointed out that, realistically, many gun owners have not received proper training and for that reason, may fire bullets indiscriminately; a larger magazine – so the thinking presumably goes – will increase the chances that at least one of their wayward shots will hit its mark.⁴¹ As the Supreme Court recognized in *Heller*, however, the Second Amendment protects only the right of “*responsible* citizens to use arms in defense of hearth and home.”⁴² In other words, a dangerous firearms feature otherwise outside the Second Amendment’s scope cannot become subject to heightened constitutional scrutiny because of the shortcomings of *irresponsible* gun owners.

To be sure, *some* gun owners may struggle to change magazines quickly not for lack of adequate training but rather by reason of disability or old age.⁴³ Perhaps a ban on high-capacity magazines without any exception for the disabled or elderly might, for this reason, trigger heightened scrutiny of such a ban as applied specifically to those individuals. But the possibility that a prohibition could raise constitutional questions in some subset of its applications does not mean that the prohibition is constitutionally vulnerable on its face.⁴⁴ And it remains the case that

⁴¹ See, e.g., Stephen Hunder, *Why 33 rounds makes sense in a defensive weapon*, WASHINGTON POST (Feb. 6, 2011),

<http://www.washingtonpost.com/wp-dyn/content/article/2011/02/04/AR2011020407083.html>

⁴² *Dist. of Columbia v. Heller*, 554 U.S. 570, 635 (2008) (emphasis added).

⁴³ Yih Chau-Chang, *High-Capacity Magazines And Their Critical Role In Lawful Self-Defense*, THE EXAMINER (March 10, 2011), <http://www.examiner.com/article/high-capacity-magazines-and-their-critical-role-lawful-self-defense>

⁴⁴ The Supreme Court has exhibited an extreme reluctance to strike down laws on their face – meaning in all applications – when only some applications would fall afoul of a constitutional provision (with the exception of the First Amendment, as facially overbroad laws may chill protected free speech). See RICHARD H. FALLON, DANIEL J. MELTZER & DAVID L. SHAPIRO, HART AND WECHSLER’S THE FEDERAL COURTS AND THE FEDERAL SYSTEM 162, 168 (6th ed. 2009).

large-capacity magazines are highly unlikely to be necessary to self-defense in the vast majority of home invasions or burglaries, even those that resort to the exchange of fire. The facial validity of a high-capacity magazine ban is therefore clear.

Despite the considerable market presence of high-capacity magazines, the danger they pose to public safety and the weakness of the self-defense justification for their possession means that two of the three threshold *Heller* factors point strongly against extending Second Amendment protection to high-capacity magazines. The D.C. Circuit Court of Appeals, in a case challenging Washington D.C.'s restriction on magazines with more than ten rounds, recently struggled with this first stage of analysis and determined that the court did not have before it sufficient evidence to decide whether the Second Amendment even *reached* large-capacity magazines.⁴⁵ However, the court went on to conclude that, even if it was proper to extend coverage of the amendment to large-capacity magazines, the government's interest in banning them was strong enough to do so without violating Second Amendment rights.⁴⁶

Having now reviewed the best evidence and argumentation advanced by defenders of high-capacity magazine possession, I doubt that the Supreme Court would find it necessary to reach that second stage of review in dealing with a ban on high-capacity magazines and am quite confident that, in any event, the Court would agree with the ultimate conclusion that, even if the amendment applies, a ban on high-capacity magazines withstands Second Amendment scrutiny.

⁴⁵ *Heller*, 670 F.3d at 1261.

⁴⁶ *Id.* at 1263 – 64.

In explaining that conclusion, I emphasize that commonly advanced rejections of a legitimate government interest in banning high-capacity magazines are deeply misleading. Many opponents of reasonable firearms regulation insist that we tried banning large-capacity magazines in 1994: the results are in, they say, and we failed. One favorite trope is to cite to a 1997 Department of Justice study, which, according to the recent testimony of Wayne LaPierre, “proved that [the] ban had no impact on lowering crime.”⁴⁷ But no one is even *arguing* that a ban on high-capacity magazines (or on assault weapons, for that matter) will necessarily decrease crime rates; highly lethal firearms will still be widely available on the market, and some criminals will use them, just as they do now.

What defenders of a ban on high-capacity magazines *do* argue is that such a ban will help prevent these criminals from killing or maiming as many people when they commit violent crimes. And that argument is solidly grounded. One study, for example, found that between 1984 and 1993, criminals using guns with high-capacity magazines or assault weapons as defined by the 1994 Assault Weapons Ban killed or injured an average of 29 victims, compared to the average 13 victims shot by criminals unequipped with large-capacity magazines.⁴⁸ Another study suggests that, since the lapse of the ban in 2004, high-capacity magazines have once again

⁴⁷ See, e.g., *What Should America Do About Gun Violence?: Hearing Before the S. Judiciary Comm.*, 113th Cong. (2013) (prepared testimony of Wayne LaPierre, Executive Vice President and Chief Executive Officer of the National Rifle Association).

⁴⁸ This study considered all “mass shooting” incidents: those in which six or more were killed or twelve or more were wounded. For an explanation of this study, see Christopher S. Koper, *America’s Experience with the Federal Assault Weapons Ban*, in *REDUCING GUN VIOLENCE IN AMERICA* 167 (Daniel W. Webster & Jon S. Vernick, eds., 2013). The study is Christopher S. Koper & Jeffrey A. Roth, *The Impact of the 1994 Federal Assault Weapon Ban on Gun Violence Outcomes: An Assessment of Multiple Outcome Measures and Some Lessons for Policy Evaluation*, 17 *J. OF QUANTITATIVE CRIMINOLOGY* 33 (2001).

become common in episodes of violent crime after the beginnings of a decline, which probably took place because the black market for these magazines had begun to dry up.⁴⁹

Even more misleading is the suggestion that in 1997 we could (or even today that we can) draw meaningful conclusions from the absence of unmistakable evidence of a decrease in violence following the 1994 ban. That legislation grandfathered or exempted many thousands of weapons already owned, and those could still be sold or transferred.⁵⁰ In other words, the 1994 ban was crafted with long-term effects in mind; to measure its effects notwithstanding its untimely end is to misunderstand fundamentally how the legislation was designed to work. It is therefore all the more telling that supporters of reasonable regulation can cite studies based upon identifiable trends emerging during the latter years of the ban, as well as evidence from both before and after the ban, showing that the legal availability of large-capacity magazines is indeed correlated with increased deaths and injuries caused by gun violence. Considered alongside the dangerousness inherent in a large-capacity magazine as a design feature, this evidence provides the government with a sufficient basis to satisfy the Second Amendment under any plausible understanding of the Supreme Court's jurisprudence surrounding that amendment.

⁴⁹ See David S. Fallis and James V. Grimaldi, *Va. data show drop in criminal firepower during assault gun ban*, WASH. POST (Jan. 23, 2011), <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452.html> (finding that in Richmond, Virginia, the percentage of guns with high-capacity magazines seized from criminals by police fell to a low of 10% by 2004, when the federal assault weapons ban expired, but has since rebounded to 22%).

⁵⁰ Koper, REDUCING GUN VIOLENCE IN AMERICA, *supra* note 49, at 165 – 66.

Assault Weapons Ban

By many accounts, the most important component of the newly proposed assault weapons ban is its prohibition on high-capacity magazines.⁵¹ But that does not mean that the remaining features of the proposal stand on weaker constitutional ground. Far from it. Application of *Heller*'s three threshold factors – dangerousness, commonness of use, and connection to core self-defense interests – demonstrates that the Second Amendment does not provide legal shelter to the features that trigger a firearm's prohibition under the ban.

Opponents of the legislation as well as some proponents of new firearms regulation have observed that some of the “military characteristics” that can lead to prohibition under the legislation⁵² (and, by some accounts, under assault weapons bans in general⁵³) are mostly cosmetic traits designed to make a gun *appear* dangerous and are not, in fact, intrinsically hazardous. But Congress would surely be acting within its constitutional authority if it were to reject this characterization as self-serving or otherwise unreliable. For example, the Brady Campaign to Prevent Gun Violence insists that “[p]istol grips . . . help stabilize the weapon during rapid fire and allow the shooter to spray-fire from the hip position [and that] [b]arrel

⁵¹ Tom Diaz, a researcher for the Violence Policy Center, has repeatedly called on lawmakers to focus their attention on a high-capacity magazine ban. *E.g.*, Tom Diaz, *Ten Ways to Spot a Sell-Out on Gun Control*, FAIRLY CIVIL (Jan. 14, 2013, 2:26 PM),

<http://tomdiazgunsandgangs.com/2013/01/14/ten-ways-to-spot-a-sell-out-on-gun-control/> (“An effective law will focus on one prime feature—the ability to accept a high-capacity magazine.”).

⁵² *See, e.g.*, *What Should America Do About Gun Violence?: Hearing Before the S. Judiciary Comm.*, 113th Cong. (2013) (statement by Sen. Ted Cruz) (“Now, what the assault weapons ban instead targets are cosmetic features.”).

⁵³ *See, e.g.*, Nicholas J. Johnson, *Supply Restrictions at the Margins of Heller and the Abortion Analogue: Stenberg Principles, Assault Weapons, and the Attitudinalist Critique*, 60 HASTINGS L.J. 1285, 1295 (2009).

shrouds on assault pistols protect the shooter's hands from the heat generated by firing many rounds in rapid succession.”⁵⁴ Moreover, even if the characterization of these features as cosmetic were accurate, it would make little difference as a constitutional matter. In a recent televised interview, Justice Scalia explained the basis in history for exempting certain types of regulations from Second Amendment review. Certain limitations on gun ownership are constitutionally permissible, he contended, “because there were some [regulations] that were acknowledged at the time [of the Founding]. For example, there was a tort called affrighting . . . if you carried around a really horrible weapon just to scare people, like a head ax or something. . . .”⁵⁵ What the Justice evidently meant was that regulating weapons because they are chosen specifically for their intimidating appearance is constitutionally unproblematic because the very use of intimidation is unnecessarily disruptive to organized society.⁵⁶

Even more important to the constitutionality of the assault weapons ban is the absence of any connection to the core Second Amendment right to defend oneself with a firearm. At this committee’s hearing on January 30, several witnesses criticized the assault weapons ban on policy grounds, but in my role as a constitutional lawyer listening intently for arguments relevant to the proposal’s Second Amendment propriety, I was struck by the failure of anyone’s

⁵⁴ Brady Campaign to Prevent Gun Violence, The Top 10 NRA Myths About Assault Weapons, [http:// www.bradycampaign.org/issues/assaultweapons/nramyths/](http://www.bradycampaign.org/issues/assaultweapons/nramyths/).

⁵⁵ Interview with Justice Antonin Scalia by Chris Wallace, FOX NEWS SUNDAY (July 29, 2012), transcript available at <http://www.foxnews.com/on-air/fox-news-sunday/2012/07/29/justice-antonin-scalia-issues-facing-scotus-and-country#p/v/1760654457001>.

⁵⁶ Justice Scalia’s point about the tort of affrighting surfaces in the *Heller* decision itself: the majority opinion cited three illustrative examples of state courts entertaining such actions in the nineteenth century. See *Dist. of Columbia v. Heller*, 554 U.S. 570, 627 (2008) (citing, e.g., *State v. Lanier*, 71 N.C. 288, 289 (1874) (“The elementary writers say that the offence of going armed with dangerous or unusual weapons is a crime against the public peace by terrifying the good people of the land, and this Court has declared the same. . . .”)).

testimony to support these features as essential to self-defense. In fact, I have searched in vain for any reasoned arguments that pistol grips, forward grips, telescoping stocks, grenade or rocket launchers, and barrel shrouds are indispensable or even contribute to self-defense.

Finally, it is relevant to ask how many assault weapons Americans currently own. Data is hard to come by in large part because firearms manufacturers refuse to release data tracking their sales.⁵⁷ What we do know is that the number of weapons that would qualify under either the proposed ban's so-called "characteristics test" or its explicit list of banned models is smaller than the number of guns with standard-issue high-capacity magazines.⁵⁸ One reporter's painstaking analysis estimated that there are 3.75 million AR-15-style rifles owned in the U.S. today, and AR-15s are the most popular although not the exclusive type of qualifying assault weapon.⁵⁹ The NRA's lobbying arm estimates that, depending upon the definition of assault weapon, assault weapons represent 15% of all semi-automatic guns owned in the U.S., which in turn represent about 15% of all firearms owned in the U.S.⁶⁰ Given that the Congressional Research Service recently found that, as of 2009, Americans own about 310 million guns,⁶¹ the NRA's estimate would translate into approximately 7 million assault weapons owned today. Although 7 million is hardly a negligible figure, it still corresponds to quite a small portion of the

⁵⁷ Justin Peters, *How Many Assault Weapons Are There in America? How Much Would It Cost the Government To Buy Them Back?*, SLATE (Dec. 20, 2012), http://www.slate.com/blogs/crime/2012/12/20/assault_rifle_stats_how_many_assault_rifles_are_there_in_america.html.

⁵⁸ See Koper, REDUCING GUN VIOLENCE IN AMERICA, *supra* note 49, at 161 (explaining that the universe of large-capacity magazine equipped firearms is broader than the universe of weapons satisfying the criteria for categorization as an assault weapon).

⁵⁹ Peters, *supra* note 58.

⁶⁰ *Top Ten Frequently Asked Questions*, NRA-ILA, <http://www.gunbanfacts.com/FAQ.aspx> (last visited February 2, 2013).

⁶¹ WILLIAM J. KROUSE, CONG. RES. SERV., RL32842, GUN CONTROL LEGISLATION 8 (2012).

overall gun market – hardly enough to justify calling such weapons “common” within the meaning of *Heller*.

But for the purposes of constitutional analysis, debating how to characterize the significance of assault weapons’ market presence would be a waste of time. To make a difference to *Heller*’s threshold inquiry, which must take notice of the complete lack of any connection of assault-weapon features to self-defense as well as these features’ dangerousness in both fact and appearance, the market presence of assault weapons would have to be overwhelmingly large (and even then, I doubt seriously the bottom line would change as a constitutional matter). And overwhelmingly large it assuredly is not.

Universal Registration and Background Checks

All responsible participants in the gun safety debate agree that some groups of people simply should not be allowed to own, keep, or carry guns. Those groups include children, dangerous felons, and those with serious mental illnesses that preclude safe gun ownership. When some observers casually compare the Second Amendment to the First, they forget this essential difference: Although freedom of speech sometimes comes at a price, and although speech can at times pose dangers, our constitutional system addresses those dangers by permitting government to impose carefully crafted limits on speech, not by limiting or licensing eligible speakers. The Constitution’s strategy with respect to guns is entirely different. It addresses the dangers of guns in the wrong hands by permitting government to keep them out of

those hands in the first place, and, of course, by permitting government to regulate where and under what conditions people can bear those weapons in possible confrontation with others.

Accordingly, this Congress might be called upon to consider measures designed to minimize the risk that guns fall into the hands of such prohibited purchasers and owners. Measures dealing with straw purchases and trafficking are obviously important in that effort and are clearly constitutional. Rather than spending the committee's time on those measures, I will focus here on provisions that mandate universal registration requirements or a universal background check, closing the many notorious loopholes that characterize current laws on the subject. There is no serious doubt that requiring universal registration or a universal background check would comply with the Second Amendment.

It is important to recognize, at the outset, that prohibiting particular groups of people from owning or possessing guns is fully compatible with the Second Amendment. In the first place, such prohibitions are consistent with the original and traditional understanding of the Second Amendment. It was widely accepted at the time of the framing that not every person had a right to keep and bear arms; instead, the right was closely tied to the notion of responsible citizenship, and it has long been denied to criminals and others whose possession of guns would pose a severe danger to the public.⁶² On this point, precedent aligns closely with history. The Supreme Court said in *District of Columbia v. Heller*: “[N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the

⁶² See *United States v. Rene E.*, 583 F.3d 8, 15–16 (1st Cir. 2009).

mentally ill ...”⁶³ The Court fortified this conclusion in *McDonald v. City of Chicago*, when it added: “We made it clear in *Heller* that our holding did not cast doubt on such longstanding regulatory measures as ‘prohibitions on the possession of firearms by felons and the mentally ill’ ... We repeat those assurances here.”⁶⁴

Once the constitutionality of prohibiting gun possession by some people is accepted, the constitutionality of a reasonable system of registration or background checks follows automatically. The most powerful argument for this inference is not a technical legal point; it is, instead, common sense. And, although it shouldn’t be necessary to cite authority for the point, it’s worth noting that as eminent an authority as Alexander Hamilton wrote in *The Federalist* that “[t]he rules of legal interpretation are rules of *common sense*,” and that the “true test” of a “just application” of these rules is whether the resulting interpretation is “consistent with reason and common sense.”⁶⁵

Consider, then, whether the Constitution would be “consistent with reason and common sense” if it allowed prohibitions on firearms purchases by felons but disallowed background checks to determine whether a felon was the would-be purchaser of a firearm. As a matter of common sense, we all know that guns do not of their own accord stay out of the hands of prohibited purchasers. Nor are prohibited purchasers likely to confess their legal inability to buy guns when talking to gun dealers. The prohibitions, in short, do not enforce themselves. In order to be effective, in order to be meaningful, in order to be anything more than rules on paper, they

⁶³ 554 U.S. 570, 626 (2008).

⁶⁴ 130 S. Ct. 3020, 3047 (2010) (plurality opinion).

⁶⁵ *The Federalist* No. 83, at 495 (Alexander Hamilton) (Clinton Rossiter ed., 1961).

must be comprehensive and must be carried into operation by the government. It contradicts common sense—it ignores the fact that “the framers of the Constitution were not mere visionaries, toying with speculations or theories, but practical men”⁶⁶—to say on the one hand that prohibiting felons from owning guns is constitutional, but to insist on the other hand that the background checks that seek to make those prohibitions effective are unconstitutional.

The Supreme Court’s decisions in *District of Columbia v. Heller* and *McDonald v. City of Chicago* confirm the constitutionality of reasonable background check requirements. *Heller* expressly affirms that the Court was not calling into doubt “laws imposing conditions and qualifications on the commercial sale of arms.”⁶⁷ The *McDonald* Court “repeat[ed] those assurances,” observing that its holding “does not imperil every law regulating firearms.”⁶⁸ The universal registration requirement or background check is simply a “condition[.]” on the transfer of arms; it is therefore expressly within the zone of permissible regulation identified by *Heller* and *McDonald*.

Analogous Supreme Court doctrine points in the same direction. The right to vote, like the right to keep and bear arms, is a fundamental right of Americans.⁶⁹ But no serious legal scholar doubts that before letting a citizen cast his ballot, the government may require the citizen to register and may take steps to check whether he or she really is an eligible voter. And the

⁶⁶ *NFIB v. Sebelius*, 132 S. Ct. 2566, 2589 (2012) (opinion of Roberts, C.J.) (quoting *South Carolina v. United States*, 199 U.S. 437, 449 (1905)).

⁶⁷ 554 U.S. at 626–27.

⁶⁸ 130 S. Ct. at 3047 (plurality opinion).

⁶⁹ Compare *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966) (holding that the right to vote is fundamental), with *McDonald v. City of Chicago*, 130 S. Ct. 2020 (2010) (holding that the right to keep and bear arms is fundamental).

Supreme Court agrees; in *Crawford v. Marion County Election Board*, for example, it concluded that Indiana’s voter ID law was a permissible means of ensuring that only eligible voters participate in an election.⁷⁰ Checking whether a voter is eligible before giving that voter a ballot is comparable to checking whether a purchaser is eligible before letting her acquire a gun. Just as the former is constitutional, so is the latter. And the argument is of course even stronger in the instance of firearms. For, unlike a ballot in the hands of an ineligible voter, which might in the end prove to make no difference to who wins or loses the election at issue, a gun in the hands of even one ineligible owner poses a deadly danger all by itself.

History reinforces common sense and case law in this regard. The Supreme Court in *Heller* and *McDonald* stressed the role of history in interpreting the scope of the Second Amendment; “longstanding” prohibitions upon gun ownership, the Court indicated, are presumptively exempt from Second Amendment scrutiny.⁷¹ Lower courts have likewise noted that history plays an important, though not exclusive, role in determining the scope of permissible regulation under the Second Amendment.⁷² Measures to keep guns out of the hands of prohibited owners – owners who could not safely be entrusted with control of a lethal weapon – have a strong historical pedigree. For example, many states have longstanding laws—sometimes, laws dating back a century or more—requiring sellers to keep registers of all firearm purchasers; the registers had to be open to peace officers.⁷³ The government could use thus use

⁷⁰ 553 U.S. 181 (2008) (plurality opinion).

⁷¹ See 554 U.S. at 626–27; 130 S. Ct. at 3047 (plurality opinion).

⁷² See, e.g., *Heller v. District of Columbia*, 670 F.3d 1244, 1253 (D.C. Cir. 2011); *Ezell v. City of Chicago*, 651 F.3d 684, 701–04 (7th Cir. 2011); *United States v. Marzzarella*, 614 F.3d 85, 89 (3d Cir. 2010); *United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010); *United States v. Reese*, 627 F.3d 792, 800–01 (10th Cir. 2010).

⁷³ See *Heller*, 670 F.3d at 1253–54.

these registers to determine whether any of the purchasers had obtained weapons in violation of the law.

To be sure, modern computerized background checks differ from the more cumbersome historical enforcement measures known to history. But “a constitution [is] intended to endure for ages to come.”⁷⁴ Just as the Second Amendment covers modern weapons, like handguns, that did not exist when the Bill of Rights was ratified in 1791, so too does it cover modern enforcement measures, like mandatory computerized background checks, that could not have been anticipated in 1791. Reasonable background checks fit into the long historical tradition to which registration requirements belong, and that is enough to sustain them without further ado under the tests established by the Supreme Court in *Heller* and *McDonald*.

In short, all relevant legal considerations—logic and common sense, directly applicable precedent, analogies to surrounding legal doctrines, and history and tradition—point to the same conclusion. The Second Amendment does not prohibit Congress from passing laws to carry into effect concededly constitutional prohibitions on firearm purchases. The universal background check, in particular, easily passes constitutional muster as a permissible regulation of the transfer of firearms.

This is not to say that all conceivable background check systems would comport with the Constitution. Suppose, for example, that Congress were to pass a law requiring handgun purchasers to undergo an extensive check on the purchasers themselves and all their family

⁷⁴ *McCulloch v. Maryland*, 17 U.S. 316, 415 (1819).

members and housemates, a check that took years to complete. Such a scheme would plainly impose a very severe burden on the right to keep and bear arms for self-defense. The burden would be entirely disproportionate to the objective the government is seeking to pursue. Where a background check is taken to such lengths that it effectively destroys the right to keep and bear arms, rather than ensuring that the right is enjoyed only by those constitutionally entitled to it, the government has overstepped the lawful boundaries of its power.

Such concerns are entirely out of place here, however. Whether a particular background check scheme that Congress adopts would go too far obviously depends on the specific details of that scheme. But none of the proposals seriously under consideration at the present come remotely close to overstepping constitutional boundaries. The proposed background check frameworks, especially those that rely on checks conducted instantaneously through the National Instant Background Check System, impose a constitutionally insignificant burden upon law-abiding citizens. Indeed, an instant background check is much *less* onerous than the Voter ID law that the Supreme Court upheld in *Crawford v. Marion County Election Board*; it is also much less cumbersome than longstanding registration requirements and other conditions on sale⁷⁵ that are concededly constitutional. Ultimately, therefore, I see no merit to the constitutional objections to the background check proposals presently being seriously considered by Congress.

III. The Consistency of the President's Measures with the Separation of Powers

⁷⁵ See *Heller*, 670 F.3d at 1253.

This January, President Obama announced twenty-three steps that his Administration would take to prevent gun violence.⁷⁶ The President has begun to implement these steps by using the executive powers vested in him by the Constitution and laws of the United States. Because the President adopted these measures by executive action, without specific congressional involvement, some have concluded that the President violated the separation of powers established by the Constitution. This claim is legally untenable; the President is acting well within his powers as head of the executive branch.

Some of the President's measures involve nothing beyond communicating with members of the public. Measure 23, for example, is to "[l]aunch a national dialogue ... on mental health." There is plainly no constitutional problem with executive steps of this sort. The President obviously does not need congressional permission every time he decides to give a speech or publish a press release.

Another category of measures—and this covers the great majority of the actions that the President has committed to take—includes steps that will improve the enforcement of federal laws already on the books. Thus, the President has agreed to "[m]aximize enforcement efforts to prevent gun violence and prosecute gun crime."⁷⁷ He has likewise decided "to require federal law enforcement to trace guns recovered in criminal investigations."⁷⁸ These improvements to

⁷⁶ See, e.g., Colleen Curtis, *President Obama Announces New Measures to Prevent Gun Violence*, Jan. 16, 2013, available at <http://www.whitehouse.gov/blog/2013/01/16/president-obama-announces-new-measures-prevent-gun-violence>.

⁷⁷ Measure 13.

⁷⁸ Measure 9.

federal law enforcement efforts plainly fall within the President’s constitutional power—and constitutional responsibility—to “take Care that the Laws be faithfully executed.”⁷⁹

A third group of measures involves the making of rules and regulations under preexisting congressionally granted authority. For instance, step 21—“[f]inalize regulations clarifying essential health benefits and parity requirements within ACA exchanges”—simply carries into effect authority granted by the Patient Protection and Affordable Care Act.⁸⁰

Step 11, “[n]ominate an ATF director,” is equally clearly within the President’s constitutional powers; the Constitution expressly states that the President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint ... Officers of the United States.”⁸¹ Likewise, the Constitution plainly authorizes the President’s requests for information from executive branch officials, such as step 15, “direct[ing] the Attorney General to issue a report on the availability and most effective use of new gun safety technologies and challenge the private sector to develop innovative technologies”; Article II provides that the President “may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices.”⁸²

Finally, and perhaps most controversially, some of the President’s measures entail the issuance of interpretations of existing laws. To this class belongs, for instance, step 16, “[c]larify[ing] that the Affordable Care Act does not prohibit doctors asking their patients about

⁷⁹ U.S. Const. art. II, § 3.

⁸⁰ Patient Protection and Affordable Care Act of 2010, Pub. L. 111-148, § 1321(a).

⁸¹ U.S. Const. art. II, § 2, cl. 2.

⁸² U.S. Const. art. II, § 2, cl. 1.

guns in their homes.” To be sure, the Article III judiciary must ultimately interpret laws when applying those laws in the context of concrete cases or controversies. But it is well established that the President also has the authority to interpret the law—and especially the power to announce legal interpretations concerning issues that have not yet been settled by the courts. In fact, the tradition of presidential clarifications of the law goes back to President George Washington’s Neutrality Proclamation. The tradition also has a solid grounding in the text of the Constitution; it is based on the Constitution’s vesting in the President of “the executive Power,” and in its imposition on the President of the power and duty to “take Care that the Laws be faithfully executed.”⁸³

In sum, although some opponents of gun regulation might disagree with some of the President’s executive actions as a matter of policy, those disagreements cannot plausibly be translated into constitutional objections. From a separation-of-powers perspective, the President has acted well within the bounds of his constitutionally assigned authority.

In closing, I note that I share the beliefs of many that the prevalence of guns in our country is by no means the only significant contributor to the tragedy at Newtown and to the many other gun-related massacres we have seen in recent months and recent years, or to the deaths of an average of over 30 Americans, nearly 5 of them children, *each and every day* as a result of gunfire homicides in less visible, and often virtually unnoticed, tragic incidents.⁸⁴

⁸³ U.S. Const. art. II, §§ 1, 3.

⁸⁴ The Center for Disease Control reports that in 2010, 11,078 individuals in the U.S. died from firearm-related homicides. 1,773 of them were between the ages of 0 and 19. *See* CENTER FOR DISEASE CONTROL, NATIONAL CENTER FOR INJURY PREVENTION & CONTROL, *WISQARS*

Violence has many causes. Violent video games, for example, some of them simulating mass shootings, may well play a significant role in the inculcation of violent attitudes among children.⁸⁵ And mental illness plainly played a significant part in bringing about the massacre at Newtown. If our country is to reduce the incidence of similar unspeakable violence in the future, the widespread availability of high-powered guns to people who should not possess them and who have no constitutional right to do so is by no means the only phenomenon that our government, our society, and our families need to address.

But it is simply not true that the presence of other causes of gun violence means that we neither can nor should do anything significant about the prevalence, too often in the wrong hands, of high-powered guns and high-capacity magazines that turn those guns from means of self-defense into weapons of mass destruction. It is not true constitutionally, it is not true politically, and it is not true morally. We must do our best to address in a serious way *every* source of avoidable death by firearms that we can, and if we always point to other problems still waiting to be solved we will never get started.

The time to get started on sensible gun regulation is not now—it was weeks, months, years, even decades ago. The Second Amendment is not a barrier. We have already delayed too long, and our society has paid a terrible price. We should delay no longer.

Fatal Injury Reports, National and Regional, 1999 – 2010,
http://webappa.cdc.gov/sasweb/ncipc/mortrate10_us.html (last visited Feb. 4, 2013).

⁸⁵ See *Brown v. Entertainment Merchants Ass'n*, 131 S. Ct. 2729, 2767–71 (2011) (Breyer, J., dissenting).

Exhibit 53

Responses to Questions for the Record, March 6, 2013
Professor Laurence Tribe

QFRs from Senator Grassley

- (1) Your prepared testimony quite correctly noted that the Supreme Court’s *Heller* decision confirmed the constitutionality of “longstanding prohibitions on the possession of firearms by felons and the mentally ill” as well as historic prohibitions on “dangerous or unusual” weapons. However, on page 11, you wrote, “It is not inconceivable – indeed, it seems quite likely—that the Court’s pause to distinguish unusually dangerous weapons from widely possessed handguns had precisely the 1994 Assault Weapons Ban, which included a prohibition on high-capacity magazines, in mind.”

I fail to see the basis for the inference. The Court made clear the constitutionality of existing statutory prohibitions on possession of firearms by felons and the mentally ill, which dated back many decades. The analogous longstanding prohibition on dangerous weapons that the Court signaled was constitutional was obviously the longstanding ban on very dangerous machine guns. By contrast, the “assault weapons” ban existed for only ten years, and it had expired by the time of the *Heller* ruling. I do not think any fair reading of this language from the Court’s opinion conclusively determines that an “assault weapons” ban, as opposed to a ban on machine guns, is constitutional under the Second Amendment. What is your basis for concluding that this language shows that such a ban would not “even implicate[] a [Second Amendment] right in the first place”?

RESPONSE

In *Heller*, the Supreme Court recognized the “historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons’” and unambiguously advised that the decision did not cast doubt upon this tradition.¹ Furthermore, the 1994 Assault Weapons Ban fit soundly within this tradition. At the time *Heller* was argued, the federal assault weapons ban was the most recently enacted – and still to this day remains – the paradigmatic contemporary example of major federal legislation prohibiting dangerous weapons. Thus, when I wrote in my prepared testimony that “it seems quite likely . . . that the Court[] had precisely the 1994 Assault Weapons Ban . . . in mind,” I meant simply that, because the federal assault weapons ban was the paradigmatic example of contemporary federal gun-control legislation, it was likely on the minds of the justices and one factor that prompted the Court to reaffirm explicitly the tradition of prohibiting dangerous weapons. Although the federal assault weapons ban was, of course, not

¹ Dist. of Columbia v. Heller, 554 U.S. 570, 627 (2008).

before the Court in *Heller*, it was referenced throughout the briefs submitted to the Court,² confirming that it was almost certainly on the minds of the justices.

I also feel compelled to point out that your question mischaracterizes, in several respects, the point I made in my testimony as well the *Heller* decision itself. First, you assert that no “fair reading of [the] language from the Court’s opinion *conclusively* determines that an ‘assault weapons’ ban . . . is constitutional under the Second Amendment.” (emphasis added). I agree entirely and never contended that the Court’s reference to prohibitions on “dangerous and unusual” weapons or any part of *Heller conclusively* addresses the constitutional questions raised by the proposed assault weapons and high-capacity magazine bans. The majority decision in *Heller* never so much as mentions the term “assault weapon,” so I hardly could have argued that the decision takes a conclusive position on the matter. But a reasonable inference from *Heller* is that the majority went out of its way to affirm the constitutionality of “dangerous” weapon prohibitions to quell any concern that the Second Amendment would restrict future efforts to reauthorize the most well-known contemporary prohibition on “dangerous” weapons.

Second, your reading of *Heller*’s reference to a “historical tradition” of prohibiting “dangerous” weapons seems to presume that the Court meant to freeze that tradition in place, permitting the government to prohibit dangerous weapons historically banned but not newer weapons that lack the same regulatory pedigree. Yet the very nature of a “tradition” is that it links our past with our present. From that perspective, I find it quite significant that the Court did *not* narrowly define the relevant tradition as, for example, “the tradition of banning machine guns.” In defining the tradition as the “tradition of prohibiting . . . ‘dangerous and unusual’ weapons,”³ the Court signaled its support for allowing contemporary legislatures to maintain that tradition by banning especially dangerous weapons that new technologies introduce to American markets.

(2) On page 21 of your prepared testimony, you criticized the original “assault weapons” ban because it “grandfathered many thousands of weapons already owned, and those could still be sold or transferred.” Do you believe that assuming that an “assault weapons” ban were constitutional, it could only be truly effective if it did not grandfather existing weapons, or at least criminalized the sale or transfer or such weapons?

RESPONSE:

As someone who supports an assault weapons ban because it will help to stem the tide of gun violence in our country, I of course would like to see the enactment of a ban that is as effective as possible, consistent with all applicable constitutional constraints. Many gun-

² See, e.g., Brief of the American Bar Association as Amicus Curiae Supporting Petitioners, at 13 – 14, *District of Columbia v. Heller*, 554 U.S. 570 (2008), 2008 WL 136349; Brief for State Firearm Associations as Amici Curiae in Support of Respondent at 21, n. 19, *District of Columbia v. Heller*, 554 U.S. 570 (2008), 2008 WL 383519.

³ *Heller*, 544 U.S. at 627.

control experts believe that the best means to effectuate the goals of an assault weapons ban is to get those guns off the streets immediately. However, I recognize that at least some steps designed to achieve that aim would raise substantial constitutional questions. I also understand that, as with any sweeping regulatory change, sometimes the best way to change minds and gain broad-based buy-in from the American public is to take incremental steps.

I believe an assault weapons ban, with or without a grandfathering provision, will be an effective measure in reducing gun violence. The grandfathering approach may, however, take more time to prove its effectiveness. In drawing attention to the grandfathering policy in the 1994 ban, I meant only to rebut unfair criticisms of that ban for failing to contribute to a significant decline in gun violence before its premature expiration. The ban was not designed to work in a single a decade, and the Second Amendment certainly does not require that courts adopt such a short window for evaluating effectiveness.

(3) You testified that universal registration of firearms is constitutional under the Second Amendment. Do you believe that universal registration is an advisable measure to enact?

RESPONSE:

Many states have enacted gun registration laws, and as my prepared testimony demonstrates, there is no Second Amendment bar to reasonable registration requirements at either the state or federal level. As a policy matter, I find that mandatory, loophole-free registration is an eminently sensible means to aid law enforcement efforts to investigate crime and to ensure that firearms do not fall into the hands of felons and mentally ill persons, as well as others to whom the Second Amendment, rightly understood, does not extend a right to keep and bear arms. And federal efforts in particular are essential because no state or locality is an island when it comes to the sea of firearms.

(4) On page 24 of your prepared testimony, you indicated that conditions and qualifications on the commercial sale of arms are constitutional under the Second Amendment. Does this mean that Congress can ban the sale or transfer of all arms that are not handguns? Can Congress constitutionally ban the sale of any arms by citizens?

RESPONSE:

I believe your question mistakenly cites to page 24 of my prepared testimony. Perhaps you intended to reference page 28, in which I quote the Supreme Court in *Heller* as recognizing the common sense proposition that “laws imposing conditions and qualifications on the commercial sale of arms” are constitutionally permissible.⁴ As my testimony demonstrates, this statement in the *Heller* decision means that Congress may

⁴ *Id.* at 626 – 27.

enact reasonable background-check rules for gun sales. I have no doubt that Congress may lawfully enact similar types of regulations governing all firearm sales, including private sales between citizens. Your question further asks whether Congress may ban the “sale of any arms by citizens” or whether Congress may prohibit the sale or transfer of “all arms that are not handguns.” As my prepared testimony makes clear, the constitutionality of any ban on the sale or possession of a certain type of weapon must be determined, *first*, by evaluating the law in light of the three threshold factors that determine the scope of Second Amendment coverage (dangerousness, nexus to self-defense, and commonality of use), and *second*, assuming the law does not implicate core Second Amendment values, by applying an intermediate level of scrutiny to the law, just as most federal and state courts have done in response to Second Amendment challenges. Beyond offering that response, I do not think it would be sensible for me to speculate about the legality of hypothetical laws described at such an abstract level of generality.

QFRs from Senator Graham

- (1) How can the lower courts’ widespread adoption of an “intermediate scrutiny” standard be squared with the *Heller* court’s rejection of the interest-balancing approach advocated by Justice Breyer? Isn’t intermediate scrutiny just another name for interest balancing?**

RESPONSE:

State and federal courts have typically applied some form of intermediate scrutiny when evaluating the constitutionality of gun regulations under the Second Amendment. This approach is not inconsistent with the Court’s rejection of Justice Breyer’s “interest-balancing approach,” and the *Heller* majority expressly said so. In rejecting Justice Breyer’s approach, Justice Scalia’s majority opinion argued that Justice Breyer favored “none of the traditionally expressed levels (strict scrutiny, *intermediate scrutiny*, rational basis), but rather a judge-empowering ‘interest-balancing inquiry.’”⁵ Moreover, the Court in *Heller* expressly noted that the D.C. handgun ban failed to withstand “any of the standards of scrutiny that we have applied to enumerated constitutional rights.”⁶ It is unclear whether Judge Breyer’s “interest-balancing” approach would have meaningfully differed from traditional intermediate scrutiny in practice. The *Heller* majority certainly supposed that it could, and for that reason, we will never find out. What is unambiguously clear is that the plain text of *Heller* forecloses any contention that intermediate scrutiny is inappropriate for evaluating Second Amendment claims.

- (2) You mention the 1915 case in which the Supreme Court held that motion pictures—a new technology at the time—weren’t entitled to First Amendment protection. You call that a “misjudgment,” and I agree. But isn’t this comparable to your argument that certain modern firearms that**

⁵ *Id.* at 634 (emphasis added).

⁶ *Id.* at 628.

you consider “unusually dangerous” aren’t protected by the Second Amendment?

RESPONSE:

My characterization of the Supreme Court’s 1915 ruling in *Mutual Film Corp. v. Indus. Comm’n of Ohio* is not at all analogous to my conclusion that the Second Amendment does not protect assault weapons and high-capacity magazines. First, the explanation for the Court’s decision in *Mutual Film* seems to lie in the Court’s inadequate understanding of film as a new technology and its unduly limited conception of “speech” as a constitutionally protected activity. By contrast, I contend that assault weapons and high-capacity magazines fall outside the Second Amendment’s scope *precisely because of my* understanding of how they operate and the special dangers they pose.

Second, although they are of course comparable in some respects, the First and Second Amendments implicate different values and concerns, making simplistic analogies between the two fields more misleading than instructive. Given the potentially enormous hazards to public safety inherent in the development of new weapons technologies, our Second Amendment doctrine must take cognizance of the dangerousness of modern weaponry when determining whether certain types of weapons are constitutionally protected. It is for this reason that the Supreme Court in *Heller* was so wise to incorporate dangerousness as a threshold consideration. Though certain new types of speech may pose novel threats to public welfare – violent interactive video games, for example – the degree of that threat is not nearly so strong, and the threat is in any event far less direct. This difference means that special judicial caution when construing the First Amendment to embrace new technologies is unwarranted.

- (3) You refer to the Heller court’s list of “longstanding prohibitions” as “examples of regulations that should not even receive further constitutional review.” But the Court referred to these measures as “presumptively lawful.” In your view, can that presumption ever be rebutted? For example, not every “condition and qualification on the commercial sale of arms” is automatically constitutional, is it? In fact, you say that a background check that took years to complete would be “a very severe burden” on Second Amendment rights, so doesn’t that confirm that the “presumptively lawful” measures mentioned in Heller aren’t immune from review?**

RESPONSE:

The text of the *Heller* opinion states unequivocally that longstanding regulations are “permissible”⁷ and that these regulations fall within “exceptions” to the right to keep and bear arms.⁸ These statements establish that, if a regulation falls squarely within a historical tradition, then it is no longer subject to Second Amendment scrutiny. There is

⁷ 554 U.S. at 635

⁸ *Id.*

no other way to make sense of *Heller*'s clear statement that such a regulation comes within an "exception" to the right.

To be sure, even if a longstanding regulation is not subject to *Second Amendment* scrutiny, it may still be unconstitutional because it violates *some other constitutional principle*. For example, it is an unfortunate truth that in our country many states historically had laws prohibiting African Americans from bearing arms. Notwithstanding the historical pedigree of these laws, they are obviously unconstitutional; they are blatant violations of the principle of equality expressed in the Fifth and Fourteenth Amendments. Hence, I agree that longstanding regulations are "presumptively lawful"—not automatically so.

But when it comes to the proposed regulations pending before Congress, there can be no suggestion that they violate a constitutional principle apart from the Second Amendment. It follows that, under *Heller*, the long historical pedigree of these types of regulations establishes that they fall within an "exception" to the Second Amendment—without any need for further constitutional review.

(4) You mention the court's reference to "dangerous and unusual weapons." But isn't the historical record clear that the old rule against carrying such arms—going back to 14th century England—was really a time, place and manner restriction? After all, in the 14th century, there wasn't that much variety of swords, spears, crossbows and so on, and in the American cases applying it (notably in North Carolina, well into the 1960s) it was held to refer to perfectly ordinary, unquestionably common guns that were brandished or fired in a dangerous way. In fact, in the Lanier case that you cite, wasn't the North Carolina Supreme Court dealing with a defendant who rode his horse through a courthouse, and didn't the court say it would "attach no importance to the fact that *the defendant had no arms*"?

RESPONSE:

When *Heller* says that historical tradition supports excluding "dangerous and unusual weapons" from Second Amendment coverage, it clearly means that certain *types of weapons* may be prohibited outright—not just that these weapons are subject to time, place, and manner restrictions.

First, as a matter of ordinary English usage, "dangerous and unusual weapons" refers to a category of weapons, not to a category of times, places, or ways to use a weapon. Second, the *Heller* Court explicitly said that the dangerous-and-unusual exception concerns the "sorts of weapons" covered by the Second Amendment.⁹ Third, the Court said that a prohibition on machineguns was an example of a regulation of "dangerous and unusual weapons."¹⁰ Such a regulation obviously cannot be rationalized as a time, place, and

⁹ *Id.* at 627.

¹⁰ *Id.* at 624, 627.

manner restriction; rather, it is an outright prohibition of a type of weapon – and indeed of a type of weapon that could easily have become “common” had it not been banned so quickly.

It is true that legislatures may go beyond prohibiting particularly dangerous and unusual weapons, and may in addition prohibit using ordinary weapons at dangerous times, in dangerous places, or in dangerous ways. For example, *Heller* indicated that longstanding laws “forbidding the carrying of firearms in sensitive places” comport with the Second Amendment.¹¹ But these time, place, and manner restrictions fall within a *separate* exception to the right to keep and bear arms. There is no sound basis in the *Heller* opinion or in the historical record for collapsing that exception into the rule that dangerous weapons may be prohibited altogether.

(5) You suggest that guns with “large” magazines may have become common simply because they’re “most readily ... available on the market.” Are you really suggesting that revolvers or smaller-capacity pistols are not readily available? How can you square this with the ATF manufacturing and export reports, which show that more than 500,000 revolvers were sold in the U.S. in 2011? Surely, between those new guns and all the used ones on the market, anyone who wants a lower-capacity gun can find one.

RESPONSE:

I certainly did not suggest that smaller-capacity pistols are not readily available in the market. Instead, I merely said that “guns equipped with or ready for large-capacity magazines may simply be the weapons *most* readily made available on the market.”¹² To say that large-capacity guns may be the weapons *most* readily available does not imply that small-capacity guns are not readily available at all.

¹¹ *Id.* at 626.

¹² Tribe Testimony, at 12 (emphasis added).

Exhibit 54

**TESTIMONY FOR
CHIEF JIM JOHNSON, BALTIMORE COUNTY, MARYLAND
CHAIR, NATIONAL LAW ENFORCEMENT PARTNERSHIP
TO PREVENT GUN VIOLENCE
Senate Judiciary Committee Hearing
Wednesday, January 30, 2013**

Mr. Chairman, Ranking Member, and Members of the Committee, I want to thank you for the opportunity to testify today. I am here on behalf of the National Law Enforcement Partnership to Prevent Gun Violence, an alliance of the nation's law enforcement leadership organizations concerned about the unacceptable level of gun violence in the United States.

The Partnership, founded in 2010, includes: the Commission on Accreditation of Law Enforcement Agencies; Hispanic American Police Command Officers Association; International Association of Campus Law Enforcement Administrators; International Association of Chiefs of Police; Major Cities Chiefs Association; National Association of Women Law Enforcement Executives; National Organization of Black Law Enforcement Executives; Police Executive Research Forum; and the Police Foundation.

We mourn those lost to gun violence, including the 20 children in Newtown, along with the six brave adults whose lives were cut short by a deranged individual armed with firepower originally designed for combat, not for gunning down innocent members of our communities.

More than 30 homicides occur in America each day. Two-thousand children, ages 18 and under, die of firearm-related deaths in the U.S. every year. In 2011, for the first time in 14 years, firearms were the leading cause of death for police officers killed in the line of duty. In just the two-week period after the Newtown massacre, six police officers were killed and 10 injured in 12 separate shootings.

In a one-week period in 2011, the Police Executive Research Forum (PERF) found that gun crime in six cities cost more than \$38 million, and in the year 2010 cost the entire country more than \$57 billion.

We urgently need Congress to address the rising epidemic of gun violence. Law enforcement leaders support the President's comprehensive approach, which includes enhancing safety at educational institutions and addressing mental health issues. But on behalf of my colleagues across the nation, I am here today to tell you that we are long overdue in strengthening our nation's gun laws. Doing so must be a priority for Congress.

The organizations in the National Law Enforcement Partnership to Prevent Gun Violence are united in urgently calling on Congress to:

- Require background checks for *all* firearm purchasers;
- Ensure that prohibited purchaser records in the National Instant Criminal Background Check System (NICS), are up-to-date and accurate; and
- Limit high capacity ammunition feeding devices to ten rounds.

Seven of our nine groups, including the largest organizations among us, also support a ban on

assault weapons and Senator Feinstein's legislation.

Federal law prohibits dangerous individuals, such as convicted felons and those with mental health disqualifiers, from possessing firearms. While background checks are required for purchases through federally licensed gun dealers, no check is required for private sales, such as those through Internet postings, print ads or gun shows.

From November 2011 to November 2012, an estimated 6.6 million firearm transactions occurred without a background check. Up to 40 percent of firearm transactions occur through private individuals rather than licensed gun dealers. Allowing 40 percent of those acquiring guns to bypass background checks is like allowing 40 percent of airline passengers to board a plane without going through airport security.

Last October, in Brookfield, Wisconsin, seven women were shot by a prohibited purchaser who was under a domestic violence restraining order. The shooter answered an online ad and was able to buy a gun without a background check. Had the sale required a check, this tragedy could have been prevented.

Background checks work. They stopped nearly 2 million prohibited purchases between 1994 and 2009. We already have a national background check system in place. Therefore, extending background checks to *all* firearm purchasers can easily be implemented – and should be, without delay.

States can't do it alone. Interstate firearms trafficking is a serious problem that must be addressed federally. The problem is rampant: According to the ATF, in 2009, 30 percent of guns recovered at crime scenes had crossed state lines.

Submissions to NICS must be improved, especially mental health and drug abuse records. The 2007 massacre at Virginia Tech is a tragic example of a prohibited purchaser slipping between the cracks due to incomplete NICS records.

The ban on assault weapons and high-capacity ammunition magazines must be reinstated. Like assault weapons, high-capacity magazines are not used for hunting, do not belong in our homes and wreak havoc in our communities. Banning these magazines will reduce the number of bullets a shooter can use before having to reload. Reloading can provide a window of time in which to take down a shooter, as we saw in Tucson.

In 1998, four years after the assault weapons and high-capacity ammunition magazine ban was enacted, the percentage of firearms with large-capacity magazines recovered by Virginia police decreased and continued to drop until it hit a low of 9 percent in 2004, the year the ban expired. It hit a high of 20 percent in 2010, according to a Washington Post analysis.

After the 1994 law expired, 37 percent of police agencies saw increases in criminals' use of assault weapons, according to a 2010 PERF survey.

I have been in law enforcement for nearly 35 years, and have seen an explosion in firepower since the assault weapons ban expired. It is common to find many shell casings at crime scenes these days, as victims are being riddled with multiple gunshots.

The common-sense measures we are calling for will not infringe on Second Amendment rights,

but will ensure that we keep guns out of dangerous hands and excessive firepower out of our communities.

Generations of Americans, including our youngest ones, are depending on you to ensure they will grow up and fulfill their roles in the great human experience. None of us can fail them. I urge you to follow the will of the American public and stand with law enforcement to enact these common-sense public safety measures.

Thank you.