

# 12-1578

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**In the United States Court of Appeals  
for the Second Circuit**

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SHUI W. KWONG; GEORGE GRECO; GLENN HERMAN; NICK  
LIDAKIS; TIMOTHY S. FUREY; DANIELA GRECO; NUNZIO  
CALCE; SECOND AMENDMENT FOUNDATION, INC.; THE  
NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC.,

*Plaintiffs-Appellants,*

*v.*

MICHAEL R. BLOMBERG, in his Official Capacity as Mayor  
of the City of New York; CITY OF NEW YORK,

*Defendants-Appellees,*

ATTORNEY GENERAL OF THE STATE OF NEW YORK,

*Intervenor-Appellee,*

ERIC T. SCHNEIDERMAN, in his Official Capacity as  
Attorney General of the State of New York,

*Defendant.*

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Appeal from a Judgment of the United States District Court  
for the Southern District of New York; Hon. John G. Koeltl,  
District Judge, District Court No. 11 Civ. 2356

**JOINT APPENDIX: VOLUME II (JA 228 – JA 433)**

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*Attorney for Plaintiffs-Appellants*

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Exhibit K

2699

June 24, 2004

## SUPPLEMENTAL REPORTS OF THE STANDING COMMITTEES

### Supplemental Reports of the Committee on Finance

Report for Int. No. 385

Report of the Committee on Finance in favor of approving and adopting, a Local Law to amend the administrative code of the city of New York, in relation to fees for firearms licenses and rifle and shotgun permits.

The Committee on Finance to which was referred on June 7, 2004 the annexed proposed local law respectfully

### REPORTS:

#### I. BACKGROUND

Pursuant to article 400 of the state penal law and section 10-131 of the administrative code, the commissioner of the New York City Police Department (NYPD) is responsible for the licensing of handguns, rifles and shotguns, dealers in firearms, and appointment of special patrolmen in New York City.<sup>1</sup> The NYPD's License Division (Division) acts on behalf of the commissioner to carry out this function.

Under section 10-131 of the administrative code, a license to carry or possess a pistol or revolver "may be issued for a term of no less than one or more than three

<sup>1</sup> See also, Administrative Code §14-106



June 24, 2004

2700

years."<sup>2</sup> The current fee for application and renewal of a handgun license is \$170 for two years or \$255 for a three-year period.<sup>3</sup> Under section 10-303 (d) of the administrative code, the fee for an application and renewal of a rifle and shotgun permit is \$55 for a three-year period. The handgun fee has not increased since July of 1992 and the fee for rifle and shotgun permits has not increased since July of 1989.

The Division currently licenses 40,400 individuals for various types of handgun licenses, 23,300 individuals with rifle and shotgun permits and 4,173 individuals as Special Patrolmen.<sup>4</sup> In addition, the Division processes 3,900 handgun license applications, 1,200 rifle and shotgun permit applications and 900 Special Patrolmen applications annually.<sup>5</sup>

To carry out its mandate, the Division is staffed by nearly 100 employees, uniformed and civilian, at a personnel cost of over \$6,000,000 per year.<sup>6</sup> The Division currently collects revenue of approximately \$3,350,000 annually for fees associated with processing applications and renewals of handgun licenses and rifle and shotgun permits.<sup>7</sup> This amount does not reflect the actual costs of licensing, including the expenses for equipment and other resources necessary to process applications, handle investigations, address incidents, and monitor compliance with the laws and rules associated with city and state gun laws.<sup>8</sup> In addition, the Division needs to modernize the physical license and supporting database, to replace the fleet of Division unmarked cars, and to purchase a case management system with bar coding tracking ability.<sup>9</sup>

<sup>2</sup> Administrative Code §10-131 (a) (2)

<sup>3</sup> Id.

<sup>4</sup> Mayor's Memorandum of Support, Intro 385

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.



2701

June 24, 2004

**II. INTRO 385**

Section one of Intro 385 amends paragraph 2 of subdivision a of section 10-131 of the administrative code by increasing the fee for application and renewal of a handgun license from \$170 for two years to \$340 for a three-year period. Section one also eliminates the additional pro-rated fee that applied for license applications of more than two years (thus making \$255 the current application and renewal fee for a three-year period).

Section two of Intro 385 amends paragraph 3 of subdivision a of section 10-131 of the administrative code by increasing the application fee "for a special permit from the [police] commissioner granting [a license issued by any person other than the police commissioner] validity within the city of New York," from \$170 to \$340.

Section three of Intro 385 amends subdivision d of section 10-303 of the administrative code by increasing the fee for an application for a rifle and shotgun permit or renewal from \$55 to \$140.

Section four of Intro 385 indicates that the local law shall take effect ninety days after it shall have been enacted into law except that the police commissioner shall be authorized to promulgate such rules as are necessary to implement the provision of this law before such date."

(The following is the Fiscal Impact Statement for Int. No. 385:)

**FISCAL IMPACT STATEMENT:**

	Effective FY 05	FY Succeeding Effective FY 06	Full Fiscal Impact FY 06
Revenues (+)	\$1,100,000	\$1,100,000	\$1,100,000
Expenditures (-)	0	0	0
Net	\$1,100,000	\$1,100,000	\$1,100,000

**IMPACT ON REVENUES:** This local law will result in \$1.1 million in additional revenues annually.

**IMPACT ON EXPENDITURES:** There will be no impact on expenditures.

**SOURCE OF INFORMATION:** Office of Management and Budget



June 24, 2004

2702

ESTIMATE PREPARED BY:

Pablo Zangerle, Deputy Director, City  
Council, Finance Division  
John Sarich, Supervising Analyst

DATE SUBMITTED TO COUNCIL: June 24, 2004

**FIS HISTORY:** The existing fee structure for handgun licenses and rifle and shotgun permits has not increased since July of 1992 (for handguns) and July of 1989 (for rifles and shotguns).

Accordingly, Your Committee recommends its adoption.

(For text of the bill, please see the Introduction and Reading of Bills section for Int. No. 385 printed in the Minutes of the Stated Council Meeting of June 7, 2004.)

DAVID I. WEPRIN, Chairperson; TRACY L. BOYLAND, MARGARITA LOPEZ, BILL PERKINS, MADELINE PROVENZANO, MICHAEL C. NELSON, CHRISTINE C. QUINN, EVA S. MOSKOWITZ, JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, SIMCHA FELDER, LEWIS A. FIDLER, JAMES F. GENNARO, ERIC N. GIOIA, ROBERT JACKSON, MICHAEL E. MCMAHON, HELEN SEARS, ALBERT VANN, Committee on Finance, June 24, 2004.

On motion of the Speaker (Council Member Miller), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 386

Report of the Committee on Finance in favor of approving and adopting, a Local Law to amend the administrative code of the city of New York, in relation to increasing the fees charged for applications filed with the board of standards and appeals.

The Committee on Finance to which was referred on June 7, 2004 the annexed proposed local law respectfully

**REPORTS:**



## THE COUNCIL

Report of the Finance Division  
Larian Angelo, Director

### COMMITTEE ON FINANCE

Hon. David Weprin, Chair

June 24, 2004

#### INT. NO. 385:

By Council Members Weprin, Fidler and Stewart (by request of the Mayor)

#### TITLE:

A local law to amend the administrative code of the city of New York, in relation to fees for firearms licenses and rifle and shotgun permits.

### I. BACKGROUND

Pursuant to article 400 of the state penal law and section 10-131 of the administrative code, the commissioner of the New York City Police Department (NYPD) is responsible for the licensing of handguns, rifles and shotguns, dealers in firearms, and appointment of special patrolmen in New York City.<sup>1</sup> The NYPD's License Division (Division) acts on behalf of the commissioner to carry out this function.

Under section 10-131 of the administrative code, a license to carry or possess a pistol or revolver "may be issued for a term of no less than one or more than three

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<sup>1</sup> See also, Administrative Code §14-106

years.”<sup>2</sup> The current fee for application and renewal of a handgun license is \$170 for two years or \$255 for a three-year period.<sup>3</sup> Under section 10-303 (d) of the administrative code, the fee for an application and renewal of a rifle and shotgun permit is \$55 for a three-year period. The handgun fee has not increased since July of 1992 and the fee for rifle and shotgun permits has not increased since July of 1989.

The Division currently licenses 40,400 individuals for various types of handgun licenses, 23,300 individuals with rifle and shotgun permits and 4,173 individuals as Special Patrolmen.<sup>4</sup> In addition, the Division processes 3,900 handgun license applications, 1,200 rifle and shotgun permit applications and 900 Special Patrolmen applications annually.<sup>5</sup>

To carry out its mandate, the Division is staffed by nearly 100 employees, uniformed and civilian, at a personnel cost of over \$6,000,000 per year.<sup>6</sup> The Division currently collects revenue of approximately \$3,350,000 annually for fees associated with processing applications and renewals of handgun licenses and rifle and shotgun permits.<sup>7</sup> This amount does not reflect the actual costs of licensing, including the expenses for equipment and other resources necessary to process applications, handle investigations, address incidents, and monitor compliance with the laws and rules associated with city and state gun laws.<sup>8</sup> In addition, the Division needs to modernize the physical license

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<sup>2</sup> Administrative Code §10-131 (a) (2)

<sup>3</sup> Id

<sup>4</sup> Mayor’s Memorandum of Support, Intro 385

<sup>5</sup> Id

<sup>6</sup> Id

<sup>7</sup> Id

<sup>8</sup> Id

and supporting database, to replace the fleet of Division unmarked cars, and to purchase a case management system with bar coding tracking ability.<sup>9</sup>

## II. INTRO 385

Section one of Intro 385 amends paragraph 2 of subdivision a of section 10-131 of the administrative code by increasing the fee for application and renewal of a handgun license from \$170 for two years to \$340 for a three-year period. Section one also eliminates the additional pro-rated fee that applied for license applications of more than two years (thus making \$255 the current application and renewal fee for a three-year period).

Section two of Intro 385 amends paragraph 3 of subdivision a of section 10-131 of the administrative code by increasing the application fee “for a special permit from the [police] commissioner granting [a license issued by any person other than the police commissioner] validity within the city of New York,” from \$170 to \$340.

Section three of Intro 385 amends subdivision d of section 10-303 of the administrative code by increasing the fee for an application for a rifle and shotgun permit or renewal from \$55 to \$140.

Section four of Intro 385 indicates that the local law shall take effect ninety days after it shall have been enacted into law except that the police commissioner shall be “authorized to promulgate such rules as are necessary to implement the provision of this law before such date.”

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<sup>9</sup> Id



Int. No. 385

By Council Members Weprin, Fidler and Stewart (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to fees for firearms licenses and rifle and shotgun permits.

Be it enacted by the Council as follows:

Section 1. Paragraph 2 of subdivision a of section 10-131 of the administrative code of the city of New York is amended to read as follows:

2. Every license to carry or possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefor, a fee of [one hundred seventy] three hundred forty dollars for each original or renewal application for a [two] three year license period or part thereof, [and] a fee of ten dollars for each replacement application of a lost license. [If a license or renewal is issued for a term of more than two years there shall be an additional prorated fee for the period in excess of two years.]

§ 2. Paragraph 3 of subdivision a of section 10-131 of the administrative code of the city of New York is amended to read as follows:

3. Every applicant to whom a license has been issued by any person other than the police commissioner, except as provided in paragraph five of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of [one hundred seventy] three hundred forty dollars, for each renewal a fee of [one hundred seventy] three hundred forty dollars, [and] for each replacement of a lost permit a fee of ten dollars.

§ 3. Subdivision d of section 10-303 of the administrative code of the city of New York is amended to read as follows:

d. Fees. The fee for an application for a rifle and shotgun permit or renewal thereof shall be [fifty-five] one hundred forty dollars.

§ 4. This local law shall take effect ninety days after it shall have been enacted into law, except that the commissioner shall be authorized to promulgate such rules as are necessary to implement the provisions of this law before such date.





THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION  
LARIAN ANGELO, DIRECTOR  
FISCAL IMPACT STATEMENT

INTRO NO. 385

COMMITTEE: Finance

**TITLE:** A LOCAL LAW to amend the administrative code of the city of New York, in relation to fees for firearms licenses and rifle and shotgun permits.

**SPONSORS:** Mayor

**SUMMARY OF LEGISLATION:** This legislation would amend the New York City Administrative Code Sections 10-131 and 10-303 to raise the fees for applications of handgun licenses and rifle and shotgun permits. The fee for application and renewal of a handgun license would be raised from \$170 for a two-year period (or \$255 for a three-year period) to \$340 for a three-year period. The fee for a rifle and shotgun permit would be raised from \$55, for a three-year period, to \$140.

**EFFECTIVE DATE:** This local law would take effect ninety days after it is enacted into law, except that the commissioner shall be authorized to promulgate such rules as are necessary to implement the provisions of this law before such date.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2005

**FISCAL IMPACT STATEMENT:**

	Effective FY05	FY Succeeding Effective FY06	Full Fiscal Impact FY06
Revenues (+)	\$1,100,000	\$1,100,000	\$1,100,000
Expenditures (-)	\$0	\$0	\$0
Net	\$1,100,000	\$1,100,000	\$1,100,000

**IMPACT ON REVENUES:** This local law will result in \$1.1 million in additional revenues annually.

**IMPACT ON EXPENDITURES:** There will be no impact on expenditures.

**SOURCE OF INFORMATION:** Office of Management and Budget

**ESTIMATE PREPARED BY:** Pablo Zangerle, Deputy Director, City Council, Finance Division  
John Sarich, Supervising Analyst

**DATE SUBMITTED TO COUNCIL:** June 24, 2004

**FIS HISTORY:** The existing fee structure for handgun licenses and rifle and shotgun permits has not increased since July of 1992 (for handguns) and July of 1989 (for rifles and shotguns).

Exhibit L

SR

CHAPTER 503

LAWS OF 19 95

MEMORANDUM NO. \_\_\_\_\_

SENATE BILL 5421

ASSEMBLY BILL \_\_\_\_\_

5421

1995-1996 Regular Sessions

# IN SENATE

June 13, 1995

Introduced by Sens. TRUNZO, MARROWITZ, SOLOMON, SPANO, VELELLA, WALDON  
-- read twice and ordered printed, and when printed to be committed to  
the Committee on Rules

AN ACT amend the administrative code of the city of New York, in relation to providing for transfer of the assets, liabilities and administration of the police pension fund, subchapter one of such city to the police pension fund, subchapter two of such city, for modification of certain provisions relating to the funding of such subchapter one fund, for payment of certain benefits by such subchapter two fund, for an increase in benefits payable to certain beneficiaries of such subchapter one fund, and repealing subdivision f of section 13-228 of such code relating to the transfer of assets from such subchapter one fund to such subchapter two fund, and to amend the administrative code of the city of New York, in relation to the benefits payable by the police officer's variable supplements fund provided for in such code, and to amend chapter 675 of the laws of 1991, authorizing the lateral transfer of police officers between police departments within any municipality having three or more police departments, in relation to the status of transferred officers

IN THE ASSEMBLY BY A 8149 Committee on Rules

DATE RECEIVED BY GOVERNOR:

7/21

ACTION MUST BE TAKEN BY:

8/2

DATE GOVERNOR'S ACTION TAKEN:

AUG 2 1995

000001

SENATE VOTE 57 Y 0 N

HOME RULE MESSAGE ✓ Y    N

DATE 6/27/95

BILL IS DISAPPROVED

ASSEMBLY VOTE 149 Y 1 N

DATE                     

DATE 6/29/95

COUNSEL TO THE GOVERNOR

000002

S-5421  
(A-8149)NEW YORK STATE ASSEMBLY  
TWO HUNDRED EIGHTEENTH SESSIONREPRINT  
DATE: 06/29/95DATE: 06/29/1995  
TIME: 12:13:08 PM

BILL: S5421

(A8149)

R.R. NO: 850 SPONSOR: TRUNZO

Relates to benefits payable to certain beneficiaries of the New  
York City Police Department, Subchapter One Pension Fund

## HOME RULE MESSAGE

Y	Abbate PJ	Y	Genovesi AJ	Y	Ortiz FW
Y	Acampora PL	Y	Glick DJ	Y	Orloff C
Y	Alesi JS	Y	Gottfried RN	Y	O'Shea CJ
Y	Anderson RR	Y	Grannis A	Y	Parment WL
Y	Arroyo CE	Y	Green RL	Y	Perry NN
Y	Aubry JL	Y	Greene A	Y	Pheffer AI
Y	Balboni MA	Y	Griffith E	Y	Pillittere JT
Y	Barbaro FJ	Y	Gromack AJ	Y	Polonetsky J
Y	Barraga TF	Y	Guerin JJ	Y	Pordum FJ
Y	Becker GR	Y	Gunther JE	Y	Prentiss RG
Y	Bonacic JJ	Y	Harenberg PE	Y	Prescott DW
Y	Boyland WF	Y	Healey PB	Y	Pretlow JG
Y	Boyle PM	Y	Herbst M	Y	Ramirez R
Y	Bragman MJ	Y	Hikind D	Y	Rappleyea CD
Y	Brennan JF	Y	Hill EH	Y	Ravitz J
Y	Brodsky RL	Y	Hochberg AG	Y	Reynolds TM
Y	Brown HC	Y	Hoyt WB	Y	Rivera PM
Y	Butler DJ	Y	Jacobs RS	Y	Robach JE
Y	Calhoun N	NAY	John SV	Y	Sanders S
Y	Canestrari RJ	Y	Johnson J	Y	Scarborough W
Y	Casale AJ	Y	Katz M	Y	Schimminger RL
Y	Casale PM	Y	Kaufman SB	Y	Seabrook L
Y	Christensen JK	Y	Keane RJ	Y	Seaman DE
Y	Clark BM	Y	King JP	Y	Seminario AS
Y	Colman S	Y	Kirwan TJ	Y	Sidikman DS
Y	Connelly EA	Y	Klein J	Y	Spano MJ
Y	Conte JD	Y	Lafayette IC	Y	Stephens WH
Y	Cook VE	Y	Lentol JR	Y	Straniero RA
Y	Crowley J	Y	Lopez VJ	Y	Stringer SM
Y	D'Andrea RA	Y	Luster MA	Y	Sullivan EC
Y	Davidson DR	Y	Magee B	Y	Sullivan F
Y	Davis G	Y	Mahoney BJ	Y	Sweeney RK
Y	Destito RM	Y	Manning PR	Y	Tedisco J
Y	Diaz F	Y	Matusow NC	Y	Thiele FW
Y	Diaz HL	Y	Mayersohn N	Y	Tocci RC
Y	DiNapoli TP	Y	Mazzarelli DJ	Y	Tokasz P
Y	Dinga JJ	Y	McEneny JJ	Y	Tonko PD
Y	Dinowitz J	Y	McGee PK	Y	Towns DC
Y	Doran CJ	Y	McLaughlin BM	Y	Townsend DR
Y	Dugan EC	Y	Meeks GW	Y	Vann A
Y	Englebright S	Y	Miller JM	Y	Vitaliano EN
Y	Eve AO	Y	Morelle JD	Y	Warner RJ
Y	Farrell HD	Y	Murtaugh JB	Y	Weinstein HE
Y	Faso JJ	Y	Muscarella VT	Y	Weisenberg H
Y	Feldman D	Y	Nesbitt CH	Y	Weprin M
Y	Ferrara D	Y	Nolan CT	Y	Wert RC
Y	Fessenden DJ	Y	Norman C	Y	Winner GH
Y	Flanagan JJ	Y	Nortz HR	Y	Wirth SL
Y	Galef SR	Y	Oaks RC	Y	Wright KL
Y	Gantt DF	Y	O'Neil CA	Y	Mr. Speaker

YEAS: 149

NAYS: 1

CONTROL: 93182514

CERTIFICATION: /S/ FRANCINE M. MISASI  
CLERK OF THE ASSEMBLYLEGEND: Y=YES, NAY=NO, NV=ABSTAIN, ABS=ABSENT,  
ELB=EXCUSED FOR LEGISLATIVE BUSINESS, BOR=EXCUSED FOR OTHER REASONS.

000003



1995

## HOME RULE REQUEST

SENATE JOURNAL

JUN 27 1995

PAGE.....

## SENATE

The Senate Bill  
by Sen. TRUNZO  
Entitled: "

Calendar No. 1431Senate No. 5421

Assem. Rept. No. \_\_\_\_\_

S5421

TRUNZO

"was read the third ti  
The President pu  
same having been p  
legislative days, and  
favor thereof and thi

An act amend the administrative code of the city of New York, in relation to providing for transfer of the assets, liabilities and administration of the police pension fund, subchapter one of such city to the police pension fund, subchapter two of such city, for modification of certain provisions relating to the funding of such subchapter one fund, for payment of certain benefits by such subchapter two fund, for an increase in benefits payable to certain beneficiaries of such subchapter one fund, and repealing subdivision f of section 13-228 of such code relating to the transfer of assets from such subchapter one fund to such subchapter two fund, and to amend the administrative code of the city of New York, in relation to the benefits payable by the police officer's variable supplements fund provided for in such code, and to amend chapter 675 of the laws of 1991, authorizing the lateral transfer of police officers between police departments within any municipality having three or more police departments, in relation to the status of transferred officers

sage of said bill, the  
least three calendar  
rs elected voting in

AYE	Dist.						NAY
	27	Ms.			14	Mr. Onorato	
	19	Mr. L			36	Mrs. Oppenheimer	
	43	Mr. E			11	Mr. Padavan	
	25	Mr. C			29	Mr. Paterson	
	40	Mr. C			56	Mr. Present	
	49	Mr. E			60	Mrs. Rath	
	23	Mr. E			41	Mr. Saland	
	54	Mr. Dollinger			17	Ms. Santiago	
	32	Mr. Espada			47	Mr. Sears	
	44	Mr. Farley			50	Mr. Seward	
	33	Mr. Galiber	EXCUSED		9	Mr. Skelos	
	13	Mr. Gold			12	Miss Smith	
	31	Mr. González			22	Mr. Solomon	
	26	Mr. Goodman			35	Mr. Spano	
	6	Mr. Hannon			58	Mr. Stachowski	
	42	Mr. Hoblock			45	Mr. Stafford	
	48	Ms. Hoffmann			16	Mr. Stavisky	
	38	Mr. Holland			3	Mr. Trunzo	
	4	Mr. Johnson			7	Mr. Tully	
	55	Ms. Jones			34	Mr. Velella	
	21	Mr. Kruger			59	Mr. Volker	
	52	Mr. Kuhl			10	Mr. Walden	
	2	Mr. Lack	EXCUSED		46	Mr. Wright	
	39	Mr. Larkin					
	1	Mr. LaValle					
	37	Mr. Leibell					
	30	Mr. Leichter					
	8	Mr. Levy					
	51	Mr. Libous	EXCUSED				
	15	Mr. Maltese					
	5	Mr. Marcellino					

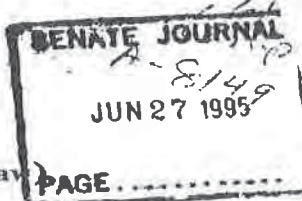
AYES 57NAYS 0

Ordered, that the Secretary deliver said bill to the Assembly and request its concurrence therein.

000004

JA 243

Supplemental RNC



# **IMPORTANT: READ INSTRUCTIONS ON REVERSE SIDE** **HOME RULE REQUEST**

**(Request by a Local Government for Enactment of a Special Law)**

To the Legislature:

Pursuant to Article IX of the Constitution, the \_\_\_\_\_ City \_\_\_\_\_ of \_\_\_\_\_  
 (county, city, town or village)  
 \_\_\_\_\_ New York \_\_\_\_\_ requests the enactment of \_\_\_\_\_ Senate \_\_\_\_\_ bill (No. 5421),  
 (name) \_\_\_\_\_ Assembly \_\_\_\_\_  
 (strike out one)

entitled " **AN ACT to amend the administrative code of the city of New York, in relation to providing for transfer of the assets, liabilities and administration of the police pension fund, subchapter one of such city to the police pension fund, subchapter two of such city, for modification of certain provisions relating to the funding of such subchapter one fund, for payment of certain benefits by such subchapter two fund, for an increase in benefits payable to certain beneficiaries of such subchapter one fund, and repealing subdivision of section 13-228 of such code relating to the transfer of assets from such subchapter one fund to such subchapter two fund, and to amend the administrative code of the city of New York, in relation to the benefits payable by the police officer's variable supplements fund provided for in such code, and to amend chapter 675 of the laws of 1991, authorizing the lateral transfer of police officers between police departments within any ...** "

It is hereby declared that a necessity exists for the enactment of such legislation, and that the facts establishing such necessity are as follows: (Check appropriate box)

- ☒ The local government does not have the power to enact such legislation by local law.  
☐ Other facts, as set forth in the following "Explanation" establish such necessity.

## **EXPLANATION**

(If space below is not sufficient, use separate sheet and attach here)

Such request is made by: (Check appropriate box)

- ☒ The chief executive officer of such local government, concurred in by a majority of the total membership of the local legislative body. (See paragraph A below)  
☐ The local legislative body of such local government, at least two-thirds of the total membership thereof having voted in favor of such request. (See paragraph B below)

## **READ BEFORE SIGNING**

- A. If the request is made by the chief executive officer and concurred in by a majority of the total membership of the local legislative body, *both* the chief executive officer *and* the clerk of the local legislative body must sign below. In such case use the word "majority" below even though the vote may have been greater.  
 B. If the request is made by the local legislative body, at least two-thirds of the total membership thereof having voted in favor of such request, *only* the clerk of the local legislative body must sign below. In such case use the words "two-thirds" below.

## **CHIEF EXECUTIVE OFFICER'S SIGNATURE**

(Signed) \_\_\_\_\_

(chief executive officer)

**Rudolph W. Giuliani**

(Print or type name below signature)

**Mayor**

(Title of chief executive officer)

Date: June 13, 1995

## **CLERK'S CERTIFICATION**

I, Carlos Cuevas, do hereby certify that I am Clerk of the \_\_\_\_\_ City \_\_\_\_\_  
 (print or type name) \_\_\_\_\_ (local legislative body)  
Council of the \_\_\_\_\_ City \_\_\_\_\_  
 \_\_\_\_\_ of \_\_\_\_\_ (county, city, town or village)  
New York and that on the 14 day of June,  
 (name)  
 1995 such legislative body, at least two-thirds <sup>majority</sup> of the total membership having voted in favor thereof,  
 (strike out one)  
 approved the foregoing request.

[SEAL OF LOCAL GOVERNMENT]

(Signed) \_\_\_\_\_

(clerk)

**Carlos Cuevas**

(Print or type name below signature)

Date: June 14, 1995

000005



SR

201

TEN-DAY BILL  
BUDGET REPORT ON BILLS

Session Year: 1995

SENATEIntroduced by:  
Sen. TrunzoASSEMBLY

S.5421

Law: Administrative Code of the City of New York

Division of the Budget recommendation on the above bill:

Approve: X Veto: \_\_\_\_\_ No Objection: \_\_\_\_\_ No Recommendation: \_\_\_\_\_1. Subject and Purpose:

This bill combines the assets and administration of <sup>New York City's</sup> the subchapter one and two police department pension funds, and modifies pension benefits payable under the new combined fund.

2. Summary of Provisions:

This bill provides for the following:

- a. transfers the assets, liabilities and administration of the subchapter one police department pension fund to the subchapter two fire department pension fund.
- b. requires New York City to pay in ten equal annual installments the future liability of the transferred fund into a contingent reserve established in the now-combined subchapter two fund. In return, the City receives a credit for pension contributions otherwise made to the transferred fund. Fine and fee revenue which formerly flowed into this fund are now remitted to the City's general fund.
- c. increases the pension supplement to surviving spouses from \$100 to \$150 per month retroactively from July 1994 through June 1995, and to \$160 per month thereafter.
- d. modifies the variable supplement fund payments to retirees who retired on or after July 1, 1988. These variable supplements are paid on an increasing scale beginning at \$2,500 in year one and increasing by \$500 annually up to a maximum of \$12,000. This bill changes the so-called "Tier B" schedule of benefits, which were less generous, and allows retirees eligible after July 1, 1988 to receive a variable supplement of \$12,000 per year after 2007, regardless of date of retirement.

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- e. modifies service requirements in the police pension fund to allow service credit for transit police and housing police to be credited for purposes of eligibility for variable supplement benefits. This would permit eligible persons who joined the police department after July 1, 1988 to receive Tier A supplements as long as they had service in these other agencies.

3. **Prior Legislative History:**

This is new legislation. Sections of the administrative code dealing with fire variable supplements were last amended by chapters 675 of the laws of 1991.

4. **Reasons for Support:**

This bill is part of Mayor Giuliani's legislative program. It accomplishes several objectives that were agreed upon as part of New York City's collective bargaining process with its police unions:

- a. it combines the two variable supplement funds and amortizes the combined present value of future benefit over ten years. The net result is budget savings for the City of \$23 million in CFY 1994-95, \$5 million in CFY 1995-96, and \$3 million in CFY 1996-97, before costs increase through CFY 2004.
- b. it provides an enriched pension benefit to surviving spouses and to retirees who retired after July 1, 1988.
- c. it eliminates the use of dedicated fees to fund these benefits and provides for them out of the City's regular pension contribution.

5. **Arguments Against:**

It could be argued that this bill adds future costs to the City's budget at a time when the City can least afford it. However, the increased costs associated with this bill last for six years (CFYs 1999-04), after which costs again go down.

The fiscal note accompanying this legislation did not factor into its estimates the potential increase in costs associated with the merger of the three New York City police forces. Therefore, the savings estimates may be overstated and future costs understated.

6. **Other Agencies Interested:**

None known.

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7. Known Position of Others:

New York City supports this legislation.

8. Budget Impact:

None for the State. New York City would save \$31 million over the next three years if this bill is approved.

9. Recommendation:

Since this legislation helps ensure budget balance for New York City for CFYs 1994-95 and 1995-96, the Division of the Budget recommends its approval.

July 25, 1995

DA

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SR

S-5421



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL  
SECRETARY OF STATE

MICHAEL E. STAFFORD  
COUNSEL TO  
SECRETARY OF STATE

MEMORANDUM

DATE: July 14, 1995

TO: Michael C. Finnegan, Esq.  
Counsel to the Governor

FROM: Michael E. Stafford, Esq. *mes*  
Counsel to the Secretary

SUBJECT: 10-Day Bills

The Department of State offers no comment on the following 10-day bills.

BILL NO	SPONSOR
S.05335-A	S. TRUNZO
S.05350	S. SEARS
S.05361	S. LARKIN
S.05364-A	S. GOODMAN
S.05369	S. STAFFORD
S.05378-A	S. LACK
S.05387	S. VELELLA
S.05389-A	S. GOODMAN
S.05400	S. PADAVAN
S.05421	S. TRUNZO
S.05427	S. LEVY
S.05441-A	S. LIBOUS
S.05466	S. TRUNZO
S.05490-A	S. SKELOS
S.05518	S. DICARLO
S.05524	S. SKELOS
S.05530	S. COOK
S.05568	S. GOODMAN
S.05571	S. BRUNO
S.05575	S. BRUNO

MES/ID

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JA 248

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C-503

5-5421

☐ ARTHUR LEVITT STATE OFFICE BUILDING  
270 BROADWAY  
NEW YORK CITY  
10007



☐ A.B. SMITH STATE OFFICE BUILDING  
ALBANY  
NEW YORK  
12236

STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**  
H. CARL McCALL  
STATE COMPTROLLER

**TEN-DAY BILL MEMORANDUM**

August 1, 1995

To: Michael Finnegan  
Counsel to the Governor

From: Paula L. Chester  
Counsel to the Comptroller

Re: S.5421; S.5335-A

Recommendation: No Objection

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Summary:

These bills would amend the Administrative Code of the City of New York in relation to the transfer of the assets and liabilities of the nonactuarial police and fire pension systems to actuarial pension systems of the police and fire departments. Further, the legislation increases the benefits for beneficiaries of the nonactuarial pension systems; and increases the benefits payable to retired members receivable pursuant to the provisions of the respective variable supplement funds.

Discussion:

The nonactuarial pension systems have been closed to new members since approximately 1940. The City proposes to merge these systems with existing actuarial systems. The short-term effect of such a merger is to provide the City with budget relief by deferring pay-as-you-go costs and instead amortizing those costs over a longer period of time. While, as a general rule we object to fiscal practices which defer present costs to the future, since this particular deferral is expected to save the City a small amount of money on a net present value basis over the period of time calculated by the City's actuary, we are less troubled by this particular deferral.

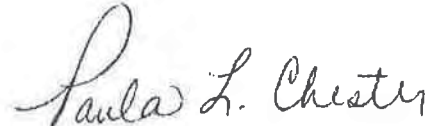
It should be noted that these bills also contain provisions which increase current levels of benefits that are paid to beneficiaries from \$1,200 per annum to \$1,920 per annum.

Finally, the legislation increases variable pension supplements payable to uniformed officers who retire after 2007. Currently, uniformed officers hired after 1988 are entitled to receive less

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generous variable supplement pension benefits than those hired prior to such date. The effect of this change is to provide more comparable variable pension supplement benefits for individuals hired after 1988.

With the above-stated observations and comments, the Comptroller does not object to the approval of these bills by the Governor.

  
Paula L. Chester

PLC:RK:dr

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C-503

MINORITY STAFF LEGAL OFFICE  
COUNSEL'S BILL MEMORANDUM

S-5421

Cal. # \_\_\_\_\_  
R.R. # 850

Assembly Bill # 8149 by Rules Counsel Suzanne J. Hayner  
Senate Bill # 5421 by Trunzo Telephone 4259  
Committee Reference(s) (1) Gov. Employees  
(2) Ways & Means Date June 28, 1995  
(3) Rules  
G-2-95

**SUBJECT:** PROVIDES FOR THE TRANSFER OF ASSETS, LIABILITIES AND ADMINISTRATION OF THE NEW YORK CITY POLICE PENSION FUND, SUBCHAPTER ONE TO THE NEW YORK CITY POLICE PENSION FUND, SUBCHAPTER TWO AND INCREASES THE AMOUNT OF SUPPLEMENTAL PENSION PAYABLE TO SURVIVING SPOUSES.

**SUMMARY:** This bill would amend the Administrative Code of the City of New York to provide for the transfer of assets, liabilities and the administration of the New York City Police Pension Fund, subchapter one to the New York City Police Pension Fund, subchapter two.

Additionally, this bill would provide for an increase in the monthly benefit payable to a surviving spouse of a member of the Police Pension Fund, subchapter one from \$100 per month to \$150 per month retroactive to July 1, 1994. Beginning on July 1, 1995, such benefit would be increased to \$160 per month.

The bill would also increase the variable supplement benefits payable from the Police Officers Variable Supplements Fund (FVSF) after the calendar year 2007 for certain police officers who become members on or after July 1, 1988 and who retire from service as police officer with 20 or more years of service. Such individuals would be eligible to receive an annual variable supplement benefit of \$12,000 starting with the calendar year 2008. This eliminates the less generous Tier B schedule of payments to such retirees. According to the fiscal note, under current law these beneficiaries would start at an annual rate of \$2,500 in the first year of retirement payable through December of the year of retirement and would increase annually thereafter by \$500 to a maximum of \$12,000.

**CURRENT LAW/COMMENT:** The Police Pension Fund, subchapter one is a non-actuarial fund which pays benefits to retirees who joined the Department prior to March 30, 1940. In other words, such fund is "pay as you go" by the employer. That fund is funded primarily by license fees, fines and other dedicated revenues which are required to pay into the fund on an ongoing basis. Police Pension Fund, subchapter two, on the other hand, is an actuarial funded pension system and is utilized for retirement benefits for all persons who joined the uniformed force of the police department on March 30, 1940 and afterward. This bill would effectuate a transfer of all assets, liabilities and administrative responsibilities from subchapter one to subchapter two. It is important to note that such monies would be directly paid into the City's general fund. Arguably, this is a budget balancing effort.

The bill also provides for an increase in death benefits to surviving

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Page 2. A.8149/Rules.

spouses and also an increase in variable supplements payments to eligible police service retirees. Apparently, this increase in benefits is an acceptable trade for the City to receive an immediate infusion of money into the general fund.

Finally, the bill also amends Chapter 675 of the Laws of 1991 which pertains to the compensation and benefits of police officers who transferred from the New York City Housing and Transit Police Department to the New York City Police Department. The bill provides that the transferred officers' compensation and benefits would be determined as if they had been appointed to the new position on the date of their initial appointment as police officers.

**FISCAL IMPLICATIONS:** Annual employer contributions would result in approximately \$14.1 million for ten years. However, the employer contributions for the fiscal year 1995 would be decreased by the amount of any assets transferred from subchapter one to subchapter two. Such assets equal approximately \$14.9 million as of June 30, 1994.

That represents a temporary deferral of employer contributions which would otherwise be due to subchapter 2. Also, the employer contributions would be adjusted by the amount of benefits expected to be paid by subchapter one during the fiscal year had the proposed merger and increases in benefits been effective July 1, 1994.

Taking this into account, if the proposed legislation is enacted, it is estimated that the net fiscal year 1995 pension contribution payable by the City would decrease by approximately \$23.4 million.

The estimated total increase in actuarial present value of benefits for the variable supplement fund would be approximately \$21.2 million for all active members who would be assumed to retire with 20 or more years of service.

**POSITION OF OTHERS:**

**Support:** This bill was introduced at the request of the City of New York Office of the Mayor.

**Awaiting Position:** NY City Police Pension Fund Subchapter One;  
NY City Police Pension Fund Subchapter Two.

**Senate Position:** S.5421-A (Trunzo) passed Senate 6/27/95.

**LEGISLATIVE HISTORY:** New bill.

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C-503

S-5421



OFFICE OF  
THE COUNCIL  
OF  
THE CITY OF NEW YORK  
CITY HALL

PETER F. VALLONE  
SPEAKER/MAJORITY LEADER

FRANK A. McEVoy  
DIRECTOR, STATE LEGISLATIVE AFFAIRS

111 WASHINGTON AVENUE  
ALBANY, NEW YORK 12210  
(518) 482-8481

75 PARK PLACE, 5th Fl.  
NEW YORK, NEW YORK 10007  
(212) 788-8102

July 18, 1995

Hon. Michael C. Finnegan  
Counsel to the Governor  
Executive Chamber  
State Capitol  
Albany NY 12224

RE: New York City Legislation

Dear Mr. Finnegan:

The following bills, as approved by the Legislature, are necessary for the implementation of the 1995-96 New York City budget or make related amendments. These measures were supported by the City Council through the home rule process and/or before the Legislature.

S.1617a/A.8134	S.5141/A.7848
S.3418a/A.8215	S.5400/A.8206
S.3419a/A.8168a	S.5411/A.8136
S.4185a/A.8077	S.5415/A.8284
S.5055b/A.8162	S.5416a/A.8355
S.5300/A.8121a	S.5421/A.8149
S.5305/A.2171a	
S.5335a/A.8145	

The City Council respectfully requests the Governor's approval of the above mentioned legislation at his earliest possible convenience. If you have any questions or require additional information, please call me at 212-867-2147. On behalf of Speaker Vallone, thank you for your consideration throughout the session.

Sincerely,

Frank A. McEvoy

cc: Kevin McCabe

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JA 253





S-5421

THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007  
July 7, 1995

S.5421 - by Senators Trunzo,  
Markowitz, Solomon, Spano, Velella,  
Waldon

AN ACT to amend the administrative code of the city of New York, in relation to providing for transfer of the assets, liabilities and administration of the police pension fund, subchapter one of such city to the police pension fund, subchapter two of such city, for modification of certain provisions relating to the funding of such subchapter one fund, for payment of certain benefits by such subchapter two fund, for an increase in benefits payable to certain beneficiaries of such subchapter one fund, and repealing sub-division f of section 13-228 of such code relating to the transfer of assets from such subchapter one fund to such subchapter two fund, and to amend the administrative code of the city of New York, in relation to the benefits payable by the police officer's variable supplements fund provided for in such code, and to amend chapter 675 of the laws of 1991, authorizing the lateral transfer of police officers between police departments within any municipality having three or more police departments, in relation to the status of transferred officers

APPROVAL RECOMMENDED

Hon. George E. Pataki  
Governor of the State of New York  
Albany, New York 12224

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Hon. George E. Pataki  
 July 7, 1995  
 Page two

S.5421

Dear Governor Pataki:

The above-referenced bill is now before you for executive action.

This bill would amend the Administrative Code of the City of New York to provide for the transfer of the assets, liabilities and administration of the New York City Police Pension Fund, Subchapter 1 ("PPF, Subchapter 1") to the New York City Police Pension Fund, Subchapter 2 ("PPF, Subchapter 2"). The bill also would increase the amount of the supplemental pension payable pursuant to Section 13-687 of the Administrative Code to surviving spouses of members of the PPF, Subchapter 1 who died while a member, but not in the line-of-duty, from \$100 per month to \$150 per month, retroactive to July 1, 1994, and to \$160 per month, effective July 1, 1995. In addition, the bill would amend the Administrative Code provisions governing the Police Officer's Variable Supplements Fund ("POVSF"), which pays benefits to certain Police Department service retirees who retired on or after October 1, 1968 from positions below the rank of sergeant ("police officer service retirees"). Such amendment would eliminate, beginning in calendar year 2008, the less generous "tier B" schedule of payments to such retirees who were appointed on or after July 1, 1988, and give such retirees the same \$12,000 annual payment that pre-July 1, 1988 appointees are scheduled to receive, subject to certain limitations, in calendar years following 2007.

The PPF, Subchapter 1, which is a non-actuarial fund, pays benefits to New York City Police Department retirees who joined the Department prior to March 30, 1940, to option beneficiaries of such deceased retirees and to eligible widows of persons who died while a member of the Fund. See Administrative Code, §§ 13-201 to 13-213. The PPF, Subchapter 1 is funded primarily by certain license fees, fines and other dedicated revenues which are required to be paid into the Fund on an ongoing basis pursuant to provisions of the Administrative Code. The PPF, Subchapter 2, which is an actuarially-funded pension system, has been the pension fund for all persons who have joined the uniformed force of the Police Department since March 30, 1940. See Administrative Code, §§ 13-214 to 13-267.

The bill provides that effective July 1, 1995, all assets of the PPF, Subchapter 1 would be transferred to the PPF, Subchapter 2, and the PPF, Subchapter 2 would assume liability for paying all future benefits to retirees and other beneficiaries of the PPF, Subchapter 1. For funding and accounting purposes, however, the bill would be effective on the first day of the current fiscal year. The bill ends the archaic practice of utilizing dedicated revenues for a particular purpose; future license fees and other moneys which otherwise would be payable to the PPF, Subchapter 1 would be paid into the City's general fund. Since the PPF, Subchapter 1 has been closed to new members since 1940, merging its assets and liabilities into the PPF, Subchapter 2 is appropriate at this time.

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As noted above, the bill also would amend the Administrative Code provisions governing payments from the POVSF to eligible police officer

Hon. George E. Pataki  
July 7, 1995  
Page three

S.5421

service retirees who were appointed on or after July 1, 1988. Chapter 247 of the Laws of 1988 amended the POVSF provisions so as to provide a fixed schedule of variable supplements payments to eligible police officer service retirees. Chapter 247 provided a more generous "Tier A" schedule of payments to eligible service retirees who became members of the PPF, Subchapter 1 or 2 prior to July 1, 1988, and a less generous "tier B" schedule of benefits to eligible service retirees who become members of the PPF, Subchapter 2 on or after July 1, 1988. Subject to certain limitations, the Tier A schedule for eligible pre-July 1, 1988 appointees provided for payments (1) to begin at \$2,500 per year for calendar year 1988, (2) to increase by \$500 per year until a level of \$12,000 per year is reached in 2007 and (3) to remain at \$12,000 per year thereafter. Subject to certain limitations, the Tier B schedule for eligible post-June 30, 1988 appointees provided for payments (1) to begin at \$2,500 for the first year of retirement, (2) to increase by \$500 per year until a level of \$12,000 per year is reached in the twentieth year of retirement and (3) to remain at \$12,000 per year thereafter. See Administrative Code, § 13-385.

The bill would eliminate, beginning in calendar year 2008, the Tier B schedule of payments for eligible post-June 30, 1988 appointees. Subject to certain limitations, such eligible post-June 30, 1988 appointees would receive for calendar years 2008 and thereafter, the same \$12,000 annual payment from the POVSF as pre-July 1, 1988 appointees are scheduled to receive.

The bill also would amend a provision of Chapter 675 of the Laws of 1991 which pertains to the compensation and benefits of police officers who transferred from the New York City Housing or Transit Police Department to the New York City Police Department pursuant to Chapter 675. That provision of the bill states that such transferring officers' "compensation and benefits shall be determined as if the transferred officers had been appointed to the new positions on the date of their initial appointment as police officers". Thus, the bill would have the effect of permitting certain police officers who become eligible for variable supplements benefits, who were appointed to the New York City Transit or housing Police Department prior to July 1, 1988 and who transferred on or after such date to the New York City Police Department pursuant to Chapter 675 of the Laws of 1991, to receive the tier A variable supplements benefits.

Accordingly, I respectfully urge your approval of this bill which is part of the City's 1995 Legislative Program.

Very truly yours,

RUDOLPH W. GIULIANI, Mayor

By:   
Legislative Representative

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Exhibit M



## DANGEROUS WEAPONS

## Ch. 200

## Underground Railroads—Use of Animal or Horse Power

## CHAPTER 199

An Act to amend the railroad law, in relation to use of animal or horse power on underground railroads.

Became a law April 2, 1956, with the approval of the Governor.  
Effective 20 days after April 2, 1956.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section two hundred six of the railroad law is hereby amended to read as follows:

## § 206. Motive power

Any portion of any railroad constructed, equipped and operated under section two hundred and one may be operated by animal or horse power, or by cable.

Note.—Section two hundred and one permits construction in any city of the state of a population of one million five hundred thousand or more upwards, of underground park railroads to connect with surface railroads. Animal or horse power for such railroads, or for any other, is outmoded.

## Dangerous Weapons—License To Carry

## CHAPTER 200

An Act to amend the penal law, in relation to issuance of license to carry and use dangerous weapons.

Became a law April 2, 1956, with the approval of the Governor.  
Effective September 1, 1956.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Subdivision nine-b of section eighteen hundred ninety-seven of the penal law, as last amended by chapter six hundred thirty-eight of the laws of nineteen hundred forty-five, is hereby amended to read as follows:

9-b. All applications for a license pursuant to the provisions of this section shall require a statement of the applicant as to whether he has ever suffered any mental illness or been confined to any hospital, public or private institution for mental illness. No license shall be issued by any officer pursuant to this section unless and until an investigation of all statements made in the application therefor has been made by the duly constituted police authorities of the locality where the application is made and the files of the division of criminal identification of the department of correction at Albany have been examined for any previous criminal record of the applicant and then only if such investigation shows such statements to be true and such examination discloses that said applicant has not been convicted in this state or elsewhere of a felony or any one of the misdemeanors or offenses mentioned in section five hundred fifty-two of the code of criminal procedure. An investigation shall also be made of all statements, which shall be made in such application, concerning previous or present mental illness of the appli-

deletions by statute



## Ch. 200 LAWS OF NEW YORK 1956

cant and for that purpose the records of the department of mental hygiene shall be available for inspection by any such officer. The provisions of this subdivision, in so far only as they relate to the examination of files of the division of criminal identification in the department of correction, shall not apply to licenses applied for, to or issued by the police commissioner of the city of New York during the calendar year nineteen hundred thirty-seven.

§ 2. This act shall take effect September first, nineteen hundred fifty-six.

### Veterans—Honorable Discharge—Recording

#### CHAPTER 201

An Act to amend the military law, in relation to recording of certificates of honorable discharge.

Became a law April 2, 1956, with the approval of the Governor.

Effective April 2, 1956.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section L. Section two hundred fifty of the military law, as amended by chapter four hundred thirty-one of the laws of nineteen hundred fifty-four, is hereby amended to read as follows:

#### § 250. Recording certificates of honorable discharge

Any certificate issued after April sixth, nineteen hundred seventeen, of the honorable separation from or service in the armed forces of the United States during time of war of any veteran, male or female, may be recorded in any one county, in the office of the county clerk, and when so recorded shall constitute notice to all public officials of the facts set forth therein. It shall be the duty of the county clerk to record any such certificate upon presentation thereof without the payment of any fee. For any purpose for which such original certificate may be required in the state of New York, a certified copy of such record shall be deemed sufficient and shall be accepted in lieu thereof. Notwithstanding any inconsistent provisions of law, it shall be the duty of the county clerk of each county, to furnish without charge to any veteran a certified copy of such certificate of such veteran so recorded in the office of such county clerk. The provisions of this section also apply to the counties within the city of New York.

§ 2. This act shall take effect immediately.



# **"DANGEROUS" WEAPONS. Ch. 111**

## **Dangerous Weapons—Investigation of Applicants**

*For text of memorandum relating to this chapter, see p. 1833.*

### **CHAPTER 111**

An Act to amend the penal law, in relation to investigation of applicants for pistol permits.

Became a law March 23, 1957, with the approval of the Governor.  
Effective September 1, 1957.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Subdivision nine-b of section eighteen hundred ninety-seven of the penal law as last amended by chapter two hundred of the laws of nineteen hundred fifty-six is hereby amended to read as follows:

9-b. "All applications for a license pursuant to the provisions of this section shall require a statement of the applicant as to whether he has ever suffered any mental illness or been confined to any hospital, public or private institution for mental illness. No license shall be issued by any officer pursuant to this section unless and until an investigation of all statements made in the application therefor has been made by the duly constituted police authorities of the locality where the application is made and the files of the division of criminal identification of the department of correction at Albany and the files of the federal bureau of investigation at Washington have been examined for any previous criminal record of the applicant and then only if such investigation shows such statements to be true and such examination discloses that said applicant has not been convicted in this state or elsewhere of a felony or any one of the misdemeanors or offenses mentioned in section five hundred fifty-two of the code of criminal procedure. An investigation shall also be made of all statements, which shall be made in such application, concerning previous or present mental illness of the applicant and for that purpose the records of the department of mental hygiene shall be available for inspection by any such officer. The provisions of this subdivision, in so far only as they relate to the examination of files of the division of criminal identification in the department of correction, shall not apply to licenses applied for, to or issued by the police commissioner of the city of New York during the calendar year nineteen hundred thirty-seven.

§ 2. This act shall take effect September first, nineteen hundred fifty-seven.



## GOVERN PISTOL PERMITS

### GROUP LIFE POLICIES

On approving L. 1957, c. 98, which relates to use of statements by the insured to contest the validity of a group life insurance policy, the Governor stated:

This bill provides that the validity of a statement made by the insured, under a policy of group life insurance, shall not be used to contest the validity of the insurance unless contested prior to the expiration of two years, and in no event unless the statement is in writing, signed by the assured, and a copy of it has been furnished the assured or his beneficiary.

A similar bill was vetoed by me last year. At that time, the Association of the Bar of the City of New York opposed the measure and pointed out the ambiguity in language existing in the final phrase of the proposed amendment and said:

"We believe that the language '... nor unless it is in a written instrument signed by him copy of which is or has been furnished to such person or to his beneficiary' is ambiguous and ungrammatical. It can be read as permitting indefinitely the contest of the validity of the insurance of a particular certificate holder if the statements are in writing and have been furnished to the certificate holder."

The changed language in the present bill which substitutes the words "and in no event unless" for the words "nor unless" meets the objections voiced by the Association of the Bar of the City of New York, which now approves the bill.

The bill is approved.

Averell Harriman

### PISTOL PERMITS

On approving L. 1957, c. 111, which relates to the investigation required to be made of applicants for pistol permits, the Governor stated:

This bill relates to the investigation that is required to be made in connection with applications for pistol permits.

The law presently requires that no license shall be issued until an investigation of all statements made in the application has been made by the duly constituted police authorities where the application has been made, and the files of the Division of Criminal Identification of the Department of Correction at Albany have been examined. This bill would add the requirement that the files of the Federal Bureau of Investigation at Washington, be examined for any previous record of the applicant, to determine whether such applicant has been convicted in this state or elsewhere, of a crime which would preclude the granting of a pistol permit.

This is a necessary amendment to the Statute, as it is the only practical way in which convictions in areas outside of New York State may be disclosed.

The bill has the approval of the Department of Correction, New York State Sheriff's Association, Citizens' Union, Police Conference of New York State and the Division of Safety.

The bill is approved.

Averell Harriman

1833



## PISTOLS AND REVOLVERS Ch. 438

in such repossession or retaking occurred, give notice to such department, agency or officer of such repossession or retaking and thereafter and within twenty-four hours of such repossession or retaking deliver the number plates of such motor vehicle or motorcycle to the department, agency or officer to whom such notice was given; notice of such repossession or retaking, including the name and address of the person, firm or corporation repossessing or retaking the same, shall also be given within twenty-four hours thereof to the owner of such motor vehicle or motorcycle, either personally or by registered mail directed to such owner at his last-known address. Unless the motor vehicle or motorcycle can be repossessed or retaken without breach of the peace, it shall be repossessed or retaken by legal process, but nothing herein contained shall be construed to authorize a violation of the criminal law.

2. A violation of the provisions of subdivision one of this section shall be punishable by a fine not to exceed twenty-five dollars, or by not more than ten days imprisonment, or by both such fine and imprisonment.

§ 2. This act shall take effect September first, nineteen hundred fifty-seven.

## Pistols and Revolvers—Fingerprinting Applicants for License to Carry

## CHAPTER 438

An Act to amend the penal law, in relation to filing fingerprints of applicants for licenses to carry pistols or revolvers with the Federal Bureau of Investigation.

Became a law April 12, 1957, with the approval of the Governor.

Effective July 1, 1957.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Paragraph b of subdivision ten of section eighteen hundred ninety-seven of the penal law, as last amended by chapter five hundred eighty-one of the laws of nineteen hundred fifty-six, is hereby amended to read as follows:

b. Elsewhere than in the city of New York, a person licensed to possess or carry a weapon as prescribed by this section may apply at any time to the judge or justice by whom his license was issued, or his successor in office, for an amendment to his license, so as to include one or more additional weapons or one or more different weapons, and upon payment of a fee of twenty-five cents, payable to the county, such judge or justice may issue an amended license to cover such additional or different weapons. If the license is so amended the judge or justice issuing the same shall file in the executive department, division of state police, a record of the amendment of the license, containing a description of the additional or different weapons so covered by the amended license. Elsewhere than in the city of New York and the county of Nassau every such license shall be in force and effect until revoked as herein provided. In the city of New York and the county of Nassau every such license shall expire on the first day of the second January, after the date of issuance, provided, however, that any such license may be limited as to time to expire on a date fixed in the license prior to such date. All licenses heretofore issued by the commissioner of police of Nassau county, not pre-

delations by et al.



## Ch. 438 LAWS OF NEW YORK 1957

viously revoked or cancelled, shall be deemed to be revoked as of the date of expiration now listed on such licenses. Each license issued to possess a weapon not to be carried on the person shall specify the place where the licensee shall possess the same. Each original application for a license to carry a weapon on the person shall be accompanied by a photograph of the applicant in duplicate which photograph shall have been taken within thirty days prior to the filing of such application and one copy of which shall be attached to the license and the other remain with the application. Before a license is issued as provided in this section the officer to whom the application is made shall ascertain if the applicant has been convicted of crime and shall cause the fingerprints of such applicant to be taken in ~~triplicate~~ quadruplicate. The officer to whom such application is made shall cause ~~one copy~~ two copies of said applicant's fingerprints to be taken on a fingerprint card cards measuring eight inches square, together with physical descriptive data pertaining to said applicant. ~~Such~~ One such card, when completed, shall be forwarded to the division of criminal identification of the department of correction at Albany, and shall be searched and retained in the files of said division. In the event that a search of the division's files reveals a criminal record of the applicant, written notification to that effect shall be immediately transmitted to the officer to whom the application was made and to the office of the executive department, division of state police. In the event that a search of the files reveals no criminal record of the applicant, notification to that effect shall be immediately transmitted to the aforementioned authorities. The other such card shall be forwarded by the officer to whom the application is made, to the federal bureau of investigation in Washington, D. C., with a request that the same be searched and retained in the files of said bureau. Of the remaining two copies, one original of such fingerprints shall be filed in the office of the executive department, division of state police, within ten days after the license is issued and one shall remain on file in the office of the officer taking the same. No such fingerprint may be inspected by any person, other than a peace officer, except on order of a judge or justice of a court of record on such notice, if any to the person to whom the license was issued as the judge or justice may determine. A person who has been convicted in this state or elsewhere of a felony or any one of the misdemeanors or offenses mentioned in section five hundred and fifty-two of the code of criminal procedure shall not be entitled to a license under this section. At any time a license may be revoked and cancelled in the city of New York by the police commissioner and in the county of Nassau by the commissioner of police of such county. Elsewhere than in the city of New York a license also may be revoked and cancelled at any time by any judge, or justice of a court of record. Whenever a license shall be revoked or cancelled, the judge or justice or commissioner of police revoking or cancelling the license, shall immediately notify in writing the executive department, division of state police. In the city of New York and in the county of Nassau if, before the date of expiration thereof, providing the license shall not have been cancelled or revoked, the licensee apply for a renewal, the term of such license shall thereby be extended until the application for renewal shall have been disposed of by such commissioner, commissioner of police, judge or justice.

§ 2. This act shall take effect July first, nineteen hundred fifty-seven.

Exhibit N

Int. No. 313

By Council Members Vallone, Chin, Fidler, James, Vacca, Nelson, Cabrera and Lander  
(by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to fees for firearm licenses and rifle and shotgun permits and the possession of firearms, rifles and shotguns while intoxicated and other abuse of firearm licenses and rifle and shotgun permits.

Be it enacted by the Council as follows:

Section 1. Paragraphs 2 and 3 of subdivision a of section 10-131 of the administrative code of the city of New York, as amended by local law number 37 for the year 2004, are amended to read as follows:

2. Every license to have and carry or have and possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to have and carry or have and possess a pistol or revolver in the city shall pay [therefor, a fee of three hundred forty dollars for each original or renewal application] for a three year license period or part thereof, a fee of:

(a) seventy dollars for each original application for a license to have and possess in a dwelling or place of business;

(b) twenty-five dollars for each renewal application for a license to have and possess in a dwelling or place of business;

(c) one hundred ten dollars for each original application for a license to have and carry concealed, except that the fee shall be fifty dollars for a retired law enforcement officer;

(d) forty dollars for each renewal application for a license to have and carry concealed, except that the fee shall be twenty-five dollars for a license that is valid



only when the holder is actually engaged in a work assignment as a security guard or gun custodian, for a license that is valid only for carrying a handgun to and from specific locations during specific days and times, and for a license for a retired law enforcement officer; and

(e) ten dollars for each replacement application of a lost license, provided that the police commissioner may waive such fee if the applicant lost the license as a result of being the victim of a crime.

3. Every applicant to whom a license has been issued by any person other than the police commissioner, except as provided in paragraph five of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of [three hundred forty] one hundred ten dollars, for each renewal a fee of [three hundred forty] twenty-five dollars, and for each replacement of a lost permit a fee of ten dollars.

§2. Subdivision d of section 10-303 of the administrative code of the city of New York, as amended by local law number 37 for the year 2004, is amended to read as follows.

d. Fees. The fee for an application for a rifle and shotgun permit [or renewal thereof] shall be [one hundred forty dollars] sixty-five dollars for an original application and twelve dollars for a renewal application.

§3. Title 10 of the administrative code of the city of New York is amended by adding new sections 10-313 and 10-314 to read as follows:

§ 10-313. Prohibition of the possession of firearms, rifles and shotguns while intoxicated.



described in paragraphs one, two, and eleven of subdivision a of section 265.20 of the penal law.

d. Definitions. For purposes of this section and section 10-314 of this chapter, in addition to the definitions provided in section 10-301 of this chapter:

(i) The terms “firearm,” “rifle,” and “shotgun” shall be deemed to include assault weapons;

(ii) The term “police officer” shall mean a sworn officer of the police department of the city of New York; and

(iii) The term “drug” shall mean and include any controlled substance listed in section thirty-three hundred six of the public health law.

e. A person may be convicted of a violation of paragraph (i), (ii) or (iii) of subdivision a of this section, notwithstanding that the charge laid before the court alleged a violation of paragraph (i) or (ii) of such subdivision, and regardless of whether or not such conviction is based on a plea of guilty.

§10-314. Testing of persons who carry firearms, rifles or shotguns while appearing to be legally intoxicated; misdemeanor and presumptions.

a. It shall be unlawful for any person who possesses a firearm, rifle or shotgun other than in the person's home, while it reasonably appears that such person is in an intoxicated condition or that such person's ability to safely possess such firearm, rifle or shotgun is impaired by consumption of alcohol, or by the combined influence of alcohol and any drug or drugs, to refuse to submit to a breath test to be administered by a police officer, unless such person demonstrates to such police officer that his or her conviction for the offense described in subdivision a of section 10-313 of this chapter



would be precluded by paragraph (ii) of subdivision c of such section. Any person who shall violate this section shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1000) or imprisonment not exceeding thirty (30) days or both.

b. Presumptions.

(i) Evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall create rebuttable presumptions that the ability of such person to safely possess a firearm, rifle or shotgun was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition;

(ii) Evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall create a rebuttable presumption that such person was not in an intoxicated condition, but such evidence shall not create any presumption regarding whether the ability of such person to safely possess a firearm, rifle or shotgun was impaired by the consumption of alcohol; and

(iii) Evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall create a rebuttable presumption that such person was not in an intoxicated condition, but shall create a rebuttable presumption that the ability of such person to safely possess a firearm, rifle or shotgun was impaired by the consumption of alcohol.

§4. This local law shall take effect immediately and shall govern original applications for licenses and permits filed on or after the date of its enactment and renewal applications for licenses that expire on or after the date of its enactment, except



that section three of this local law shall take effect ninety days after its enactment into law; provided, however, that any actions, including but not limited to the promulgation of rules and regulations, necessary to implement the provisions of this act on its effective date are authorized and directed to be made and completed on or before such date.

Exhibit O

Staff: Committee on Public Safety  
Oona Peterson, Counsel  
Salvador Arrona, Policy Analyst



## THE COUNCIL

### Report of the Governmental Affairs Division

Robert Newman, Legislative Director  
Alix Pustilnik, Deputy Director

### COMMITTEE ON PUBLIC SAFETY

Hon. Peter F. Vallone Jr., Chair

**September 15, 2010**

**INTRO. NO. 313:** By Council Members Vallone Jr., Chin, Fidler, James, Vacca, Nelson, and Cabrera (by request of the Mayor)

**TITLE:** A Local Law To amend the administrative code of the city of New York, in relation to fees for firearm licenses and rifle and shotgun permits and the possession of firearms, rifles and shotguns while intoxicated and other abuse of firearm licenses and rifle and shotgun permits.

## I. INTRODUCTION

On September 15, 2010, the Committee on Public Safety, chaired by Council Member Peter F. Vallone Jr., will hold a hearing on Introduction 313 (Intro. 313), which would amend the administrative code of the city of New York, in relation to fees for firearm licenses and rifle and shotgun permits and the possession of firearms, rifles and shotguns while intoxicated and other abuse of firearm licenses and rifle and shotgun permits. Representatives from the Mayor's Office of the Criminal Justice Coordinator and other concerned citizens are expected to attend.

## II. BACKGROUND

The Second Amendment to the United States Constitution provides that "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The Supreme Court recently decided several cases concerning the Second Amendment. In *District of Columbia v. Heller* the Court found that a District of Columbia law banning the possession of handguns in the home was invalid due to the rights conferred by the Second Amendment;<sup>1</sup> in *McDonald v. City of Chicago, Ill.*, the Court applied that right equally to the States.<sup>2</sup> *Heller* made clear, however, that Second Amendment rights are "not unlimited" and that certain restrictions on gun possession are valid. The Second Amendment does not encompass a right to "keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose."<sup>3</sup>

<sup>1</sup> See, generally *District of Columbia v. Heller*, 128 S.Ct. 2783 (U.S. 2008).

<sup>2</sup> *McDonald v. City of Chicago, Ill.*, 130 S.Ct. 3020, 3025 (U.S. 2010).

<sup>3</sup> *District of Columbia v. Heller*, 128 S.Ct. at 2816-2817 (U.S. 2008).



The city of New York already has several limitations in place on the possession of guns.<sup>4</sup> One major restriction on possessing a gun is the need to obtain a permit or license for the weapon before such possession is lawful. Permits and licenses are necessary to ensure that individuals who are likely to abuse firearms do not have easy access to such weapons. The New York City Police Department (NYPD) is working to increase the efficiency with which it issues permits and licenses;<sup>5</sup> Intro. 313 would adjust the fees for permits and licenses so that the fees more accurately reflect the cost to the City for issuing the various types of permits and licenses. The aim of Intro. 313 is to enable the NYPD to continue prohibiting criminals and other potentially dangerous individuals from possessing a gun while protecting the right of law-abiding New Yorkers to possess a firearm, should they choose to do so.

Gun violence has claimed the lives of over 30,000 people in the United States each year for the past several years.<sup>6</sup> Intro. 313 aims to decrease the possibility of gun violence by prohibiting carrying a gun while intoxicated or while a person's ability to safely possess such a dangerous instrument is impaired by drugs or alcohol. The standard would mirror the standard used to criminalize driving while intoxicated. Many other states have similar laws that prohibit individuals from carrying guns while their decision-making skills and reflexes are inhibited by drugs or alcohol. In Connecticut, for instance, it is a misdemeanor to "carry a pistol, revolver, machine gun, shotgun, rifle or other

<sup>4</sup> See New York City Administrative Code §§ 10-131, 10-301 – 10-312.

<sup>5</sup> See Press Release, "Mayor Bloomberg and Police Commissioner Kelly Announce Revision of City's Laws, Rules, and Procedures for Gun Licensing to Improve Public Safety and Investigative Effectiveness," May 14, 2010.

<sup>6</sup> See New Yorkers Against Gun Violence, "Facts," available at <http://www.nyagv.org/facts.htm> ("34,000 is the average number of Americans killed by guns every year"). See also Center for Disease Control, "National Center for Injury Prevention and Control," showing that there were 31,224 deaths from firearms in 2007, 30,896 in 2006, and 30,694 in 2005, available at [http://webappa.cdc.gov/sasweb/ncipc/mortrate10\\_sy.html](http://webappa.cdc.gov/sasweb/ncipc/mortrate10_sy.html).

firearm [...] while under the influence of intoxicating liquor or any drug, or both.”<sup>7</sup> A similar law in Massachusetts punishes carrying a firearm while under the influence of alcohol or illegal drugs by a fine of up to \$5,000 or imprisonment of up to two and a half years, or both.<sup>8</sup>

### III. INTRODUCTION 313

Sections one and two of the bill would adjust the fees required for applying for permits for guns. Section 10-131 of the administrative code of the city of New York pertains to licenses for keeping or carrying pistols or revolvers. Section one of Intro. 313 would amend paragraph 2 of subdivision a of section 10-131 to clarify that the section pertains to licenses to *have* and carry and *have* and possess pistols and revolvers. It would also change the current fee of three hundred and forty dollars for each original or renewal application for a three year license for a pistol or revolver to a fee of: (a) seventy dollars for each original application for a license to have and possess in a dwelling or place of business; (b) twenty-five dollars for each renewal application for a license to have and possess in a dwelling or place of business; (c) one hundred ten dollars for each original application for a license to have and carry concealed, except that the fee shall be fifty dollars for a retired law enforcement officer; (d) forty dollars for each renewal application for a license to have and carry concealed, except that the fee shall be twenty-five dollars for a license that is valid only when the holder is actually engaged in a work assignment as a security guard or gun custodian, for a license that is valid only for carrying a handgun to and from specific locations during specific days and times, and for a license for a retired law enforcement officer; and (e) would provide for the police

<sup>7</sup> Connecticut General Statutes § 53-206d.

<sup>8</sup> Massachusetts General Laws 269 § 10H.

commissioner to waive the ten dollar replacement fee for a lost license if the applicant lost the license as a result of being the victim of a crime.

Currently, if an individual has a license issued by someone other than the NYPD police commissioner, a fee to grant that permit validity within the city of New York costs three hundred forty dollars. Section one of Intro. 313 would also amend paragraph 3 of subdivision a of section 10-131 to decrease that fee to one hundred ten dollars. In addition, it would change the current three hundred and forty dollar renewal fee to twenty-five dollars.

Section two of Intro. 313 would amend subdivision d of section 10-303 of the administrative code, which covers permits for possession and purchase of rifles and shotguns, by decreasing the current one hundred forty dollar fee for an application or renewal of a rifle or shotgun permit to sixty-five dollars for an original application and to twelve dollars for a renewal application.

Section three of Intro. 313 creates two new sections – section 10-313 and 10-314 – of the administrative code. The new section 10-313 would prohibit an owner's possession of firearms, rifles and shotguns outside of his or her home while he or she is intoxicated. Such prohibition would also extend to the possession of firearms, rifles and shotguns outside of the home by any person who has .08 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's breath, blood, urine or saliva, made pursuant to section eleven hundred ninety-four of the vehicle and traffic law, or section 10-314 of the administrative code or other applicable law. A prohibition on possession outside of the home by any person whose ability to safely possess a firearm, rifle, or shotgun is impaired by the consumption of alcohol,

drugs, or the combination of alcohol or drugs would also be included. Subdivision b of the new section 10-313 would state that any individual violating these prohibitions would be guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment. Such violation would also be grounds for the revocation of a license to deal in firearms, deal in rifles and shotguns, possess firearms, or possess a rifle or shotgun in accordance with applicable law.

Subdivision c of the new section 10-313 would state that possession of a valid license for a rifle, firearm, or shotgun is no defense to a charge of carrying such weapon while intoxicated or impaired by drugs or alcohol. It would, however, allow for an exemption for the circumstances described in paragraphs one, two, and eleven of subdivision a of section 265.20 of the penal law.<sup>9</sup>

Definitions of terms for 10-313 and 10-314 are provided for in subdivision d of 10-313. The terms “firearm,” “rifle,” and “shotgun” would be deemed to include assault weapons; the term “police officer” would mean a sworn officer of the police department of the city of New York; and the term “drug” would mean and include any controlled substance listed in section thirty three hundred six of the public health law.

Subdivision e of 10-313 would allow for conviction of a violation of paragraph (i), (ii) or (iii) of subdivision a of 10-313 even if the charge laid before the court alleged only a violation of paragraph (i) or (ii) of such subdivision, and regardless of whether or not such conviction is based on a plea of guilty.

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<sup>9</sup> These paragraphs pertain to, among others, persons in the military service, police officers, peace officers, persons fulfilling defense contracts, persons voluntarily surrendering a gun, or wardens or certain other prison workers.



The new section 10-314 would concern the testing of persons who carry firearms, rifles or shotguns while appearing to be legally intoxicated; it would make it a misdemeanor for such individual to refuse to submit to a breath test administered by a police officer unless such individual could show that the exemptions provided for under §10-313(c)(ii) would apply. The misdemeanor would be punishable by a fine of not more than one thousand dollars or imprisonment not exceeding thirty days, or both. Subdivision b of 10-314 would create presumptions as follows: (i) Evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall create a rebuttable presumption that the ability of such person to safely possess a firearm, rifle or shotgun was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition; (ii) Evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall create a rebuttable presumption that such person was not in an intoxicated condition, but such evidence shall not create any presumption regarding whether the ability of such person to safely possess a firearm, rifle or shotgun was impaired by the consumption of alcohol; and (iii) Evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall create a rebuttable presumption that such person was not in an intoxicated condition, but shall create a rebuttable presumption that the ability of such person to safely possess a firearm, rifle or shotgun was impaired by the consumption of alcohol.

Section four of Intro. 313 provides that the local law shall take effect immediately and shall govern original applications for licenses and permits filed on or after the date of its enactment and renewal applications for licenses that expire on or after the date of its

enactment, except that section three of the local law shall take effect ninety days after its enactment into law; provided, however, that any actions, including but not limited to the promulgation of rules and regulations, necessary to implement the provisions of the act on its effective date are authorized and directed to be made and completed on or before such date.

#### IV. CONCLUSION

In today's hearing the committee will seek to learn more about the changes that Intro. 313 would make to New York City's gun laws. The committee also plans to hear from concerned citizens regarding the need to protect the public from those who wish to use firearms to cause harm, while also protecting the constitutional rights of the citizens of New York.

Exhibit P

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON PUBLIC SAFETY

-----X

September 15, 2010

Start: 10:15 am

Recess: 11:32 am

HELD AT:

Committee Room

250 Broadway, 14th Floor

B E F O R E:

PETER F. VALLONE, JR.  
Chairperson

COUNCIL MEMBERS:

Helen D. Foster

Daniel R. Garodnick

James F. Gennaro

Vincent J. Gentile

Daniel J. Halloran III

Eric A. Ulrich

David G. Greenfield

Brad Lander



A P P E A R A N C E S (CONTINUED)

Arkadi Gerney  
First Deputy Criminal Justice Coordinator  
NYC Mayor's Office

Megan Meadows  
Former Student  
Virginia Tech

Jackie Hilly  
Executive Director  
New Yorkers Against Gun Violence

COMMITTEE ON PUBLIC SAFETY

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CHAIRPERSON VALLONE: Welcome everyone to our first Public Safety Committee hearing after our short summer break. It's good to see everyone.

Today, we'll be discussing Intro 313, which is a bill which would adjust the fees for permits and licenses for guns, but more importantly, would create a new law, making it a misdemeanor to carry a gun outside of the home while intoxicated. One would think that would be the law right now but it's not.

For illustrative purposes, let's think of Plaxico Burress case. If that had been a legal gun and he was getting drunker and drunker in the club, there is no law against and there's nothing anyone could have done until the gun went off, and that's what we don't want to see happen. We don't want to see people with what's obviously a deadly weapon, carrying it while intoxicated. You can't drive while intoxicated; you shouldn't be able to carry a gun while intoxicated.

This is not the first time this committee has held a hearing regarding improper gun use. In 2006, we passed a series of bills I

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was a co-sponsor of, including laws creating a gun offender registry, a law to prevent the theft of firearms from licensed firearm dealers, to prevent firearms trafficking, to regulate guns that appear to be toys. These laws have kept our city safe from gun violence. We've also recently passed laws requiring reports on the number on times that police discharge their firearms and the number of illegally confiscated firearms in the NYPD.

I just listed a bunch of laws that we did and I think it's a good time to welcome Ed Main [phonetic] from London. He's a council member from London who's on the Public Safety Committee there. I think they call it something a little bit differently. But if you want a list of all the laws that I just mentioned that might be good laws for London, just let us know. Thank you for coming all the way from London to see how we operate here in New York City.

The first part of the legislation creates a more sophisticated scheme for the fees involved in gun permits and licenses. Instead of the one size fits all that exists now, it's going to now more accurately reflect the amount of work



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the city has to do when it comes to these gun licenses and renewal licenses. So most of the fees will be reduced as a result of this adjustment, which is rare. We rarely hold hearings on reducing fees. This is one of the few.

The second part of the legislation, as I said, creates the crime of carrying a gun while intoxicated. Alcohol and guns are a toxic mix. Just like getting behind the wheel of a car, we don't want people walking around drunk with a gun.

A similar bill was introduced in Albany. Now, what happened here, the way this bill wound up before us today is it was the Mayor's idea to bring this bill to Albany. It's a good idea; it's a good bill. He invited me to the press conference up in the Bronx. The two sponsors were there. I think it was Jose Peralta in the Senate and Jeff Klein in the Assembly.

After they spoke, I got up and said, you know what, it's a great bill, but as most of us know, Albany's the place most great bills go to die. So I will introduce it at a city

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level to make sure that it gets done. I introduced the request for legislation immediately thereafter.

A few months after that, what I said came true and the Mayor came to me and said, "Can we introduce this bill?" I said I already started working on it, but no problem, it'll be at the Mayor's request and we'll get this done in the City Council and we'll show them how to pass good legislation up in Albany. I'm sure they'll follow us at some point. It always happens.

So that's what we're going to do today. We're going to start the process on this bill. We hope to move quickly on it. The Mayor supports it. I believe the Speaker supports it and almost all the witnesses who are here today will support it.

So we're going to start today with Arkadi, is it Gerney, is that how you pronounce, first Deputy Criminal Justice Coordinator and Special Advisor to the Mayor. We have your testimony. I appreciate you being here today and the floor is yours.

ARKADI GERNEY: Good morning,

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Chairperson Vallone and members of the Council.

CHAIRPERSON VALLONE: I'm not sure  
your mike's on.

ARKADI GERNEY: I think it's on  
now. Good morning, Chairperson Vallone and  
members of the Council. As you said, my name is  
Arkadi Gerney. I'm City's First Deputy Criminal  
Justice Coordinator and Special Advisor to the  
Mayor. Thank you for the opportunity today to  
discuss Intro 313, the Mayor's proposal to combat  
the abuse of gun licenses by making it a crime to  
carry a gun while intoxicated and by revising the  
fee schedule for gun licenses.

I should begin by noting that we  
worked with the NYPD throughout the development of  
this legislation and they very strongly support  
the final version before you today. Before we get  
into the specifics of the bill, I'd like to update  
you on the City's efforts against violent crime  
and illegal guns.

Working closely with the City  
Council, the City has achieved success through a  
four-pronged strategy against illegal guns:  
innovative local and state legislation; smarter

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1  
2 and more coordinated enforcement; path breaking  
3 litigation and investigations; and nationwide  
4 coalition-building. Our legislative initiatives  
5 included the country's first local Gun Offender  
6 Registration Act which the Chairperson mentioned.  
7 That law requires convicted gun felons to report  
8 for four years after release so that the NYPD can  
9 continue to track them.

10 Since the Council enacted that  
11 legislation, several other cities and counties  
12 from Utica to Chicago to Baltimore have emulated  
13 it. The City benefited greatly in enacting that  
14 law from thoughtful consideration by this  
15 committee and in particular from the leadership of  
16 Chairperson Vallone. Chairperson Vallone, who has  
17 made illegal guns one of his top priorities,  
18 sponsored the Gun Offender Registration Act along  
19 with the Speaker.

20 Meanwhile, the City has fought hard  
21 for commonsense laws in Albany. For example, in  
22 2006 the City spearheaded the push to pass the  
23 nation's toughest law on carrying a loaded illegal  
24 handgun, three and a half years mandatory minimum  
25 sentence for that dangerous crime.



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Another law enacted in 2008 at the City's urging requires that the state share records on seriously mentally ill people with the FBI so they can be prevented from buying a gun in the state or elsewhere. As a result, the number of mental health records that New York State has submitted to the National Instant Criminal Background Check System grew from one record in 2006 to more than 151,000 records in 2010.

To toughen enforcement, NYPD has created a Firearms Suppression Division that brings together enforcement units from throughout the department and collects information on gun arrests to track down the sources of guns. That division includes the Gun Offender Monitoring Unit, which enforces the Gun Offender Registration Act.

Also, NYPD held nine gun buybacks between July 2008 and May of this year. They took nearly 6,000 guns off the streets of all five boroughs, in cooperation with DAs, the Bronx borough president, and the houses of worship.

The City also filed innovative suits against twenty-seven out-of-state gun

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dealers that were among the top sources of guns found at New York City crime scenes. The vast majority of those gun dealers have settled with the City, and a Johns Hopkins study of those dealers have showed a 75 percent decrease in their share of crime guns that ended up in New York City crimes that originated from those dealers shortly after being sold.

Finally, we have built a nationwide coalition of Mayors Against Illegal Guns. The coalition started with just 15 mayors in April 2006. It now numbers over 500 mayors from every corner of the country, from both political parties.

Mayors Against Illegal Guns led the fight last summer to defeat the Thune Amendment, a measure that would have undermined state concealed carry laws. The coalition has helped modify the Tiahrt Amendments to free up gun trafficking data to local police and it's created a landmark partnership with Wal-Mart on gun sales practices. Wal-Mart is the nation's largest gun-seller.

That four-pronged strategy, together with the outstanding work of the NYPD,

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has contributed to real successes against illegal guns and violent crime. Just this week the FBI released its final Uniform Crime Report for 2009, confirming that the City had only 471 homicides last year. That's the fewest since comparable records have been kept, and a 27 percent drop since 2001, when we had 649 murders. New York City remains the safest big city in America, according to the FBI's report on rates of serious crime.

Today's legislation is part of a package of improvements to the City's system for licensing guns that Mayor Bloomberg and Police Commissioner Kelly announced in May. Under state and local law, the New York City Police Department issues licenses for handguns, rifles, and shotguns.

The NYPD offers several types of licenses, depending both on the weapons covered and on how the weapons can be used. In particular, some people are licensed to carry a concealed weapon, while others are licensed only to keep a weapon at their home or place of business.

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The administration's changes are designed to improve public safety and to make the investigation process more effective for all types of licenses. With these changes, the NYPD is taking advantage of new technology, focusing its review of license applicants who are most likely to present a danger, and removing unnecessary red tape that slows down our investigators.

The City has already put into effect several of the improvements that could be done without legislation. In particular, enhanced technology and oversight in the overall application process have allowed NYPD to focus more investigative resources on applicants who merit closer scrutiny and in the process it's cut the average time to review applications for handguns in the home from 20 weeks in 2007 to 11 weeks in 2009.

Furthermore, the NYPD now accepts payment by credit card rather than just requiring money orders. Licensing offices are now open late one night a week, to make the process more convenient for working New Yorkers. And NYPD has issued a draft regulation that will enact the two



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1  
2 other elements of the package. That regulation  
3 will offer more detailed examples of the  
4 eligibility standards and will remove the current  
5 notarization requirement since the in-person  
6 visits and modern technology enable NYPD to verify  
7 the identity of license applicants.

8 Some of the improvements in the  
9 licensure system, however, require local  
10 legislation. In particular, we need a local law  
11 to make clear that even someone licensed to carry  
12 a gun should not do so while they are intoxicated.  
13 That's just commonsense. If automobiles are  
14 dangerous with a drunken driver behind the wheel,  
15 it should be obvious the principle applies when  
16 somebody carries a gun while intoxicated and it  
17 should be subject to tough penalties.

18 Accordingly, Mayor Bloomberg called  
19 for such a law in 2009. This legislation,  
20 introduced by Chairperson Vallone among others,  
21 will fulfill the pledge. It will prohibit people  
22 from carrying a gun if they are so drunk that  
23 under state law they would not be allowed to  
24 drive. Violation will be a misdemeanor punishable  
25 by up to a year in jail or a fine of up to \$10,000,

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or both. It will also be grounds for revocation of a gun license.

To enforce that requirement, NYPD officers who encounter someone who is carrying a gun outside their home and who appears to be drunk can require that that person to take a Breathalyzer test. Nineteen states already have similar laws. For example, Alaska makes it a misdemeanor to have a gun in one's immediate possession or in one's car while impaired.

The other improvements in our licensing system that requires local legislation is a revised fee schedule. This legislation reflects NYPD's focus on license applicants who merit enhanced reviews. Under current law, a license to keep a handgun in the home costs as much as a license to carry one, even though carry license applications require more extensive scrutiny from the NYPD. Similarly, renewing a license currently costs the same as getting the original one, even though renewals generally require less investigation. This bill will replace that flat fee structure with a graduated set of fees that reflects the varying costs for

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the City of issuing different types of licenses.

Thank you, again, for the opportunity to discuss the proposed legislation. This bill, together with other improvements that are already being enacted, will improve public safety, save the City money, and save time for responsible, law-abiding New Yorkers who wish to own a gun. Thank you.

CHAIRPERSON VALLONE: Thank you very much. I agree; I think this is a commonsense bill and I think most people would. We do have some testimony submitted by the New York State Rifle and Pistol Association which doesn't support this. They support the lower fees, although they believe the fee is unconstitutional. They believe that this is not a problem right now. Now, I agree, luckily it hasn't been a huge problem. But again, this was the Mayor's idea. What was the impetus for this bill?

ARKADI GERNEY: Well, Chairperson, I think the example that you raised, the Plaxico Burress case points out the kind of situation that this bill is designed to prevent.

CHAIRPERSON VALLONE: Just one

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can also go to jail.

CHAIRPERSON VALLONE: You can if there are other indicia of being drunk, not just for refusing the test. Am I correct, Dan?

COUNCIL MEMBER HALLORAN: That's correct. That's absolutely correct.

CHAIRPERSON VALLONE: Are you a former prosecutor too?

COUNCIL MEMBER HALLORAN: Yeah.

CHAIRPERSON VALLONE: We have three former prosecutors up here. So that is a concern if this bill reads solely for refusing without any other indicia for being drunk, that would be a crime. Is that the way the bill reads right now?

ARKADI GERNEY: My understanding of the bill is that in order to demand the test, there has to be some indicia of intoxication.

CHAIRPERSON VALLONE: We'll take a look at that. While we do, I'm going to turn the floor over to Council Member Gentile for some follow-up questions.

COUNCIL MEMBER GENTILE: Thank you, Mr. Chairman. Mr. Gerney, I may have missed this because I stepped out of the room, but what is the



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rationale for the decrease in the fees?

ARKADI GERNEY: The rationale is to schedule the fees to be consistent with the investigative requirements of the different license types. So a new carry permit, which typically will require more investigation than the renewal of a long gun permit. So across the board, the fees have gone down somewhat. But the fees vary now by license type. That reflects a review that was done to look at the investigative requirements for each license type.

COUNCIL MEMBER GENTILE: I'm not sure what that means that it reflects the investigation requirements. How do you calculate that in terms of a fee?

ARKADI GERNEY: You look at what is the process. What was done was that NYPD and OMB looked at the process that they have for each type of license and a review for each type of license and what's required to do the review. Based on looking at the man hours involved across the board, they were able to estimate how much review is required for one type of application and how much is required for another type of application.

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So for example, a new permit where the police department is looking at someone for the first time will typically require less investigation than a renewal.

COUNCIL MEMBER GENTILE: So what you're saying is that the fees as they stand now are arbitrary?

ARKADI GERNEY: No. I'm saying that the fees as they stand now were also based on an OMB review. The fees as they stand now are completely consistent with the city's rules on setting fees. By doing what we're proposing to do with the legislation is we're making the fees more finely tailored to the different types of investigations for different types of applications.

It's not a requirement that the city do so, but by doing so, we're able to offer the public a more graduated set of fees. You can slice and dice things different ways. This is an attempt to look at the investigations. Not every renewal investigation will take the same amount of time. So there are some renewal investigations that might merit more investigation. But what was

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done here was to look at each type here, look at the typical requirements and let's come up with a graduated set of fees that at a more granular level reflects the investigation required.

COUNCIL MEMBER GENTILE: My concern is can you state then categorically that the fees that have been charged up to now do not violate the City Charter on fees being tied to the type of activity involved?

ARKADI GERNEY: Yes.

COUNCIL MEMBER GENTILE: You can say that the fees now are not violative of the City Charter in that regard?

ARKADI GERNEY: Yes.

COUNCIL MEMBER GENTILE: What you're doing now in this legislation is not to fix something that should have never been in the first place?

ARKADI GERNEY: What we're doing now is we're going above and beyond to provide a more granular set of fees.

COUNCIL MEMBER GENTILE: I want to establish that these fees currently are in keeping with the current wording of the City Charter that

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they have to reflect the actual service provided.

ARKADI GERNEY: Yes, that's my understanding. Yes.

CHAIRPERSON VALLONE: Can I get a definition of granular? I don't know what that means actually. I'm just kidding, thanks. While you're thinking, let me jump in.

COUNCIL MEMBER GENTILE: Okay.

CHAIRPERSON VALLONE: I did find what you stated in the law that it has to reasonably appear to the officer that such person is in an intoxicated condition to possess the gun and then refuse to submit to a breathalyzer to be the crime. Now here's the problem: when it comes to DWI, you lose your license for six months immediately for the refusal to take the test. But then it's not a crime until they go to court and prove beyond a reasonable doubt you were drunk. Here the way I read it, it's a crime just to reasonably appear to be in an intoxicated condition and refuse to take the test. I don't know if even you guys have thought this through completely, but that is something that we clearly would need to change, just for court challenge



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making new classes of criminals in our fair city  
over words, because words are important.

CHAIRPERSON VALLONE: Thank you,  
Council Member, much of what you said is 100  
percent correct. In fact, the witness said that  
they want to have some penalty for refusing to  
cooperate with the police when it comes to a  
breathalyzer and a penalty does exist on a DWI  
while driving. But the penalty there is a loss of  
license for six months and almost everybody knows  
about that at this point. The penalty here I  
don't believe is intentional. I think we found it  
and we're going to fix it because that's our job  
as the Public Safety Committee.

COUNCIL MEMBER HALLORAN: I'm glad  
you believe it wasn't intentional. I don't. I  
believe it was absolutely intentional.

CHAIRPERSON VALLONE: Okay. All  
right--

COUNCIL MEMBER HALLORAN:  
[interposing] Mr. Chairman, if I could just say, I  
believe that this administration is only  
responsive, and when you said before that you  
changed these fees pre-the decision in McDonald,

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2 you're absolutely right, but while it was pending  
3 with the Supreme Court where every legal pundit in  
4 this country said that this court was going to  
5 rule in favor of McDonald and grant him the  
6 overturning of the local law. And that was post-  
7 Heller where it was very clear where the law was  
8 going.

9 That's why this is being done.  
10 Make no mistake about it, you are reacting to the  
11 fact that the Supreme Court is legislating in this  
12 venue for the first time in a very long time in a  
13 way completely antithetical to the mission and  
14 objectives you guys have had. Sorry, Mr.  
15 Chairman.

16 CHAIRPERSON VALLONE: Apology  
17 accepted. Two different issues, the drunk  
18 carrying while intoxicated has had nothing to do  
19 with the McDonald case actually, which applied the  
20 Heller law to the states. I agree with you, I  
21 think this is obviously a reaction to that case.  
22 Be that as it may, it is. I'm sure, for reasons  
23 you're well aware, can't sit here and say that.  
24 So we could belabor this point all afternoon, but  
25 we won't go any further.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature \_\_\_\_\_

Date September 27, 2010

Exhibit Q



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File #: Int 0313-2010    Version: A    Name: Fees for firearm licenses and rifle and shotgun permits.

Type: Introduction    Status: Last action: Laid Over in Committee  
Committee: Committee on Public Safety

On agenda: 7/29/2010    Final action:

Enactment date:    Law number:

Title: A Local Law to amend the administrative code of the city of New York, in relation to fees for firearm licenses and rifle and shotgun permits.

Sponsors: Peter F. Vallone, Jr., Letitia James, Fernando Cabrera , (by request of the Mayor)

Attachments: Int. No. 313 - 7/29/10, Committee Report 9/15/10, Hearing Testimony 9/15/10, Hearing Transcript 9/15/10

History (4)    Text

4 records    Group    Export							
Date ▲	Ver.	Action By	Action	Result	Action Details	Meeting Details	Multimedia
7/29/2010	*	<u>City Council</u>	Introduced by Council		<u>Action details</u>	<u>Meeting details</u>	Not available
7/29/2010	*	<u>City Council</u>	Referred to Comm by Council		<u>Action details</u>	<u>Meeting details</u>	Not available
9/15/2010	*	<u>Committee on Public Safety</u>	Hearing Held by Committee		<u>Action details</u>	<u>Meeting details</u>	Not available
9/15/2010	*	<u>Committee on Public Safety</u>	Laid Over by Committee		<u>Action details</u>	<u>Meeting details</u>	Not available

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Details

Name: [Committee on Public Safety](#) Agenda status: Final

Meeting date/time: 9/15/2010 10:00 AM Minutes status: Final

Meeting location: 250 Broadway - Committee Rm, 14th Fl.

Published agenda: [Agenda](#) Published minutes: [Minutes](#)

Meeting video: Not available

Attachments:

Meeting Items (3)

3 records    Group    Export    Show: All agenda items										
File #	Ver.	Agenda Note	Name	Type	Title	Action	Result	Action Details	Multimedia	
<a href="#">Int 0313-2010</a>	*		Fees for firearm licenses and rifle and shotgun permits.	Introduction	Roll Call			<a href="#">Roll call</a>	Not available	
					A Local Law to amend the administrative code of the city of New York, in relation to fees for firearm licenses and rifle and shotgun permits.	Hearing Held by Committee		<a href="#">Action details</a>	Not available	
<a href="#">Int 0313-2010</a>	*		Fees for firearm licenses and rifle and shotgun permits.	Introduction	A Local Law to amend the administrative code of the city of New York, in relation to fees for firearm licenses and rifle and shotgun permits.	Laid Over by Committee		<a href="#">Action details</a>	Not available	

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Exhibit R

# Felonious or Violent Criminal Activity That Prohibits Gun Ownership Among Prior Purchasers of Handguns: Incidence and Risk Factors

Mona A. Wright, MPH, and Garen J. Wintemute, MD, MPH

**Background:** Federal law prohibits firearm possession by felons and certain others. Little is known about criminal activity resulting in new ineligibility to possess firearms among persons who have previously purchased them.

**Methods:** Cohort study of handgun purchasers ages 21 to 49 in California in 1991, 2,761 with a non-prohibiting criminal history at the time of purchase and 4,495 with no prior criminal record, followed for up to 5 years. The primary outcome measures were the incidence and relative risk of conviction for a felony or violent misdemeanor resulting in ineligibility to possess firearms under (a) California law or (b) federal law. Secondary measures were the incidence and relative risk of conviction for murder, forcible rape, robbery, or aggravated assault; and of arrest for any crime.

**Results:** A new conviction for a felony or violent misdemeanor leading to ineligibility to possess firearms under federal law was identified for 0.9% of subjects with no prior criminal history and 4.5% of those with 1 or more prior convictions (hazard ratio, 5.1; 95% confidence interval, 3.3–7.7). Risk was related inversely to age and directly to the extent of the prior criminal history; incidence rates varied by a factor of 200 or more among subgroups based on these characteristics.

**Conclusions:** Among legal purchasers of handguns, the incidence of new felonious and violent criminal activity resulting in ineligibility to possess firearms is low for those with no prior criminal history but is substantially higher for those with a prior criminal record and is affected by demographic characteristics.

**Key Words:** Firearms, Handguns, Violence, Crime, Policy.

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Data collection for this study was supported in part by Grant Number R49/CCR008815, a research project program grant from the Centers for Disease Control and Prevention. The study was also supported by grants from the California Wellness Foundation, the David and Lucile Packard Foundation, the Joyce Foundation, and the Eli and Edythe L. Broad Foundation.

An early version of this study was presented at the 2003 annual meetings of the American Public Health Association and the American Society of Criminology.

Both the authors had full access to all the data in the study and take responsibility for the integrity of the data and the accuracy of the data analysis. Both participated in the conceptualization and design of the study, the acquisition of data, the analysis and interpretation of data, and the drafting and revision of the manuscript. Dr. Wintemute obtained the funding and provided study supervision.

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There is general agreement that persons who are at unacceptably high risk for committing firearm-related violence should not be permitted to purchase or possess firearms. Under federal law, individuals who seek to purchase firearms from licensed dealers must first undergo a background check to verify that they are eligible to do so. Felons, persons convicted of misdemeanor domestic violence offenses or subject to domestic violence restraining orders, controlled substance addicts, and certain others are prohibited.<sup>1</sup> Some states have enacted broader controls, including more comprehensive prohibitions and, in some cases, a requirement that nearly all gun sales include a background check.<sup>2</sup> In 2008, federal and state agencies conducted 9,900,711 background checks on potential firearm purchasers, of which 147,080 (1.5%) resulted in a denial of purchase.<sup>3</sup>

Persons who purchase guns legally, like the rest of the population, may later commit serious crimes. In 1 study, 24.9% of legal handgun purchasers who had prior convictions for misdemeanor crimes, and 4.4% of those with no prior criminal record at all, were charged with new violent crimes over a 15-year period of follow-up.<sup>4</sup> In 2002, California's Attorney General estimated that there might be 170,000 persons in that state who had purchased handguns or assault-type firearms and had since, usually because of a criminal conviction, become prohibited from owning them.<sup>5</sup> Denying gun purchases by persons who are prohibited from owning them is associated with a roughly 25% decrease in the prospective purchasers' risk for committing new firearm-related or violent crimes.<sup>6,7</sup> By extension, identifying persons who have previously and legally purchased guns—who are likely still to be gun owners—among those who have been convicted of crimes that prohibit gun ownership might also be a valuable violence prevention measure.

We undertook this study to determine the incidence of and risk factors for a conviction for a prohibiting criminal offense among legal handgun purchasers in California, which has not previously been done. Our study population comprises 7,256 persons ages 21 to 49 who purchased handguns in 1991, of whom 4,495 had no prior criminal record, 1,204 had previously been arrested but had never been convicted of a crime, and 1,557 had 1 or more prior criminal convictions. Follow-up is for as much as 5 years after handgun purchase. Given prior findings,<sup>4,6,7</sup> we hypothesized that risk would be low for those with no prior criminal history but substantially higher for those with prior convictions or arrests, would be



directly related to the extent of a prior criminal history, would be inversely related to age, and would be unrelated to gender.

## MATERIALS AND METHODS

### Identifying the Study Population

The California Department of Justice (CDOJ) provided records for all handgun purchases from licensed gun dealers in 1991. We identified the study population following procedures described previously.<sup>4</sup> After eliminating multiple entries for persons who had purchased more than 1 handgun, the purchase records were stratified by the presence or absence of a CDOJ identifying number indicating that, at the time of purchase, the buyer had an identification record on file at CDOJ and therefore might have a criminal history. (Most purchase records with identifying numbers were known to be for persons whose identification records at CDOJ related to pre-employment screening or other matters.) One sample was then drawn from each stratum: 6,300 with an identification number and 4,000 without. The sample size was such as to yield cohorts sufficient, based on prior results,<sup>4</sup> to detect a relative risk of 1.5 to 2.0, depending on the outcome measure, with a power of 0.9 or higher.

Criminal records were requested for all potential subjects. All persons having criminal records at the time of handgun purchase (including a small number whose handgun purchase records had no CDOJ identifying number) were assigned to the prior criminal history cohort. Persons without identifying numbers who proved to have no criminal record at the time of handgun purchase were assigned to the no prior criminal history cohort, along with a random sample of persons whose identifying numbers proved to be for reasons other than a prior criminal record. The size of this sample reflected our best estimate of the proportion of all handgun purchasers who had an identification number but no criminal record.

The age range for the initial samples was 21 years to 54 years. To minimize the impact of CDOJ's practice of purging inactive criminal records from its archives, which was done more commonly for persons above age 50,<sup>4</sup> we excluded 514 persons ages 50 to 54. Records for 285 potential subjects ages 21 to 49 had also been purged. They were excluded from the study population, and a sensitivity analysis was added to assess the impact on our results.

We also excluded 56 persons with a prior criminal history that, on our review, appeared to prohibit them from purchasing firearms. Fourteen had been convicted of a prohibiting misdemeanor within 10 years of their purchase (California's misdemeanor prohibitions expire after 10 years); 24 had been convicted of a felony; 17 had been adjudicated as juveniles for crimes that would have been felonies had these persons been adjudicated as adults; the record for 1 person could not be located.

### Data Acquisition and Management

We used double data entry procedures throughout, with automated and manual comparisons. Differences were resolved by discussion led by a senior staff member.

Demographic information was available from the handgun purchaser records; this information was variably provided by either the purchaser or the seller. For subjects having criminal records, all charges and convictions were recorded. Information on restraining orders was not available. The misdemeanors for which a conviction prohibits firearm ownership under California law are specified in statute.<sup>8</sup> We included only convictions for a misdemeanor having domestic violence as a required element of the offense as prohibiting firearm ownership under federal law, as we did not have information on the facts surrounding individual offenses. Felony convictions were usually identified as such in the criminal record; if the nature of the conviction was not specified, we required that the offense be specified as a felony in the California Penal Code. The violent Crime Index offenses are defined as murder, forcible rape, robbery, and aggravated assault.

The follow-up period began 15 days after the application for handgun purchase—the first day on which legal acquisition of the gun could have occurred. Following procedures that have been described previously,<sup>4,7</sup> we verified subjects' continuing residence in California for up to 5 years afterward, independent of any instances of criminal activity, using driver's license, credit agency, and death records. Subjects were considered to be at risk for only so long as their residence in California could be verified and only arrests and convictions occurring in the state were included in the analysis.

### Statistical Analysis

Our primary outcome events were first new convictions for felony or prohibiting misdemeanor crimes under either California or federal law. Secondary outcome measures were first new convictions for violent Crime Index offenses, and first new arrests. Arrest is often used as a measure of the incidence of new criminal activity<sup>9–11</sup> and has been used in prior studies of criminal activity among gun purchasers.<sup>4,6</sup> Incidence rates for all outcomes were calculated as the number of subjects who experienced each outcome divided by the total person-time at risk. The probability of sustaining an outcome event during follow-up was estimated by the Kaplan-Meier method.<sup>12</sup> The significance of differences in probabilities was assessed by the log-rank statistic.

Cox proportional hazards regression was used to calculate hazard ratios (HRs) and 95% confidence intervals (CIs). Models including age, sex, and, where appropriate, number of prior convictions were used to estimate adjusted HRs. (Race or ethnicity was not used in the regression analyses given its varying sources.) Age was stratified (21–24, 25–34, 35–49) as was prior criminal history (none; 1 or more arrests, but no convictions; 1; 2; or 3 or more convictions).

For the sensitivity analysis, we repeated the main regressions with persons whose criminal records had been purged added to the data under the assumptions of (1) no occurrence of any outcome event and (2) follow-up for the entire 5-year observation period. To compare rates in our study population with those of the adult population of California, crude arrest and conviction rates for study subjects



were calculated as the total number of arrests and convictions divided by the person time at risk. Arrests on multiple charges were counted as single events; each conviction was counted separately. Rates for the adult population of California (ages 18–69) were available from published reports.<sup>13–18</sup>

The significance of differences between subjects with and without independent follow-up was estimated using the  $\chi^2$  statistic. All tests of significance were 2-sided, with  $p < 0.05$  taken to represent statistical significance. SAS software was used for all procedures (PC-SAS, Version 9.1, SAS Institute, Cary, NC). This study was approved by the institutional review board of the University of California, Davis.

## RESULTS

There were 4,495 handgun purchasers with no prior criminal history and 2,761 with 1 or more prior arrests or convictions. Differences in the demographic characteristics of the 2 groups were small but statistically significant (Table 1). Of subjects with a prior criminal history, 56.5% (1,557 persons) had at least 1 criminal conviction before handgun purchase; 18.6% had 2 or more. The remainder (1,204 persons, 43.6%) had arrests only.

Evidence of subjects' continued residence in California for the entire 5-year period of follow-up was available for 2,048 (45.6%) of those with no prior criminal history and 1,542 (55.8%) of those with a criminal history ( $p < 0.0001$ ). Partial follow-up was available for another 1,815 (40.4%) and 1,051 (38.1%), respectively ( $p < 0.0001$ ). Complete absence

of follow-up was related to subjects' study cohort (no prior criminal history, 14.1%; prior criminal history, 6.1%;  $p < 0.001$ ), and to age, though the difference was small (21–24, 13.9%; 25–34, 10.3%; 35–49, 10.5%;  $p = 0.001$ ), but not to sex (male, 10.9%; female, 11.8%;  $p = 0.50$ ) or extent of prior criminal history (arrest only, 6.6%; 1 conviction, 5.7%; 2 convictions, 7.0%;  $\geq 3$  convictions, 4.2%;  $p = 0.40$ ).

During follow-up, 1.0% of handgun purchasers with no prior criminal history (39 persons) were convicted of a felony or prohibiting misdemeanor and became ineligible to own firearms under California law; slightly fewer (33 persons, 0.9%) became ineligible under federal law (Table 2). Among subjects with prior misdemeanor convictions, 5.5% (78 persons) and 4.5% (64 persons) experienced a prohibiting conviction under state and federal law, respectively (state-law prohibition HR 5.2, 95% CI 3.6–7.7; federal-law HR 5.1, 95% CI 3.3–7.7). Findings were similar for purchasers with prior arrests only, for secondary outcomes, and for age- and sex-specific comparisons (Table 2; Kaplan-Meier event curves are at Supplemental Figure 1, <http://links.lww.com/TA/A30>). Among purchasers with prior convictions, risk for all outcomes was greater for those with 2 convictions than for those with 1, but there was no further increase among those with 3 or more (Table 2; Supplemental Figure 2, <http://links.lww.com/TA/A31>).

Among handgun purchasers with any prior criminal history, whether involving arrests only or prior convictions, the incidence of new prohibiting convictions was strongly related to age for all outcomes (Table 2, Supplemental Figure 3, <http://links.lww.com/TA/A32>). Purchasers ages 21 to 24 experienced conviction rates that were generally 2.5 to 3 times those for purchasers ages 35 to 49 (Table 2). Among purchasers ages 21 to 24 with prior criminal convictions, 3.0% were subsequently convicted of murder, rape, robbery, or aggravated assault. The age effect was even more pronounced among purchasers with no prior criminal record, chiefly as a result of the very low incidence of new criminal activity among those ages 35 to 49.

Incidence rates for males and females were essentially equal among purchasers with no prior criminal history or with prior arrests only. Among purchasers with prior convictions, rates were higher among females.

Incidence rates that were both age- and criminal history-specific varied by a factor of 200 or more; Figure 1 displays findings for the outcome of any arrest.

The regression findings persisted in models that adjusted for age and sex (Table 3). Handgun purchasers with 3 or more prior misdemeanor convictions were more than 10 times as likely as those with no prior criminal history to experience a prohibiting conviction, including a conviction for murder, rape, robbery, or aggravated assault.

In the sensitivity analysis, HRs for all outcomes among purchasers with a prior criminal record were necessarily diminished, but they remained elevated and statistically significant.

During 1991–1996, the adult population of California (ages 18–69) had an average annual arrest rate of 67.9 per 1,000 persons and an average annual conviction rate for violent Crime Index offenses of 2.2 per 1,000 persons. Com-

**TABLE 1.** Demographic and Prior Criminal History Characteristics of Handgun Purchasers\*

Characteristic	Criminal History at Time of Handgun Purchase		<i>p</i>
	None (n = 4,495)	Any (n = 2,761)	
Sex			<.001
Male	3,944 (87.7)	2,563 (92.8)	
Female	551 (12.3)	198 (7.2)	
Age, yr			<.001
21–24	898 (20.0)	425 (15.4)	
25–34	1,792 (39.9)	1,213 (43.9)	
35–49	1,805 (40.2)	1,123 (40.7)	
Race/ethnicity			<.001
White	2,487 (55.3)	1,429 (51.8)	
Black	324 (7.2)	356 (12.9)	
Hispanic	1,106 (24.6)	748 (27.1)	
Asian/other	391 (8.7)	126 (4.6)	
Missing/unknown	187 (4.2)	102 (3.7)	
No. of prior convictions			
0†	—	1,204 (43.6)	
1	—	1,045 (37.9)	
2	—	272 (9.9)	
$\geq 3$	—	240 (8.7)	

\* Data are expressed as number (percentage) of subjects. Percentages may not add to 100% due to rounding.

† These subjects had 1 or more prior arrests but no known convictions.

TABLE 2. Incidence of and Crude HR for Outcome Events\*

Criminal History at Time of Handgun Purchase	Arrest for Any Crime			Conviction for Felony or Violent Misdemeanor (California Prohibition)			Conviction for Felony or Domestic Violence Misdemeanor (Federal Prohibition)			Conviction for Violent Crime Index Crime†		
	No. of Subjects	No. (%) Arrested	No. of Events per 1,000 Person Years	Crude HR (95% CI)	No. (%) Convicted	No. of Events per 1,000 Person Years	Crude HR (95% CI)	No. (%) Convicted	No. of Events per 1,000 Person Years	No. (%) Convicted	No. of Events per 1,000 Person Years	Crude HR (95% CI)
None												
All subjects	3,863	144 (3.7)	9.3	1.0 (Referent)	39 (1.0)	2.5	1.0 (Referent)	33 (0.9)	2.1	1.0 (Referent)	11 (0.3)	1.0 (Referent)
Sex												
Male	3,390	128 (3.8)	9.4		35 (1.0)	2.5		29 (0.9)	2.1		10 (0.3)	0.7
Female	473	16 (3.4)	8.5		4 (0.9)	2.1		4 (0.9)	2.1		1 (0.2)	0.5
Age, yr												
21–24	746	75 (10.1)	25.2		22 (3.0)	7.1		20 (2.7)	6.4		8 (1.1)	2.5
25–34	1,549	66 (4.3)	10.5		16 (1.0)	2.5		12 (0.8)	1.9		3 (0.2)	0.5
35–49	1,568	3 (0.2)	0.5		1 (0.1)	0.2		1 (0.1)	0.2		0	0
Arrest(s) only												
All subjects	1,124	272 (24.2)	64.8	6.9 (5.6–8.4)	82 (7.3)	17.4	7.0 (4.8–10.3)	72 (6.4)	15.2	7.3 (4.8–11.0)	26 (2.3)	7.8 (3.9–15.8)
Sex												
Male	1,045	252 (24.1)	64.9	6.8 (5.5–8.4)	77 (7.4)	17.6	7.0 (4.7–10.4)	67 (6.4)	15.2	7.3 (4.7–11.3)	26 (2.5)	8.1 (3.9–16.8)
Female	79	20 (25.3)	64.0	7.5 (3.9–14.6)	5 (6.3)	14.3	6.9 (1.9–25.7)	5 (6.3)	14.3	6.9 (1.9–25.7)	0	0
Age, yr												
21–24	221	72 (32.6)	91.4	3.6 (2.6–4.9)	23 (10.4)	24.7	3.5 (1.9–6.3)	18 (8.1)	19.1	3.0 (1.6–5.6)	5 (2.3)	2.0 (0.7–6.3)
25–34	515	143 (27.8)	76.8	7.2 (5.4–9.7)	46 (8.9)	21.4	8.6 (4.9–15.1)	42 (8.2)	19.4	10.4 (5.5–19.8)	19 (3.7)	18.6 (5.5–62.7)
35–49	388	57 (14.7)	36.9	76.4 (23.9–244.0)	13 (3.4)	7.9	49.5 (6.5–378.6)	12 (3.1)	7.3	45.6 (5.9–350.9)	2 (0.5)	0
Misdemeanor conviction(s)												
All subjects	1,419	298 (21.0)	54.6	5.8 (4.8–7.1)	78 (5.5)	12.9	5.2 (3.6–7.7)	64 (4.5)	10.5	5.1 (3.3–7.7)	22 (1.6)	5.2 (2.5–10.6)
Sex												
Male	1,313	275 (20.9)	54.2	5.7 (4.6–7.1)	69 (5.3)	12.2	4.9 (3.2–7.3)	55 (4.2)	9.7	4.7 (3.0–7.3)	20 (1.5)	4.9 (2.3–10.4)
Female	106	23 (21.7)	60.3	7.0 (3.7–13.3)	9 (8.5)	21.2	10.2 (3.1–33.2)	9 (8.5)	21.2	10.2 (3.1–33.2)	2 (1.9)	8.7 (0.8–95.9)
Age, yr												
21–24	165	53 (32.1)	92.8	3.6 (2.5–5.1)	14 (8.5)	19.9	2.8 (1.4–5.5)	13 (7.9)	18.4	2.9 (1.4–5.8)	5 (3.0)	2.7 (0.9–8.4)
25–34	612	147 (24.0)	63.0	6.0 (4.5–8.0)	40 (6.5)	15.3	6.2 (3.5–11.0)	31 (5.1)	11.8	6.4 (3.3–12.4)	11 (1.8)	8.9 (2.5–31.9)
35–49	642	98 (15.3)	38.4	79.4 (25.2–250.5)	24 (3.7)	8.7	54.7 (7.4–404.4)	20 (3.1)	7.3	45.4 (6.1–338.6)	6 (0.9)	0
No. of prior convictions												
1	972	181 (18.6)	48.0	5.1 (4.1–6.4)	42 (4.3)	10.1	4.1 (2.6–6.3)	32 (3.3)	7.6	3.7 (2.3–6.0)	13 (1.3)	4.4 (2.0–9.9)
2	242	62 (25.6)	67.9	7.2 (5.4–9.7)	20 (8.3)	19.5	7.9 (4.6–13.5)	17 (7.0)	16.5	7.9 (4.4–14.2)	5 (2.1)	6.9 (2.4–19.8)
3+	205	55 (26.8)	71.6	7.6 (5.6–10.4)	16 (7.8)	18.3	7.4 (4.2–13.3)	15 (7.3)	17.1	8.2 (4.5–15.1)	4 (2.0)	6.5 (2.1–20.3)

HR, hazard ratio.

\* Limited to subjects for whom follow-up independent of new criminal activity was available.

† Murder, forcible rape, robbery, aggravated assault.

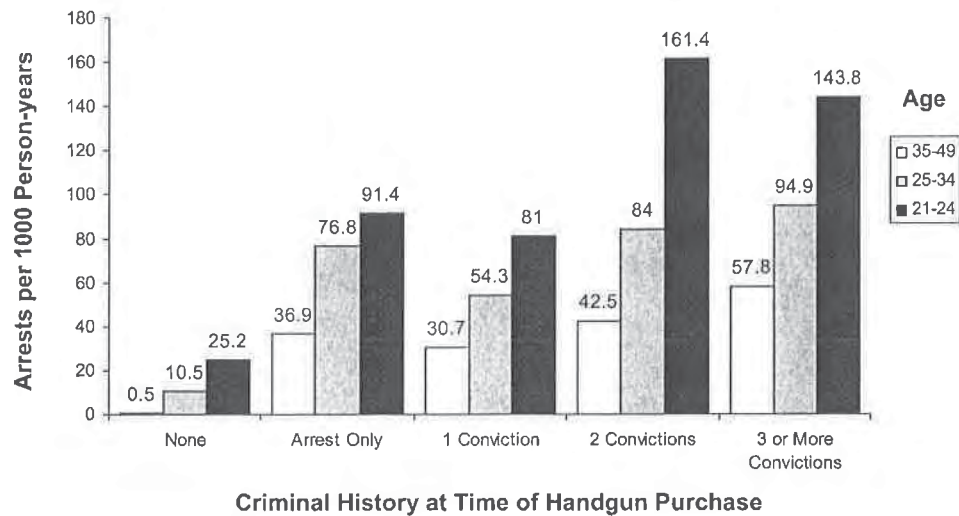


Figure 1. Incidence rates for arrest after handgun purchase for purchasers grouped by age and extent of prior criminal history.

TABLE 3. Adjusted HR for Outcome Events\*

Characteristic	Arrest for Any Crime Adjusted HR (95% CI)	Conviction for Felony or Prohibiting Misdemeanor (California Prohibition) Adjusted HR (95% CI)	Conviction for Felony or Domestic Violence Misdemeanor (Federal Prohibition) Adjusted HR (95% CI)	Conviction for Violent Crime Index Crime† Adjusted HR (95% CI)
Arrest(s) only				
No criminal history	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)
1 or more	6.7 (5.5–8.2)	6.7 (4.6–9.8)	7.0 (4.6–10.6)	7.0 (3.5–14.2)
Sex				
Male	1.0 (0.7–1.4)	1.2 (0.6–2.3)	1.0 (0.5–1.9)	3.2 (0.4–23.6)
Female	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)
Age, yr				
21–24	4.9 (3.6–6.6)	5.9 (3.2–10.8)	5.3 (2.8–10.0)	11.7 (2.6–51.8)
25–34	3.1 (2.3–4.1)	3.7 (2.0–6.5)	3.4 (1.9–6.3)	8.9 (2.1–38.0)
35–49	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)
Misdemeanor conviction(s)				
No criminal history	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)
1	5.6 (4.5–6.9)	4.5 (2.9–6.9)	4.2 (2.5–6.8)	4.9 (2.2–11.1)
2	9.0 (6.7–12.2)	9.9 (5.7–17.1)	10.4 (5.7–18.8)	9.2 (3.1–26.8)
3+	11.4 (8.3–15.7)	11.6 (6.4–21.2)	13.6 (7.2–25.6)	11.0 (3.4–35.6)
Sex				
Male	1.0 (0.7–1.3)	0.8 (0.4–1.4)	0.6 (0.3–1.1)	0.9 (0.3–3.1)
Female	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)
Age, yr				
21–24	4.9 (3.7–6.4)	5.3 (3.1–9.1)	6.1 (3.5–10.8)	7.7 (2.8–20.9)
25–34	2.4 (1.9–3.1)	2.6 (1.6–4.1)	2.4 (1.4–4.1)	2.6 (1.0–6.9)
35–49	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)	1.0 (Referent)

HR, hazard ratio.

\* Limited to subjects for whom follow-up independent of new criminal activity was available. HRs are adjusted for all variables in the table.

† Murder, forcible rape, robbery, aggravated assault.

parison rates in our study population (Table 4) were substantially lower for handgun purchasers with no prior criminal history but were generally higher, except for subjects ages 35 to 49, among those with prior arrests or convictions.

Of all subjects with a prior criminal history, 62.6% (1,729 persons) had been charged with a violent misde-

meanor within 10 years of their handgun purchase, or with a felony. This was true for 60 (76.9%) of the 78 handgun purchasers with prior misdemeanor convictions who were later convicted of crimes that prohibited them from owning guns under California law, and 52 (81.3%) of the 64 persons with prior misdemeanor convictions who later became ineli-



**TABLE 4.** Total-Event Rates of Arrest for Any Crime and of Conviction for a Violent Crime Index Crime\*†

Criminal History at Time of Handgun Purchase	Events per 1,000 Person-Years	
	Arrest for Any Crime	Conviction for Violent Crime Index Crime
None		
All subjects	13.9	0.7
Sex		
Male	13.8	0.7
Female	14.5	0.5
Age, yr		
21–24	35.2	2.5
25–34	16.1	0.5
35–49	0.6	0
Arrest(s) only		
All subjects	87	6.5
Sex		
Male	87.8	7.0
Female	76.8	0
Age, yr		
21–24	130.2	5.0
25–34	92.1	10.6
35–49	54.4	1.8
Misdemeanor conviction(s)		
All subjects	77.2	4.6
Sex		
Male	74.8	4.6
Female	107.8	4.4
Age, yr		
21–24	154.2	12.0
25–34	83.3	5.1
35–49	50.6	2.1
No. of convictions		
1	65.2	4.0
2	95.9	7.5
3+	111.3	4.4

\* Measured as the total number of events per 1,000 person-years over the period of follow-up. Comparison rates for the general adult population of California (ages 18–69) were 67.9 per 1,000 persons per year for any arrest and 2.2 per 1,000 persons per year for a conviction for a violent Crime Index crime.

† Murder, forcible rape, robbery, aggravated assault.

gible to own guns under federal law. Prior felony or violent misdemeanor convictions would have prohibited the handgun purchases that led to their inclusion in the study.

## DISCUSSION

In this population of legal purchasers of handguns, the incidence of felonious and violent criminal activity among those with no prior criminal history was quite low. Only 1% of them, and only 1 individual among the 1,568 such purchasers ages 35 to 49, were convicted of a felony or violent misdemeanor over 5 years of follow-up. In the 1 prior study of such a population, just 10% of handgun purchasers with no prior criminal history were charged with new criminal activity during 15 years after purchasing their guns.<sup>4</sup>

But for handgun purchasers with a prior criminal history, whether involving prior convictions or only arrests, the findings were quite different. Approximately 20% to 25% of these subjects were arrested during follow-up; approximately 5% to 7% were convicted of a felony or violent misdemeanor. Their risk for all outcomes, adjusted by age and sex, was increased by a factor of between 5 and 8. There appeared to be a dose-response effect; relative risks for all outcomes were higher for those with multiple prior misdemeanor convictions than for those with just 1.

As predicted, age was inversely associated with absolute risk for all outcomes. This effect was quite large among handgun buyers with no prior criminal history, for whom incidence rates among those ages 21 to 24 were 30 to 50 times higher than rates among those ages 35 to 49. Among handgun buyers with a prior criminal history, however, rates for persons ages 21 to 24 were generally only 2 to 3 times higher than rates for persons ages 35 to 49. Conversely, there were age-related increases in the relative risk associated with a prior criminal history. For handgun buyers ages 35 to 49, relative risks associated with a prior arrest or conviction were greater than 40.

The most remarkable differences were seen when age and criminal history were considered together. Across all outcomes, handgun purchasers ages 21 to 24 with multiple prior misdemeanor convictions had incidence rates that were at least 200 times those for purchasers ages 35 to 49 with no prior criminal history.

Findings related to sex were sometimes unexpected. Within-group absolute event rates for males and females often differed little and were sometimes higher for females than for males, suggesting that, at least in this population, prior criminal history is more important than gender as a predictor of future criminal activity. Relative risks associated with prior misdemeanor convictions were greater for females than for males.

For 3 reasons, our results probably underestimate the true incidence of felonious and violent criminal activity leading to a prohibition on firearm ownership in our study population. First, we were unable to identify subjects who had been placed under felony indictment during follow-up or had become subject to domestic violence restraining orders; both events prohibit firearm possession under federal and state law. At any time, there are approximately 200,000 domestic violence restraining orders in force in California, not including temporary orders.<sup>19</sup> Second, our relatively short period of follow-up makes it likely that a meaningful fraction of arrests for prohibiting crimes among our study subjects had not been adjudicated; additional instances of prohibition probably occurred when those verdicts were handed down. Last is incomplete reporting by the courts of convictions when they occur, a problem common to all criminal justice records systems.<sup>20</sup>

One additional factor reduced our estimation of the incidence of ineligibility to possess firearms in this population under federal law only. We were unable to identify as domestic violence offenses those cases in which a subject was convicted on a charge of simple assault (or a similarly



nonspecific offense) and had a domestic relationship with the victim. Although such convictions have recently been found to be “misdemeanor crime[s] of domestic violence” by the Supreme Court, the facts of individual cases must be known to make a determination.<sup>21</sup>

To an even greater extent, for all the reasons just given and 1 more, our results probably underestimate the incidence of new ineligibility under federal law among persons who purchase handguns from licensed retailers in much of the United States. Since 1991, California has prohibited persons convicted of nearly all violent misdemeanors from purchasing firearms. Such persons are therefore excluded from our study population, but they remain able to purchase firearms elsewhere. They are at especially high risk for subsequent criminal activity after handgun purchase. In a prior study, as compared with purchasers with no prior criminal history, handgun purchasers with 2 or more prior convictions for violent misdemeanors had a 15-fold increase in risk of arrest for murder, rape, robbery, or aggravated assault.<sup>4</sup>

### Limitations

As just described, California’s population of legal handgun purchasers is systematically different from such populations in other states. Replications of this study would be very helpful. To our knowledge, however, no other state has the requisite information and makes it available for analysis. We did not study handgun purchasers above 50 years of age, as we believed that they were at relatively low risk for serious criminal activity. Because we relied on published arrest and conviction rates for the general population of California, our comparisons are not age- and sex-specific and are not adjusted for differences in those characteristics. Our sample was structured to maximize statistical power, and purchasers with a prior criminal history are overrepresented.

It is also possible that the incidence of criminal activity among handgun purchasers that leads to a prohibition on firearm ownership has fallen since our study period. California’s adult felony arrest and conviction rates have fallen by 18% and 12%, respectively, from 1991–1996 to 2007, the most recent year for which data are available.<sup>18</sup>

Most of our outcome measures were based on convictions—criminal justice events that resulted in a change in legal status regarding firearm ownership. We did not measure the incidence of felonious or violent criminal activity per se, for which arrest would have been more suitable<sup>9–11</sup> and for which rates would have been higher.<sup>4,6,7</sup>

### Implications

The frequency of felonious and violent criminal activity among authorized purchasers of handguns leads to 2 considerations. First, it may be desirable to require a criminal records background check before all purchases of firearms to identify prospective purchasers who have become ineligible since a prior background check, if any, was done. In most states that already occurs when the purchase is made from a licensed dealer, but there is an important exception. In 14 states containing 26% of the population, holders of permits to carry concealed firearms are exempt from background checks

while the permits remain in effect—4 or 5 years—and any eligible person who requests such a permit must be given one.<sup>22</sup> Our findings suggest that a considerable number of these permit holders will have become ineligible to purchase firearms before their permits have expired.

Only 6 states require a background check for all, or nearly all, firearm purchases. In 33 states private individuals may sell firearms directly, without the participation of a licensed retailer.<sup>2</sup> Such transactions account for as many as 40% of all firearms acquisitions nationwide,<sup>23</sup> and background checks are not required.

Second, if the incidence of serious criminal activity among gun purchasers with a prior criminal history is deemed unacceptable, 2 additional interventions may be worthy of consideration. One is to expand the criteria for denial of firearm purchase, which has been shown to reduce the risk of violent and firearm-related crime among those directly affected by about 25%.<sup>7</sup> The second is to work aggressively for the conviction of persons charged with prohibiting offenses when supported by the facts. More than 75% of the handgun purchasers with prior misdemeanor convictions who were later convicted of crimes that prohibited gun ownership had been charged with prohibiting offenses before purchasing their guns.

When records of gun purchases are retained, the same data that are now used to screen for prohibiting criminal activity among prospective gun purchasers can be used to screen for gun ownership among persons who have committed a prohibiting criminal act. Risk for criminal recidivism is highest after an index event and declines steadily, and a person recently convicted of a felony or violent misdemeanor who has previously purchased firearms—and is now prohibited from possessing them—might be given a high priority for intervention in a comprehensive violence prevention program. Two existing programs could serve as models, but neither has been subjected to a rigorous outcome evaluation. The Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco, Firearms and Explosives have successfully retrieved hundreds of firearms from prohibited persons who acquired them when the 3-day waiting period mandated by federal law expired before their background checks were completed.<sup>24</sup> Since 2006, the California Department of Justice’s Armed and Prohibited Persons System has identified prior handgun purchasers among newly prohibited persons. Hundreds of firearms have been retrieved.<sup>25</sup>

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Exhibit S

## ORIGINAL ARTICLES

## Relationship between licensing, registration, and other gun sales laws and the source state of crime guns

D W Webster, J S Vernick, L M Hepburn

**Abstract**

**Objective**—To determine the association between licensing and registration of firearm sales and an indicator of gun availability to criminals.

**Methods**—Tracing data on all crime guns recovered in 25 cities in the United States were used to estimate the relationship between state gun law categories and the proportion of crime guns first sold by in-state gun dealers.

**Results**—In cities located in states with both mandatory registration and licensing systems (five cities), a mean of 33.7% of crime guns were first sold by in-state gun dealers, compared with 72.7% in cities that had either registration or licensing but not both (seven cities), and 84.2% in cities without registration or licensing (13 cities). Little of the difference between cities with both licensing and registration and cities with neither licensing nor registration was explained by potential confounders. The share of the population near a city that resides in a neighboring state without licensing or registration laws was negatively associated with the outcome.

**Conclusion**—States with registration and licensing systems appear to do a better job than other states of keeping guns initially sold within the state from being recovered in crimes. Proximity to states without these laws, however, may limit their impact.

(*Injury Prevention* 2001;7:184-189)

Keywords: firearms; evaluation; law; gun control

There is general consensus among scientists that firearm availability is positively associated with homicide risks<sup>1</sup>; assaults with firearms are, on average, much more lethal than assaults with other common weapons.<sup>2</sup> However, there is much less agreement about the effectiveness of government efforts to control firearm availability. Skeptics of gun control laws argue that criminals can easily evade regulations by acquiring guns through theft, straw purchases (those by legally eligible purchasers on behalf

of individuals legally proscribed from purchasing guns), and other difficult-to-regulate private sales.<sup>3,4</sup> Cook and colleagues argue that restrictions on legal gun sales can reduce the supply and consequently raise the price of acquiring guns within illicit as well as licit gun markets. Restricted supplies and increased prices may reduce gun availability within these interconnected markets.<sup>5,6</sup>

In the United States, federal law proscribes gun sales to specific groups deemed to be potentially dangerous, such as persons convicted of serious crimes, and requires criminal background checks of persons buying guns from licensed dealers. But in many states this requirement is fulfilled via "instant check" procedures vulnerable to the use of falsified identification cards and straw purchasers.<sup>7</sup> Some states in the United States, however, have much more extensive regulatory systems that include registration of firearms, licensing of buyers, and very restrictive eligibility criteria for firearm purchases.

Permit-to-purchase licensing systems require prospective gun purchasers to have direct contact with law enforcement or judicial authorities that scrutinize purchase applications, and some allow these agencies broad discretion to disapprove applications. Some licensing laws require applicants to be fingerprinted and allow officials weeks or even months to conduct extensive background checks. Mandatory registration makes it easier to trace guns used in crime to their last known legal owner, and to investigate possible illegal transfers. In combination, these laws have the potential to significantly restrict gun acquisition by high risk individuals through stricter eligibility criteria, safeguards against falsified applications, and increased legal risks and costs associated with illegal gun transfers to proscribed individuals. Recently, several United States gun control groups have made licensing of buyers and registration of handguns the centerpiece of their advocacy agenda.

Most industrialized countries place broad restrictions on private ownership of firearms.<sup>8,9</sup> For example, Canada created a centralized registry for purchased handguns in 1951, and instituted very restrictive permit-to-purchase requirements for handguns in 1969. These restrictions were expanded to long guns in

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1977.<sup>8</sup> Evaluations of the 1977 law were mixed, but suggested that the law was associated with a reduction in homicides.<sup>10-12</sup> In a cross sectional study of gun control laws in the United States, Kleck and Patterson also present mixed evidence that permit-to-purchase laws were associated with lower rates of homicide.<sup>13</sup>

With few exceptions,<sup>14 15</sup> previous evaluations of state gun sales laws have not examined the state in which the guns used to commit violence were sold. This study addresses this gap by examining whether states with licensing, registration, and other gun sales regulations have proportionately fewer of their crime guns that were originally purchased from within the state. Having a low proportion of crime guns with in-state origins would suggest that guns are relatively difficult for persons at risk for criminal involvement to obtain from in-state gun dealers, acquaintances, or homes that are burglarized. Interstate gun traffickers offer an alternative source of guns to criminals in states with restrictive gun laws, however the costs, risks, and inconvenience are likely to be greater. These added costs might curtail access to guns among high risk individuals<sup>6</sup> and consequently reduce rates of lethal violence.<sup>2 16</sup>

## Methods

### STUDY SAMPLE AND DATA

This study uses city level data for 27 cities located in 23 states that have participated in a federally funded program called the Youth Crime Gun Interdiction Initiative (YCGII). Each of these cities agreed to submit information on *all* crime guns recovered by local law enforcement agencies to the Bureau of Alcohol, Tobacco, and Firearms (ATF) for tracing. (Despite its name, the YCGII was not limited to guns recovered from youth.) In most other jurisdictions, police only attempt to trace a non-random sample of the crime guns they recover, creating the possibility for selection bias.<sup>17</sup> A crime gun was defined by ATF as any firearm that was "illegally possessed, used in a crime, or suspected to have been used in a crime."<sup>18</sup>

Data were available for all 27 cities for all crime guns recovered by police from 1 August 1997 through 31 July 1998.<sup>18</sup> For 17 of the 27 cities, data were also available for guns recovered from 1 July 1996 through 30 April 1997.<sup>19</sup> To increase the reliability and sample size of our analyses, we combined data from the two reporting periods for those cities where it was available. Due to limited resources and the difficulty of tracing older guns, ATF did not always attempt to complete traces for guns that were manufactured before 1990. Therefore, in order to study a sample of crime guns that were comprehensively traced, we limited our analyses to recovered crime guns that were sold during or after 1 January 1990. With one exception, discussed below, all of the state licensing and registration laws of interest went into effect well before 1990.

### Proportion of crime guns from in-state gun dealers

Our primary outcome measure is the proportion of traceable crime guns that were originally purchased from an in-state gun dealer. In our data, this outcome measure was positively correlated with another indicator of gun availability to high risk individuals—the proportion of homicides of males ages 15 and above that were committed with guns (Pearson's  $r = 0.40$ ,  $p = 0.048$ ).

### State gun sales laws

Our primary explanatory variable of interest is the set of state level firearm sales laws. Information about these laws was obtained from ATF and United States Department of Justice publications,<sup>20 21</sup> and through legal research. Two key laws of interest were permit-to-purchase licensing of firearm buyers and registration of firearms. Based on these laws, we grouped all states into three categories. In category A, we grouped states with both permit-to-purchase licensing *and* registration. Category B consisted of states with either licensing *or* registration (but not both). Category C groups those states with neither permit-to-purchase licensing nor registration.

Though our categorization was based on licensing and registration laws, states with both of these laws often have many additional firearm sales restrictions that could enhance the effectiveness of their gun regulatory system (see table 1). For example, states with permit-to-purchase laws often require relatively long maximum waiting periods and prohibit gun sales to persons convicted of certain misdemeanor crimes. In addition, states with both licensing and registration typically allowed criminal justice agencies to use discretion in issuing permits.

There was only one state with a change in its gun sales laws from 1 January 1990 through 31 July 1998 that would alter its category. Connecticut enacted its permit-to-purchase licensing and registration system beginning 1 October 1994; but permits for handgun sales were not mandatory until 1 October 1995. Before Connecticut's new law, Bridgeport (one of the YCGII cities) would have been placed in category C; after the law, it would be grouped in category A. Therefore, we excluded Bridgeport from our primary analyses. Instead, we conducted a separate analysis comparing the source state of Bridgeport's crime guns first purchased before and after its regulatory system became available in October 1994, and contrasted this pre-law versus post-law difference with other cities in category C. We chose the 1994 date because it was the earliest date after which handgun buyers were obtaining permits.

We also excluded Washington, DC from our primary analysis. In 1976, the District of Columbia banned most handgun possession and purchase. Therefore, its laws are not truly comparable to the other states we examined.

### Potential confounders

Factors other than gun sales laws, such as proximity to persons living in other states, may

Table 1 State gun sales laws in effect in 25 Youth Crime Gun Interdiction Initiative cities, overall classification of the set of these laws, and the percentage of the city's crime guns that were first purchased from in-state gun dealers

Category of state's gun sales laws*	City, state	% Of city crime guns first purchased within the state	Permit to purchase	Registration†	Private purchases regulated‡	Purchase restrictions: certain misdemeanors	Possession restrictions: youth <21 years old	Fingerprint required on purchase application	Maximum wait >7 days	One gun/month
A	Boston, MA	31.4	X§	X	X			X	X	
	Detroit, MI	47.5	X§	X	X			X	X	
	Jersey City, NJ	13.0	X§	X	X	X		X	X	
	New York, NY	14.0	X§	X	X	X		X	X	
	St Louis, MO	62.9	X	X	X	X	X			
B	Baltimore, MD	73.0		X	X	X	X			X
	Chicago, IL	64.7	X		X				X	
	Inglewood, CA	69.9		X	X	X			X	
	Los Angeles, CA	78.0		X	X	X			X	
	Minneapolis, MN	74.4	X		X					
	Philadelphia, PA	66.7		X	X	X				
	Salinas, CA	82.3		X	X	X			X	
	Atlanta, GA	86.0								
C	Birmingham, AL	88.3								
	Cincinnati, OH	67.4								
	Cleveland, OH	85.6								
	Gary, IN	89.3			X					
	Houston, TX	88.3								
	Memphis, TN	70.8			X	X		X	X	
	Miami, FL	90.1								
	Richmond, VA	90.6				X				X
	Milwaukee, WI	80.9								
	San Antonio, TX	90.0								
	Seattle, WA	78.1				X	X			
	Tucson, AZ	89.0								

\*Category A = permit to purchase licensing and registration systems; category B = permit to purchase licensing or registration but not both; category C = neither permit to purchase licensing or registration.

†Includes those states where police retain records of handgun purchases.

‡Permit or background check required for sales through non-licensed dealers.

§Permit issued with law enforcement agency discretion.

also affect the source state of a city's crime guns. The following hypothesized determinants of the proportion of a city's crime guns originating from in-state gun dealers, in addition to gun sales laws, were considered in the analyses: (1) nearest driving distance from the city of interest to another state in category C, (2) the ratio of out-of-state to in-state population within a 50 or 100 mile radius of the city, (3) the proportion of the population within a 50 or 100 mile radius of the city that reside in a state in category C, (4) the proportion of the state's population that had moved from another state within the previous year,<sup>22</sup> and (5) the proportion of a city's crime guns that were recovered in cases involving drug crimes (illicit drug selling networks often extend across state borders).

Differences in gun ownership between states, attributable to cultural and demographic differences, may be an important determinant of whether restrictive gun sales laws are passed in a state. Lower levels of gun ownership within a state that are independent of the effects of those restrictive laws that are not controlled for in our analysis could bias our estimates of the laws' effects. Controlling for pre-law gun ownership levels is somewhat problematic, however, because direct measures of state level gun ownership are not available and the implementation dates of the laws differ across states. Therefore, we used the per cent of a state's suicides during 1996–97 that were committed with firearms as a proxy measure of gun ownership based on the rationale that this fraction will be strongly influenced by gun availability.<sup>23</sup> This measure, however, may underestimate the level of pre-law gun ownership not attributable to restrictive gun laws in states that subsequently passed such

restrictions because the laws may have depressed gun ownership levels in the effected states. If this is the case, this control variable may overcorrect the estimate of the laws' effects. We, therefore, included this covariate in a sensitivity analysis to provide a lower bound point estimate of the laws' effects.

Population data were obtained from the United States census,<sup>24</sup> and the population residing within a 50 and 100 mile radius of the center of each city was determined using the Census' Master Area Block Level Equivalency program.<sup>25</sup> Driving distances from central city locations to the borders of other states were determined using Map Expert 2.0 computer mapping software.<sup>26</sup>

#### DATA ANALYSIS

Analysis of variance of the mean proportion of crime guns originating in-state was used for comparisons across the three categories of gun sales laws. Dunnett's C statistic was used to compare between group means with unequal variances.<sup>27</sup> Ordinary least squares linear regression analysis was used to estimate the independent association between the hypothesized explanatory variables and the outcome. Theoretically relevant covariates were dropped from the model if their effects were not statistically significant and if their exclusion did not appear to influence the other estimates. Cook's distance<sup>28</sup> and the standardized difference in the beta values were examined to assess whether particular observations exerted undue influence on the regression coefficients.

#### Results

For the 25 cities in our analysis, 108 000 crime guns were recovered by the police during the

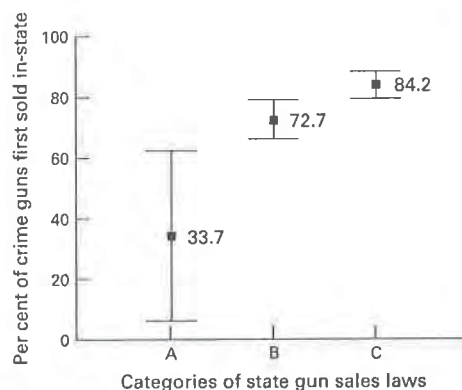


Figure 1 Mean and 95% confidence interval for the percentage of crime guns first sold by in-state gun dealers by gun law category. Category A: licensing and permit to purchase and at least two other gun sales laws; category B: licensing or permit to purchase but not both; category C: neither licensing or permit to purchase.

study period. Because we limit our analysis to crime guns first purchased since 1990, to calculate the proportion of guns in our dataset successfully traced to a source state, it is first necessary to eliminate from the denominator those guns bought before 1990. Using information on the sales dates and ATF's reasons for not completing a trace, we estimated that 60 202 guns were first purchased before 1990. Of the remaining 47 798 guns, 35 000 (73.2%) were successfully traced by ATF to a source state.

Table 1 depicts the categorization of the 25 YCGII cities based upon their gun sales laws. In general, the categories are ordered by the comprehensiveness of the laws. The mean percentage of crime guns with in-state origins for category A cities (33.7%) was significantly less than that for cities in category B (72.7%) and category C (84.2%) (both differences significant at  $p < 0.001$ ; see fig 1). Apparent in fig 1 and confirmed by a formal test (Levene statistic = 8.58,  $df_1 = 2$ ,  $df_2 = 22$ ,  $p = 0.002$ ) is that the variance in the outcome measure among the five cities in category A is larger than in categories B and C.

The regression analyses indicated that the large bivariate differences between cities in category A and those in categories B and C remained after controlling for potential confounders (table 2). The estimates from model 1 indicate that the percentage of crime guns with in-state origins was 48.5 percentage points lower in category A cities compared with category C cities ( $p < 0.001$ ). The percentage of crime guns with in-state origins in category B

#### Key points

- Only a few states in the United States require firearm owners to be licensed and their guns to be registered.
- The proportion of a city's crime guns that come from in-state, versus out-of-state, is an important measure of how hard it is for criminals to get guns in those states.
- Cities in states with both licensing and registration have a much smaller proportion of their crimes guns coming from in-state.
- Licensing and registration laws can make it harder for criminals and juveniles to get guns.

cities was 12.8 percentage points lower than in category C cities ( $p = 0.039$ ). The percentage of the population within a 100 mile radius of a city that resided beyond the state border in a category C state was negatively associated with the percentage of crime guns with in-state origins ( $\beta = -19.9$ ,  $SE(\beta) = 7.5$ ,  $p = 0.016$ ).

Model 2 in table 2 presents our findings with the surrogate measure of gun ownership within the state added to the model. This indicator of gun ownership was positively associated with the percentage of crime guns that had been sold by in-state gun dealers ( $\beta = 0.682$ ,  $SE(\beta) = 0.180$ ,  $p = 0.001$ ). The magnitude of the estimate for the difference between category A and category C cities was reduced ( $\beta = -37.1$ ,  $SE(\beta) = 5.88$ ,  $p < 0.001$ ) but remained large and highly significant. However, the estimate for the difference between category B versus category C cities was reduced substantially and is no longer statistically significant ( $\beta = -4.25$ ,  $SE(\beta) = 4.95$ ,  $p = 0.402$ ).

Population migration into the state and the proportion of recovered guns associated with drug offenses were not significantly associated with the proportion of a city's crime guns first sold by an in-state gun dealer. Driving distance from the city to the nearest state border and distance to the nearest state with weaker gun sales laws were not included in the models due to collinearity with other covariates. The proportion of total population within a 50 mile radius of the city residing outside the state border was not included in the models because its inclusion lead to an extremely large Cook's distance statistic for one city. This covariate did not have a statistically significant effect on the outcome measure, and its exclusion from the models did not substantially effect the gun law estimates.

Table 2 Results from ordinary least squares regression on the percentage of a city's crime guns that were originally purchased from in-state gun dealers

Explanatory variables	Model 1			Model 2		
	$\beta$ (SE)	Standardized $\beta$	Significance	$\beta$ (SE)	Standardized $\beta$	Significance
Category A v C state gun sales laws	-48.5 (6.6)	-0.886	<0.001	-37.1 (5.9)	-0.678	<0.001
Category B v C state gun sales laws	-12.8 (5.8)	-0.261	0.039	-4.3 (5.0)	-0.087	0.402
Ratio of population within 100 mile radius living outside state border in category C state	-19.9 (7.5)	-0.239	0.016	-17.4 (5.8)	-0.208	0.008
Ratio of annual in-migration to total state population	-0.413 (2.6)	-0.019	0.876	-0.965 (2.0)	-0.045	0.637
% Of guns recovered from drug crimes	0.548 (0.32)	0.155	0.100	0.114 (0.27)	0.032	0.676
Proxy for state prevalence of gun ownership				0.682 (0.18)	0.377	0.001
Model statistics	$R^2 = 0.85$	Adjusted $R^2 = 0.82$		$R^2 = 0.92$	Adjusted $R^2 = 0.89$	



The percentage of Bridgeport's crime guns that had been sold by in-state dealers decreased from 84.9% (124/146) for guns purchased before Connecticut's licensing and registration laws went into effect to 81.5% (44/54) for guns purchased afterward. In contrast, among the other category C cities, the proportion of crime guns with in-state origins increased from 79.8% (6289/7883) to 87.9% (6798/7732) for guns sold during the same two time periods. While these divergent trends are suggestive of moderate effects from Connecticut's mandatory licensing and registration law, the 81.5% of Bridgeport's crime guns that had been sold by in-state dealers after the law's effective date was significantly higher than was observed in the five other category A cities.

### Discussion

We found great variation among cities in the percentage of their crime guns that originated from in-state gun dealers. This variation was largely explained by the presence or absence of comprehensive state regulations of gun sales that fit our definition of category A—permit-to-purchase licensing and mandatory registration of handguns—and to a lesser degree by proximity to people in states with minimal restrictions on gun sales. After adjusting for confounders, the percentage of crime guns recovered in cities in category A that had been purchased from in-state dealers was less than half as high as would have been expected if the weakest state laws (category C) had been in effect.

The wide variation in the proportion of crime guns from in-state dealers within category A suggests that there are important determinants of our outcome other than the presence of licensing and registration systems. Some of the variance within this category appears to be explained by complementary sales restrictions. Category A cities with the lowest proportion of their crime guns originating from in-state dealers—Boston, Jersey City, and New York—were in states that also allowed law enforcement discretion in issuing permits to purchase handguns, had longer waiting periods, and required purchase applicants to be fingerprinted. In contrast, St Louis, Missouri, with the highest proportion of crime guns sold by in-state gun dealers among category A cities, had none of these provisions.

The very strong cross sectional association between permit-to-purchase licensing and registration laws, and lower proportions of crime guns with in-state origins, is tempered somewhat by the modest change observed in Bridgeport after Connecticut adopted a licensing and registration system. This relatively modest change in Bridgeport may be due to the newness of law, the availability of older used guns purchased within the state prior to the new law, or to the lack of some of the other sales restrictions mentioned above that have been in place for years in other states with licensing and registration systems. In addition,

our use of the date the licensing and registration system became operational as the intervention point rather than the date, 12 months later, on which these regulations became mandatory may have created a conservative bias in our findings of the law's effect.

Interestingly, after adjusting for gun ownership as well as other potential confounders, there was no significant difference between cities in categories B and C in the proportion of their crime guns that had originated from in-state gun dealers. This finding suggests that state level gun control measures may not have a substantial impact on criminal gun availability unless the measures are very comprehensive, including both licensing, registration and other restrictions.

The potential benefits from comprehensive state gun control measures appear to be diminished by the lack of such controls in other states. Consistent with other research,<sup>18 19 29</sup> proximity to people living in states with weak gun laws increased the proportion of a city's crime guns originating from out-of-state gun dealers.

There are several potential limitations to this study. First, our outcome measure may seem somewhat removed from the most important public health outcomes such as homicides. However, there is general consensus among scholars that reduced access to guns among high risk individuals is likely to lead to reduced rates of lethal violence,<sup>1</sup> and the proportion of crime guns that originate from in-state gun dealers should be directly related to how easy it is for high risk individuals to obtain guns. Indeed, we found that the proportion of a city's crime guns that had been sold by an in-state gun dealer was positively associated with another indicator of gun availability to high risk individuals, the proportion of homicides of males ages 15 and above that were committed with firearms.

Criminals and delinquent youth tend to obtain guns in private transactions with acquaintances and to a lesser degree from thefts.<sup>29 30</sup> Although these transactions are difficult to regulate directly, laws that restrict legal gun ownership and gun transfers such as licensing and registration could constrain the supply of guns from these typical sources of crime guns.<sup>5</sup> With fewer guns from local sources, criminals and juveniles must identify out-of-state sources. But interstate traffickers face barriers and risks that may limit their ability to make up for significant in-state supply restrictions. Perhaps as a result of these supply constraints, street prices of guns in places with very restrictive gun control laws tend to be significantly higher than in places with more lax laws.<sup>5</sup>

Omission or inadequate measurement of confounders is always a potential limitation in evaluations of gun policies. By focusing on the effects of state gun sales law on the proportion of crime guns originating from in-state gun dealers, however, the findings from this study may be less vulnerable to certain threats to validity that can bias gun control evaluations that focus on the laws' effects on violent crime.



Violent crime is influenced by a large number of factors, many of which are difficult to measure adequately. In contrast, there are likely to be many fewer unmeasured factors that affect the proportion of crime guns from in-state gun dealers—our final models explained 82% and 89% of the variance in this outcome.

The relatively small, non-random sample of cities, selected by ATF for their willingness to submit information on all crime guns recovered by police, limits the generalizability of the findings. However, the cities in this study are diverse with respect to region and population size, and appear to be representative of their states based on the very high correlation between the cities' and states' measures of our outcome variable ( $r = 0.97$ ,  $p < 0.001$ ).

Kleck has suggested that police in states with firearm registries may be less inclined to request an ATF trace of a crime gun that is registered within the state because much of the information from the ATF trace may be obtainable from the state registry.<sup>17</sup> If pervasive within YCGII cities, such practices could bias our findings. However, the police departments that submitted information for this study agreed to submit information to ATF on all recovered crime guns. ATF devoted considerable resources to assist local agencies making trace requests and to oversee the collection of data. ATF officials working on the YCGII indicate that the protocols for initiating ATF trace requests used by the participating police departments were generally independent from other police investigations, whether or not a state had a registration system. Furthermore, the proportion of crime guns sold by in-state dealers when the state had a registration system but no permit-to-purchase licensing system (five of the seven cities in category B) was quite high (67%–82%) indicating that the agencies were clearly submitting data to ATF for guns that should also be in the state registry.

Our analyses were limited to guns sold less than years before recovery by the police because ATF did not trace all crime guns manufactured before 1990. Associations between state gun laws and in-state origins of crime guns may differ for older versus newer guns. Any differences between older and newer guns, however, would have to be quite substantial to negate the very large magnitude of effect for category A state laws.

Finally, the way we choose to categorize state gun sales laws limits our ability to estimate of the independent effects of each of type of regulation of interest. Due to the high correlation between the presence of many of the laws we considered, preliminary analyses revealed substantial multicollinearity when we attempted to generate separate estimates for each law of interest.

#### Implications for prevention

Understanding the benefits of restrictive firearm sales laws can help policymakers to make informed legislative choices. Our findings suggest that comprehensive gun sales regulations

that include permit-to-purchase licensing and registration can affect the availability of guns to criminals. Conversely, the absence of these regulations may increase the availability of guns to criminals in nearby states.

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Exhibit T

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OFFICE OF THE  
CORPORATION COUNSEL

# Webster's Third International Dictionary

ENGLISH LANGUAGE  
UNABRIDGED

*Merriam-Webster*  
REG. U.S. PAT. OFF.

*experience and resources of more than  
of Merriam-Webster dictionaries*

EDITOR IN CHIEF  
BABCOCK GOVE, Ph.D.

AND  
THE MERRIAM-WEBSTER  
EDITORIAL STAFF



MERRIAM COMPANY, Publishers  
SPRINGFIELD, MASSACHUSETTS, U.S.A.

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JA 325





my personal knowledge, my review of the city's records and conversations with employees, officers, and agents of the City.

### **The License Division**

2. The Police Commissioner delegated his authority to oversee the issuance and suspension of firearms licenses and permits to the License Division. Currently there are 36,077 active licenses that have been issued by the NYPD License Division for the possession of handguns in New York City; and 20,806 active permits for the possession of rifles and shotguns.<sup>1</sup>

3. The License Division currently processes an average of 2,612 new applications and 9,522 renewal applications each year for the issuance and renewal of the various types of handgun licenses issued by the License Division.<sup>2</sup> This number does not include an average of 973 applications for rifle and shotgun permits also processed by the License Division.<sup>3</sup>

4. Currently, the License Division has 79 employees. The License Division is divided into several different sections and units, and is overseen by a five member Executive Staff, that includes a director, deputy inspector (myself, as commanding officer), a captain (as executive officer), and a lieutenant and sergeant (as Integrity Control Officer and Assistant).

5. The License Division has sections of staff established for various tasks. For example, there is an Intake Section, New Applications Section, Carry Guard Section, Retired

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<sup>1</sup> These are the numbers as of June 30, 2011.

<sup>2</sup> The different handgun license and firearms permits types are set forth in Title 38, chapter 5 of the Rules of the City of New York.

<sup>3</sup> The averages cited above are 2008 through 2010 three-year averages.

Law Enforcement Section, Rifle/Shotgun Section, Issuing Section, Incident Section, Cancellation Section, Renewal Section, and Administrative Hearing Section.

6. A Premises Residence Unit was designated within the New Applications Section in 2009 to focus resources on investigating applications and recordkeeping with respect to Premises Residence licenses.

7. The Premises Residence Unit is currently comprised of three staff members that are dedicated to investigating Premises Residence applications only. It is comprised of a sergeant who oversees the unit, and two full-time investigators. Other investigators assigned in the New Applications Section are assigned to investigate Premises Residence applications in addition to other applications for various business and carry licenses. Other License Division employees are also involved in the issuance and processing of Premises Residence handgun licenses, including the License Division Executive Staff, Police Administrative Aides and secretaries who are involved in assisting with specific investigative steps, maintaining records and statistics, and issuing the licenses. There is also intake administrative staff, and records room staff, among others.

8. When the New York City Office of Management and Budget (“OMB”) performed a User Cost Analysis in 2010, based on information provided by the License Division, the percentages of time spent for the various uniformed and civilian NYPD License Division staff directly involved in the issuance of Premises Residence Licenses totaled the FTE or “full-time equivalent” of 7.80 staff members.

#### **Processing Applications for Premises Residence Handgun Licenses**

9. As with all pistol licenses processed by the License Division, when applicants seek to apply for a Premises Residence pistol license, they complete an application

form that they submit to the License Division with photograph identification, and they get fingerprinted. At that time, the applicant must remit payment to the License Division of the \$340 application fee.<sup>4</sup> A copy of the Handgun License Application and Instruction Packet is annexed hereto as Exhibit “A.”

10. The License Division’s Handgun License Application Packet includes instructions on the handgun license application, a listing of the types of licenses for handguns issued by the License Division, an affidavit of familiarity with the handgun licensing laws to be signed by the applicant, an acknowledgement of person agreeing to safeguard firearms, a pre-license exemption form, a list of persons prohibited from possessing firearms, copies of certain local law provisions, and an affidavit of co-habitants. See Exhibit “A.”

11. In order to process an application for a Premises Residence license, each application must be reviewed for completeness and is then assigned for investigation. As is evident from the application itself, each applicant is asked questions about the applicant’s citizenship, any name change history, any arrest and criminal conviction history, any outstanding warrants, any domestic violence history, the history of the issuance of Orders of Protection by or against the applicant, history of mental illness and related treatment, military service history, residence history including proof of current residence, driving history, any licensing history, history of lost or stolen firearms, as well as any medical conditions that may affect an applicant’s ability to safely possess or use a handgun. See Exhibit “A.”

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<sup>4</sup> Applicants also pay a fingerprint fee of \$94.25, which the NYPD remits to the New York State Division of Criminal Justice Services (“DCJS”), for DCJS’s cost of conducting a fingerprint check of the applicant. Each applicant pays the DCJS fee only one time. It is not paid for renewal applications.



12. License Division staff members are assigned to review the application for completeness. Once a complete application packet is received, the staff member assigned must then follow up on the information requested in the application and provided by the applicant for completeness and accuracy. Follow up may include reaching out to various federal, state, and city agencies for information about the applicant's history, making requests for additional documentation to support statements made in the application, reviewing the DCJS fingerprint response, mental health checks, and requesting further information regarding any arrests or convictions reported therein, and interviewing the applicant. Third parties are often interviewed to obtain relevant information. Every case is unique and requires careful consideration of which NYPD records, other records, and investigative steps are needed for the particular application investigation. Case management procedures include several levels of review to determine the necessary investigative steps in order to reach the proper determination of approval or disapproval. Case folders must be well managed, showing levels of review, proper documentation, and clear articulation of investigative steps and rationale for the determination.

13. Notably, DCJS does not conduct any investigation. Rather, DCJS simply provides the License Division with a fingerprint report for an applicant. The DCJS report provides the License Division with a list of any time the applicant has had a fingerprint check (i.e., job applications, license applications), arrest information for the applicant (including sealed arrests) that includes the date of each arrest, location of the arrest, the Penal Law sections or other charges in the arrest, and dispositions of the charges including any convictions. DCJS also forwards our request to the Federal Bureau of Investigation ("FBI") who runs a search for out-of-state arrests and convictions. The DCJS report does not provide information about the facts and

circumstances involved in any arrests. See printout from DCJS website, [http://criminaljustice.state.ny.us/pio/fp\\_services.htm](http://criminaljustice.state.ny.us/pio/fp_services.htm), a copy is annexed hereto as Exhibit “B.”

14. As described above and below, the License Division must conduct a thorough investigation into many eligibility issues, such as the mental health status of each applicant, and cannot simply rely on the federal database check received from DCJS. First, until the federal government strengthens states’ reporting requirements (including funding, enforcement, and clarifying the federal definitions of drug abusers and mental illness), federal database checks remain insufficient to identify all persons who are prohibited under federal law from possessing firearms. For these reasons a detailed investigation is needed for the threshold question of federal prohibition. This is in addition to determining many state eligibility requirements, such as verifying that all statements in an application are true, that the applicant possesses “good moral character,” and that “no good cause exists for denial.” A January 24, 2011 Press Release from Mayors Against Illegal Guns, “Mayors Launch National Campaign to Collect Missing Records and Close Loopholes to Prevent the Next Mass Shooting and Killing of 34 People Per Day with Guns,” which explains the large gaps and deficiencies in the national database, is annexed hereto as Exhibit “I.” Specifically, it is reported that “millions of records of individuals who are prohibited by law from buying guns are still missing” and “[t]en states have not submitted any mental health records . . . and 18 states have submitted fewer than 100 mental health records.” Exhibit “I,” at 2-3. Second, the federal database checks, as well as the New York State Mental Hygiene checks, do not include information about private mental health commitments, or applicants’ treatment for mental health issues with private mental health professionals. Thus, the City must perform its own investigation, which is labor intensive. The License Division investigates in detail responses submitted by applicants to Question 21 of the

application (“Have you ever . . . [s]uffered from mental illness, or due to mental illness received treatment, been admitted to a hospital or institution, or taken medication? List Doctor’s/Institutions, Name, Address, Phone # in explanation”), and follows up with listed medical professionals. See Exhibit “A.” In addition, the License Division will check NYPD records that might reveal applicants’ mental health history in appropriate cases, and then engage in follow up.

15. After each investigator completes their investigation into an application for a Premises Residence license, they forward their recommendations to the Sergeant of the Unit who reviews the findings, and if complete, forwards her recommendation to the Commanding Officer of the License Division, or the Executive Officer on his behalf. The Commanding Officer then issues the final determination with respect to the issuance of all handgun license applications.

16. If a license application is approved, the applicant is notified by mail and scheduled to appear and pick up his/her license. Each license contains the licensee’s photograph, the license type (here, Premises Residence license), the premises to which the license is issued, issuing and expiration dates, and the make, model, serial number, and caliber of the licensed firearm(s).

17. Each license is valid for a three year period, and expires on the licensee’s birthday. At the conclusion of that period, a licensee seeking to renew a Premises Residence handgun license (and all other handgun licenses) must submit a renewal application to the License Division. The License Division then conducts an investigation into the information contained in the renewal application.

18. In recent years, the License Division has made a concerted effort towards processing Premises Residence license applications. As a result, the average processing time for Premises Residence application investigations has been reduced from over 30 weeks in 2005 to 13.6 weeks in 2010.

**Costs Incurred by the License Division for the Issuance and Renewal of Pistol Licenses**

19. I understand that plaintiffs allege that the fee charged by the License Division in connection with applications for Premises Residence handgun licenses exceeds the cost to the License Division for issuing and renewing Premises Residence handgun licenses. As explained below, the application fee does not exceed the cost to the License Division of licensing such handguns. In fact, the fee is less than the cost to the License Division. As of 2010, the fee for the initial Premises Residence application was only 34.79% of the costs to the License Division. The fee was determined by analyzing the costs incurred by the License Division in connection with its licensing operations. The application fee does not exceed these costs.

**Cost Analysis Performed in 2003 Prior to Enactment of Current Fee Provision**

20. In order to calculate the user fee, the Department prepared a “User Cost Analysis” form under the oversight of the New York City Office of Management and Budget (“OMB”). The User Cost Analysis form required NYPD to determine the salary and fringe benefits attributable to providing the permits and licenses issued by the License Division, known as “personal service costs,” and the costs directly attributable to providing the permit or license, called “other than the personal service costs” (“OTPS costs”). A copy of the instructions received from OMB in connection with the preparation of the 2003 User Cost Analysis is annexed hereto as Exhibit “C.” The NYPD Office of the Deputy Commissioner, Management and Budget (“DCMB”) worked closely with OMB in preparing the User Cost analysis form.



OMB ensured that the information provided by the NYPD on the User Cost Analysis form was done consistent with OMB's methodology.

21. In 2003, prior to the adoption of the current fees codified in Section 10-131(a)(2) of the New York City Administrative Code ("Admin. Code"), the Department performed an analysis of the costs incurred by the License Division following the guidelines and standards for User Cost Analyses established by OMB.

22. Overseen by NYPD Assistant Commissioner Frank J. Doka, Associate Staff Analyst ("ASA") Peter Reese, of the Management and Budget Analysis Section of DCMB, prepared the NYPD's User Service Cost analysis for Fiscal Year 2003, that served as the basis for the fee that was passed by the City Council in 2004, which increased the fee for handgun license applications and renewals from \$255 to \$340. See Admin Code § 10-131(a)(2). This is the statutory fee that is in effect at the present time. Each license is valid for a three year period. A copy of the User Cost Analysis Form for Fiscal Year 2003 prepared by the NYPD is annexed hereto as Exhibit "D."

23. Along with OMB staff, I have reviewed the back-up calculations made in 2003 to determine the appropriate figures to include on the User Service Cost Analysis form.

24. NYPD calculated that the City's cost for each handgun license application investigated by the NYPD License Division was \$343.49. This analysis was completed for all handguns, and not separated into license application type.

25. To reach this result, NYPD calculated that the total costs of the NYPD License Division's handgun licensing services equaled \$3,531,057. The total cost was calculated by adding the total direct costs with the total of indirect costs attributed to the License Division handgun licensing function.

26. Consistent with the OMB instructions for calculating licensing costs, the costs associated with the licensing of handguns include the direct costs of personal services, the direct costs of supplies, postage, and facilities, and the related indirect costs of executive management overhead, administrative services overhead, and the cost of other agency services.

27. In accordance with the OMB instructions, direct costs of personal service costs were calculated by totaling the salaries and fringe benefits of the uniformed and civilian staff members of the License Division involved in the licensing of handguns (this includes the Director, captains, lieutenants, sergeants, investigators, police officers, attorneys, and administrative staff), and then multiplying that total by the fraction of each person's time attributable to functions related to handgun licensing. In 2003, these personal service costs were \$3,185,425. In 2003, the direct costs of supplies, postage, and facilities were \$129,312. Thus, NYPD calculated that the direct cost for the NYPD License Division was \$3,314,737 (this included total personal service costs, fringe benefits, OTPS [other than personal service], and other miscellaneous direct costs).

28. Next, the total indirect cost for each license or permit was calculated by adding: (1) executive management overhead; (2) administrative service overhead; (3) space and utilities costs; (4) costs of other agency services; and (5) miscellaneous indirect costs. NYPD calculated that the total indirect costs for the handgun licensing service of the License Division cost \$216,320.

29. The total cost incurred by the License Division for the licensing of all handguns in 2003 was \$3,531,057. Using this data, the total projected cost of handgun licensing for a three year period was \$10,593,171. See Exhibit "D."

30. Data on the number of new handgun license applications and renewals during 2001, 2002, and 2003 resulted in a projection that 30,840 new and renewal applications would be processed over the next three years. Exhibit “D.”

31. The total projected three-year cost was divided by the estimated number of applications expected to be processed over three years, which equaled \$343.49. This amount was rounded down to the \$340 fee that is reflected in Section 10-131(a)(2) of the New York City Administrative Code.

32. Once the cost of a license was calculated, the NYPD then submitted its findings to OMB to justify the fee necessary to cover the cost of providing the handgun licenses.

33. Once NYPD submitted its completed User Cost Analysis form to OMB, it was reviewed by OMB. OMB then approved NYPD’s recommendation to increase the fee to \$340 for a three year permit for all pistol licenses.

34. Such a fee was ultimately passed by the City Council and codified at Admin. Code § 10-131(a)(2).

#### User Cost Analysis for Handgun License Costs in 2010

35. More recently, OMB worked with the NYPD License Division in 2010 to analyze user service costs for pistol licenses processed by the NYPD License Division. In this analysis, we reviewed the costs of the service by individual license type — specifically, concealed carry licenses, carry guard/gun custodian licenses, retired law enforcement license, premises residence licenses, premises business licenses, and rifle/shotgun and theatrical permits. I was directly involved in providing information that led to the preparation of the 2010 User Cost Analysis.

36. OMB provided instructions for calculating the costs for processing applications in 2010. A copy of the 2010 OMB Instructions for Completion of User Cost Analysis is annexed hereto as Exhibit "E."

37. In recent years, the License Division has launched several initiatives designed to improve the experience of applicants for firearm licenses. These include: extending the hours of the License Division to one evening per week, accepting applications for both handgun licenses and rifle/shotgun permits at both office locations,<sup>5</sup> providing downloadable license applications on our Internet site, accepting credit card payment (rather than requiring payment by money order), improving the average processing time for applications, and using technology enhancements to create a more secure license, among other initiatives.

38. At issue herein is the cost for the issuance and renewals of Premises Residence pistol licenses. The License Division's cost for processing of a license application for the issuance of an initial Premises Residence handgun license in 2010 was \$977.16 per license and \$346.92 for each renewal. A copy of the User Cost Analysis completed in 2010 for Premises Residence handgun licenses is annexed hereto as Exhibit "F." A copy of the User Cost Analysis completed in 2010 for handgun renewal licenses is annexed hereto as Exhibit "G."

39. In reaching this calculation, we totaled the number of employees who are involved in the processing of Premises Residence pistol licenses. The FTE totaled 7.8 employees. Adding the proportions of the salaries and fringe benefits for the FTE 7.8 personnel for this function, the total was \$861,337. We then added in the other direct costs (OTPS) which was \$37,507 and reached the direct personal services costs of \$898,844. Consistent with the

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<sup>5</sup> While the License Division's main office is located at 1 Police Plaza in lower Manhattan, the Rifle/Shotgun Unit is located in a separate office in Kew Gardens, Queens.



OMB instructions, we then added other costs for the space and utilities for this function, which led to a total of \$939,623 in direct costs.

40. We then calculated the indirect costs attributable to the processing of Premises Residence handgun licenses (administrative costs, executive management costs, other agency costs, etc.), and reached a total of \$64,901 in indirect costs attributable towards processing Premises Residence handgun licenses.

41. Taking the total cost of \$1,004,524 (\$939,623 in direct costs and \$64,901 in indirect costs) for processing Premises Residence licenses, and dividing it by the 1,028 average number of Premises Residence license applications processed each year for the previous three years, yielded the result of \$977.16 as the cost of processing each Premises Residence handgun license application.

42. We performed a similar analysis for the renewals of licenses that included Premises Residence, Premises Business, Gun Custodian, Retired Law Enforcement, Special Carry, Limited Carry, and Carry Guard licenses. See Exhibit "G." These renewal applications were grouped together because they involve a similar investigation upon renewal. We calculated the total costs of said license renewals to be \$3,091,666 and divided it by the number of units rendered which was 8912, for a total of \$346.92 per license renewal.

43. For the period reviewed in the 2010 User Cost Analysis, Premises Residence licenses comprised the largest number of license type renewals in this category.

#### **Allocation of Fees Collected by the License Division**

44. As the License Division collects fees for handgun license applications, the License Division forwards the monies to the NYPD Audits and Accounts Unit. The monies are deposited into the City of New York's General Fund, consistent with the requirements set forth

in Admin. Code § 10-131(a)(6). The License Division is then credited with the monies that were deposited into City's General Fund.

45. The Comprehensive Annual Finance Report ("CAFR") prepared by the New York City Comptroller is publicly available and delineates revenues deposited into the City's general fund by each agency. The Fiscal Year 2010 CAFR is available at <http://www.comptroller.nyc.gov/bureaus/acc/cafr-pdf/cafr2010.pdf>. Copies of the relevant pages for the Police Department of the Fiscal Year 2010 CAFR, reflecting that the actual revenue for pistol licenses and long gun permits have been deposited into the City's General Fund are annexed hereto as Exhibit "H," at 174 (third page of attachment).<sup>6</sup>

Dated: New York, New York  
July 28, 2011

  
\_\_\_\_\_  
ANDREW LUNETTA

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<sup>6</sup> Noted as "Licenses – General" and "Permits – General." See Exhibit "H."

Exhibit A

Photo taken within  
30 days prior to date  
of application.

FRONT VIEW  
1½ x 1½  
Square



**HANDGUN LICENSE APPLICATION**  
POLICE DEPARTMENT • CITY OF NEW YORK  
PD 643-041 (Rev. 11-10)

**LICENSE DIVISION**  
**1 POLICE PLAZA**  
**NEW YORK, N.Y. 10038**



**OFFICIAL USE ONLY**

NYSID NUMBER

DATE

APPLICATION NUMBER

OLD LICENSE NUMBER

☐ Complaint No.

☐ Lost

☐ Mutilated

Corp Code

Cust Code

All applications must be typewritten. **DO NOT MAKE ENTRIES IN SHADED AREAS.** Necessary fee must accompany application. Make Bank Check, Certified Check or Money Order payable to the Police Department, City of New York. Payment may also be made by credit card. Not refundable if application is disapproved. (Administrative Code Sec. 10-131)

**SECTION A**  
**TO BE ANSWERED BY ALL APPLICANTS**

- ☐ CARRY BUSINESS ☐ CARRY GUARD/SECURITY ☐ RETIRED POLICE OFFICER  
☐ LIMITED CARRY ☐ GUN CUSTODIAN ☐ PREMISES (Indicate ☐ Residence ☐ Business)  
☐ SPECIAL (out of city validation) CARRY

LICENSE NUMBER (Renewal Applicant)

YEAR

Do you possess any other  
NYC Handgun Lic.? If YES  
TYPE LIC. NO.

1. Last Name

First Name

M.I.

Maiden Name/Alias

2. Legal Address (Street No.)

Apt. #

City or Town

State

Zip Code

3. ☐ Citizen

Alien Registration Number

Social Security Number

Res. Pct.

OCC Code

Total Guns  
Code

☐ Alien

Home Phone No.

Cell Phone No.

Email Address

4. Place of Birth - City, State, Country

Age

Date of Birth

Hgt. (Inches)

Wgt.

Sex

Color of Hair

Color of Eyes

**EMPLOYMENT INFORMATION**

5. Name of Business

Type of Business

Bus. Pct.

6. Business Address (Street No.)

City or Town

State

Zip Code

7. Bus. Telephone No./Day

Occupation (Owner - Employee - Gun Custodian)

How many other persons in this business  
have N.Y.C. Handgun Licenses?

8. If applicable, list name, job title and license number of company gun custodian

**VALIDATION OF OUT OF CITY LICENSE (Special Handgun License ONLY)**

9. Basic License Number

Issued By

County

Date Issued

Expiration Date

**LIST HANDGUNS FOR THIS APPLICATION ONLY**

10. (ORIGINAL APPLICANT LEAVE BLANK)

MAKE

MODEL

GUN SERIAL NUMBER

CALIBER

TYPE  
R Revolver  
A Automatic

OWNER  
E Employer  
S Self

MAKE  
CODE

001

002

**NOTICE**

Pursuant to Penal Law Section 400.00(5), the name and address of any person to whom an application for any license has been granted, shall be a public record.

OFFICIAL USE ONLY Right Thumb

SIGNATURE OF PERSON PRINTED



## SECTION B

Applicants must answer questions 10 through 24. Additionally questions 29 through 31 must be answered chronologically and in detail. If you have answered YES to question(s) 10 through 28 you MUST use the HANDGUN LICENSE APPLICATION ADDENDUM (PD 643-041A) to explain such answer(s) in complete detail. A FALSE STATEMENT SHALL BE GROUNDS FOR DENIAL OF A N.Y.C. HANDGUN LICENSE

## HAVE YOU EVER...

10. Had or ever applied for a Handgun License issued by any Licensing Authority in N.Y.S.? ..... ☐ Yes ☐ No
11. Been discharged from any employment? ..... ☐ Yes ☐ No
12. Used narcotics or tranquilizers? List doctor's name, address, telephone number, in explanation. .... ☐ Yes ☐ No
13. Been subpoenaed to, or testified at, a hearing or inquiry conducted by any executive, legislative or judicial body? ..... ☐ Yes ☐ No
14. Been denied appointment in a civil service system, Federal, State, Local? ..... ☐ Yes ☐ No
15. Served in the armed forces of this or any other country? ..... ☐ Yes ☐ No
16. Received a discharge other than honorable? ..... ☐ Yes ☐ No
17. Been rejected for military service? ..... ☐ Yes ☐ No
18. Are you presently engaged in any other employment, business or profession where a need for a firearm exists? ..... ☐ Yes ☐ No
19. Had or applied for any type of license or permit issued to you by any City, State or Federal agency? ..... ☐ Yes ☐ No
20. Has any corporation or partnership of which you are an officer, director, or partner, ever applied for or been issued a license or permit issued by the Police Dept? Give type, year, license number, in explanation. .... ☐ Yes ☐ No
- 20a. Has any officer, director or partner ever applied for or been issued a license or permit issued by the Police Department? Give type, year, license number, in explanation. .... ☐ Yes ☐ No
21. Suffered from mental illness, or due to mental illness received treatment, been admitted to a hospital or institution, or taken medication? List Doctor's/Institutions, Name, Address, Phone #, in explanation .. ☐ Yes ☐ No
22. Have you ever suffered from any disability or condition that may affect your ability to safely possess or use a handgun? List Doctor's Name, Address, Phone #, in explanation. .... ☐ Yes ☐ No
- NOTE: The following conditions must be listed: Epilepsy, Diabetes, Fainting Spells, Blackouts, Temporary Loss of Memory or any Nervous Disorder.

Before answering questions number 23 thru 26, read paragraph 7 of the instructions completely.

23. Been arrested, indicted, or summonsed for ANY offense other than Parking Violations, in ANY jurisdiction, federal, state, local or foreign? You must include cases that were dismissed and/or the record sealed. List the following: date, time, charge(s), disposition, court and police agency. (False statements are grounds for disapproval). .... ☐ Yes ☐ No
24. Have you ever, or do you now have an Order of Protection issued against you? ..... ☐ Yes ☐ No
25. Have you ever, or do you now have an Order of Protection issued by you against a member of your household, or any family member? ..... ☐ Yes ☐ No
26. Have you ever, or do you now have an Order of Protection issued by you against a person other than a member of your household or family? ..... ☐ Yes ☐ No

If you have answered yes to questions 24 - 26, you must indicate the following information:

- a. Court of Issuance
- b. Date of Issuance
- c. Complainant's Name, Address and Telephone Number
- d. Complainant's relationship to you
- e. Reason for issuance of Order of Protection
27. Have the police ever responded to a domestic incident in which you were involved? ..... ☐ Yes ☐ No
28. Used any variation in spelling of your name or any other name used? (Alias), explain. .... ☐ Yes ☐ No

FROM (MONTH AND YEAR)	TO (MONTH AND YEAR)	LIST ALL PLACES OF RESIDENCE FOR PAST FIVE (5) YEARS RESIDENCE (Include State, County, Zip Code and Apt. No.)	PRECINCT
29.	PRESENT		

FROM (MONTH AND YEAR)	TO (MONTH AND YEAR)	LIST ALL PLACES OF EMPLOYMENT FOR PAST FIVE (5) YEARS BUSINESS NAME AND ADDRESS (Include State, County, Zip Code and Apt. No.)	OCCUPATION	PRECINCT
	PRESENT			

30. How and where will handgun(s) be safeguarded when not in use? (Location outside of N.Y. State is unacceptable).

31. Give name, address, relation and telephone number of person who will safeguard handgun(s) in case of applicant's death or disability. Must be a N.Y. State resident.

The undersigned affirms that the statements made and answers given herein are accurate and complete, and hereby authorizes the New York City Police Department, License Division to make appropriate inquiries in connection with processing this application. **False written statements in this document are punishable** under Section 210.45 of the New York Penal Law (making a punishable false written statement) and also will be sufficient cause for denial of an application, license or permit by the New York City Police Department, License Division.

Date	Signature	TAX REGISTRY NO.	APPROVAL <input type="checkbox"/> DISAPPROVAL and REASON
INVESTIGATING OFFICER'S SIGNATURE	DATE	TAX REGISTRY NO.	<input type="checkbox"/> APPROVAL <input type="checkbox"/> DISAPPROVAL and REASON
SUPERVISOR'S SIGNATURE	DATE	TAX REGISTRY NO.	<input type="checkbox"/> APPROVAL <input type="checkbox"/> DISAPPROVAL and REASON
C.O. INVEST. SECTION SIGNATURE	DATE	TAX REGISTRY NO.	<input type="checkbox"/> APPROVAL <input type="checkbox"/> DISAPPROVAL and REASON
C.O. LICENSE DIVISION SIGNATURE	DATE	TAX REGISTRY NO.	<input type="checkbox"/> APPROVAL <input type="checkbox"/> DISAPPROVAL and REASON



## ADDITIONAL INSTRUCTIONS FOR CARRY LICENSE APPLICANTS

## LETTER OF NECESSITY

All applicants for a carry license for use in connection with a business or profession must answer the following questions in the space provided. If additional space is necessary continue your letter on reverse side. In ALL CASES the form provided must be used.

1. A detailed description of the applicant's employment and an explanation of why the employment requires the carrying of a concealed handgun.
2. A statement acknowledging that the handgun may only be carried during the course of and strictly in connection with the applicant's job, business or occupational requirements, as described herein.
3. A statement explaining the manner in which the gun will be safeguarded by the employer and/or applicant when not being used.
4. A statement indicating that the applicant has been trained or will receive training in the use and safety of a handgun.
5. A statement acknowledging that the applicant's employer, or, if self employed, the applicant, is aware of its or his or her responsibility to properly dispose of the handgun and return the license to the License Division upon the termination of the applicant's employment or the cessation of business.
6. A statement indicating that the applicant, and if other than self employed, a corporate officer, general partner, or proprietor, has read and is familiar with the provisions of Penal Law Articles 35 (use of deadly force), 265 (criminal possession and use of a firearm) and 400 (responsibilities of a handgun licensee).

The Letter of Necessity is part of this application. Any false statement is an offense punishable as a Class A Misdemeanor pursuant to to Section 210.45 of the New York State Penal Law.

The undersigned affirms that the statements made and answers given herein are accurate and complete, and hereby authorizes the New York City Police Department, License Division to make appropriate inquiries in connection with processing this application. **False written statements in this document are punishable** under Section 210.45 of the New York Penal Law (making a punishable false written statement) and also will be sufficient cause for denial of an application, license or permit by the New York City Police Department, License Division.

Date \_\_\_\_\_ Signature \_\_\_\_\_



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**ADDITIONAL DOCUMENTATION TO BE PRESENTED AT PERSONAL INTERVIEW**

At the time of your interview, you must also furnish the following documents, as they apply to you:

1. The two (2) most recent copies of the business's sales tax report (ST 100) submitted to the State of New York and Federal Tax Return submitted for the previous year. If the business is solely a wholesale operation, a copy of the Federal tax return submitted for the previous tax year must be submitted. All tax forms must bear notarized signatures.
2. When requested by your investigator, your personal income tax return for the previous tax year.
3. Daily bank deposit slips and corresponding bank statements for the six months preceding the date of your interview. (Photocopies will not be accepted.)
4. A statement from your bank setting forth the total amount of your payroll and the total amount of payroll checks cashed during the three months immediately preceding the date of your interview.
5. If you were the victim of a crime which occurred during the course of your business or professional activities during the previous two years, you must provide the complaint report number, date and the precinct of occurrence.

At the time of your interview, your investigating officer will advise you if any additional forms or documents are required.

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**NOTICE TO ALL APPLICANTS:**

While the application is pending, the applicant shall make an immediate report to the License Division, Applicant Section at (646) 610-5551, of any of the following occurrences:

1. Arrest, indictment, or conviction in any jurisdiction; summons other than traffic infraction; suspension or ineligibility order issued pursuant to section 530.14 of the New York State Criminal Procedure Law or Section 842-a of the New York State Family Court Act.
2. Change of business or residence address.
3. Change of business, occupation or employment.
4. Any change in the circumstances cited by the applicant in their application.
5. Receipt of psychiatric treatment or treatment for alcoholism or drug abuse, or the presence or occurrence of any disability or condition that may affect the ability to safely possess or use a handgun.
6. Applicant is or becomes the subject or recipient of an Order of Protection or a Temporary Order of Protection.

The applicant may be required to provide additional documentation for any of the above occurrences to License Division personnel.

## **LICENCE DIVISION**

### **NEW HANDGUN LICENSE APPLICATION PACKET**

- 1. Instructions to Handgun License Application**
- 2. Types of Licences**
- 3. Affidavit of Familiarity**
- 4. Agreement to Safeguard Firearm(s)**
- 5. Pre-license Exemption**
- 6. Persons Prohibited from Possessing Firearms**
- 7. City Charter 18-C**
  - a- Charter Section 459**
  - b- Charter Section 460**
- 8. Affidavit of Co-Habitant**





## INSTRUCTIONS TO HANDGUN LICENSE APPLICANTS

PD 643-115 (Rev. 11-10)

POLICE DEPARTMENT  
CITY OF NEW YORK  
HANDGUN LICENSE APPLICATION SECTION  
LICENSE DIVISION ROOM 110A

## INSTRUCTIONS TO ALL HANDGUN LICENSE APPLICANTS

The attached application MUST be typewritten and signed. Only the original application will be accepted. DO NOT SUBMIT A PHOTOCOPY. The application must be completely filled out and presented by you personally at the License Division.

At the time you submit your application, you must furnish the items listed below that are applicable to you. You must submit original copies of certificates, licenses, etc. In addition, a legible photocopy of each item submitted must accompany the original or certified copy. (A copy certified by the issuing agency as true and complete is also acceptable in lieu of the original.) Your application will not be accepted without producing the required documents.

1. **Fees.** Two (2) separate fees are required. These are payable by certified check, bank check, money order or credit card. All fees are non-refundable.  
 -\$340.00 - Made payable to New York City Police Department  
 -\$ 94.25 - Made payable to New York City Police Department
2. **Photographs.** Two (2) recent color photographs of yourself. They should measure 1½ x 1½ inches and show you from the chest up. Do not wear any article of clothing or adornment that obscures your facial features.
3. **Birth Certificate.** In lieu of your birth certificate, some other proof of your birth date, e.g., a military record, U.S. passport or baptismal certificate, must be submitted.
4. **Proof of Citizenship/Alien Registration.** If you were born outside the United States, you must submit your naturalization papers or evidence of citizenship if derived from your parents. All other applicants born outside the United States must submit their Alien Registration Card. If you have lived in this country less than 7 years you must submit a good conduct certificate from your country of origin.
5. **Military Discharge.** If you served in the armed forces of the United States, you must submit your separation papers (DD 214) and your discharge.
6. **Proof of Residence.** You must submit proof of your present address. Proof may consist of, but is not limited to, a real estate tax bill, ownership shares in a cooperative or condominium, or a lease. You may also be requested to supply further documentation, i.e., a New York State Driver's License, a New York State Income Tax Return, a Utility Bill, etc.
7. A.) **Arrest Information:** If you were ever arrested, indicted or summonsed (other than parking violations) for any reason you must answer Yes to question-23 and submit a certificate of disposition showing the offense and the disposition. Also, you must submit a detailed statement describing the circumstances surrounding each arrest. **YOU MUST DO THIS EVEN IF:** the case was dismissed, the record sealed or the case nullified by operation of law. The New York State Division of Criminal Justice Services will report to us every instance involving the arrest of an applicant. **DO NOT** rely on anyone's representation that you need not list a previous arrest. If you were ever convicted or pleaded guilty to a felony, or a serious offense as defined in Penal Law Section 265.00(17), an original Certificate of Relief from Disabilities must be submitted.  
 B.) **Summons Information:** If you have received a summons for other than a parking violation you must answer Yes to question-23. You must list the violation and disposition for each summons received.  
 C.) **Order of Protection:** If you have ever had an Order of Protection or Restraining Order issued against you, or issued on your behalf against anyone, you must list the following information: Court of Issuance; Complainant's or Respondent/Defendant's name, including address and phone number; Complainant's or Respondent/Defendant's relationship to you; Reason for issuance of Order of Protection or Restraining Order.
8. **Proof of Business Ownership.** If you are making application for a License in connection with a business, you must submit proof of ownership for that business. Such proof must clearly state the names of the owner(s), or, if a corporation, the names of the corporate officers. A corporation must submit its corporate book including filing receipt, certificate of incorporation and minutes of the corporate meeting reflecting current corporate officers; others must provide their business certificate or partnership agreement, whichever is applicable. If the business requires a license or permit from any government agency, e.g. alcohol or firearms sales, gunsmith, private investigation and guard agencies, you must submit the license or permit or a certified copy thereof. You must submit proof of address for the business. Proof may consist of a utility bill, not more than 60 days old, in the name of the business or a lease in the name of the business.
9. **Letter of Necessity.** All applicants for a carry license and those seeking a premise license for use in connection with their employment MUST complete the Letter of Necessity found on page 3 of the application. NO SUBSTITUTES WILL BE ACCEPTED.

If you have any questions concerning your application, please call (646) 610-5551. Applications must be submitted in person at the License Division, One Police Plaza Room 110, New York, NY or the Rifle/Shotgun Section, 120-55 Queens Blvd. Rm. B11, Kew Gardens, NY. The License Division's hours of operation are: Monday between the hours of 8:30 a.m. to 8:00 p.m. or Tuesday thru Friday between the hours of 8:30 a.m. to 4:00 p.m. Applicants must arrive early enough for processing to be completed by the close of business.

# REQUEST FOR PRE-LICENSE EXEMPTION

Pistol License Applicant:

If you wish to request consideration for a pre-license exemption, you must complete this form and return it to the License Division at the time you file your application for a handgun license.

Your request will be reviewed after an investigation is conducted to determine if you have a previous criminal record. A determination to approve or disapprove your request will be made at that time. Approval of your request will authorize you to shoot at an appropriate range while your application for a handgun license is under investigation.

This exemption terminates if your application for a license is denied or at any earlier time based on information which would result in the denial of your application.

Commanding Officer  
License Division

Applicant's Name

Application Control Number

Applicant's Address

Age

Birth Date

Type of License

Name of Range, Address, Telephone Number

Name of Instructor

Instructor's Verified Statement:

Applicant's Signature

Instructor's Signature

THIS FORM MUST BE TYPED AND NOTARIZED

## TYPES OF LICENSES

**PREMISES LICENSE:** ISSUED FOR YOUR RESIDENCE OR BUSINESS, THIS IS A RESTRICTED TYPE OF LICENSE. The Licensee may possess a handgun at the specific location indicated on the front of the license. This license permits the transporting of an unloaded handgun directly to and from an authorized small arms range/shooting club, secured unloaded in a locked container. Ammunition must be carried separately.

**CARRY BUSINESS LICENSE:** is valid for the business name, address, and firearm(s), listed on the front of the license. It is not transferable to any other person, business, occupation, or address, without the written approval of the Commanding Officer, License Division.

**LIMITED CARRY BUSINESS LICENSE:** is a restricted license. The licensee may only carry the firearm indicated on the license in accordance with the specific limitations listed thereon. At all other times the weapon may be possessed only within the confines of the business address listed on the front of the license.

**SPECIAL CARRY LICENSE:** is valid for the business name, address and firearms(s) listed on the front of this license only while the licensee has in his possession his valid basic county license issued according to the provisions of article 400 of the N.Y.S. penal law. Upon the revocation, suspension, or cancellation of the basic license, the special license is rendered void and must be immediately returned to the license division.

**RESTRICTED CARRY LICENSE (SECURITY GUARDS, ETC.):** applications for this type of license must be made with the documentation provided by the company's "gun custodian". It is issued only for the firearm listed on the license. The firearm may be carried only while the licensee is actively engaged in employment. At all other times the firearm must be stored unloaded in a locked container at either the address on the license or at the employee's legal residence (within the state of New York).

For information concerning “Gun Custodian” licenses, “Dealers in Firearms” licenses, or “Gunsmith” licenses you may contact the License Division’s Gun Custodian Section at 646-610-5936



AFFIRMATION OF FAMILIARITY WITH RULES AND LAW  
(38 RCNY 5-33)

State of New York  
County of \_\_\_\_\_ ss.:

The undersigned, being duly sworn, deposes and says that he/she shall be responsible for knowledge of and compliance with all laws, rules, regulations, standards and procedures promulgated by federal, state, or local jurisdictions, and by federal, state or local law enforcement agencies that are applicable to this license.

**False written statements in this document are punishable** under section 210.45 of the New York penal law (making a punishable false written statement) and also will be sufficient cause for denial of an application, license or permit by the New York City Police Department, License Division.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Print your name \_\_\_\_\_





# New York City Police Department

## License Division

One Police Plaza  
New York, NY 10038  
(646) 610-5560



### Acknowledgement of Person Agreeing to Safeguard Firearm(s)

Name of Applicant / Licensee: \_\_\_\_\_

Application / License Number: \_\_\_\_\_

**Instruction to Applicant / Licensee:**

Please ask the person you have designated to safeguard and surrender your firearm(s) in the event of your death or incapacity to complete the information below and sign this acknowledgement before a witness. **(Must be a New York State resident.)**

Print Name: \_\_\_\_\_  
Last First M.I.

Address: \_\_\_\_\_

Number & Street Name	Apt	City	State	Zip
			NY	

Telephone Numbers: \_\_\_\_\_

I, \_\_\_\_\_  
(Print name of person agreeing to safeguard firearms)

understand that the above-named applicant/licensee has designated me to safeguard and surrender his/her firearm(s) in the event that he/she dies or becomes incapacitated. I agree that upon learning of the death or incapacity of the applicant/licensee, I will safeguard his/her firearm(s) and immediately notify the New York City Police Department's License Division at (646) 610-5871 of the death or incapacity of the applicant / licensee.

Signature of person agreeing  
to safeguard firearm(s): \_\_\_\_\_ Date: \_\_\_\_\_

Witness' signature \_\_\_\_\_

Witness' name (printed) \_\_\_\_\_

**Please retain a copy of this document for your records**

JA 350

**PERSONS PROHIBITED  
FROM POSSESSING FIREARMS**

TITLE 18, UNITED STATES CODE, SECTION 922g

- ❖ ANYONE UNDER INDICTMENT FOR A CRIME FOR WHICH THEY COULD BE IMPRISONED FOR MORE THAN ONE YEAR.
- ❖ ANYONE CONVICTED OF A CRIME FOR WHICH THEY COULD HAVE BEEN IMPRISONED FOR MORE THAN ONE YEAR.
- ❖ ANYONE WHO IS AN UNLAWFUL USER OF MARIJUANA, NARCOTICS OR ANY CONTROLLED SUBSTANCE.
- ❖ ANYONE WHO HAS BEEN ADJUDICATED MENTALLY DEFECTIVE OR INVOLUNTARILY COMMITTED TO A MENTAL INSTITUTION.
- ❖ ANYONE DISHONORABLY DISCHARGED FROM THE ARMED FORCES.
- ❖ ANYONE IN THE UNITED STATES ILLEGALLY.
- ❖ ANYONE SUBJECT TO A COURT ORDER RESTRAINING THEM FROM HARASSING, STALKING OR THREATENING AN INTIMATE PARTNER OR CHILD OF A PARTNER.
- ❖ ANYONE CONVICTED OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE.

**A PROHIBITED PERSON CANNOT RECEIVE OR POSSESS A FIREARM.**

**A LICENSED DEALER MAY NOT TRANSFER A FIREARM TO ANYONE THEY HAVE CAUSE TO BELIEVE IS PROHIBITED.**

THESE ARE VIOLATIONS OF FEDERAL LAW AND MAY RESULT IN FINES OR IMPRISONMENT OF UP TO 10 YEARS.

NEW YORK CITY CHARTER  
CHAPTER 18-C: PUBLIC SAFETY\*

*NYC Charter § 459*

§ 459 Definitions.

a. The term "school" means a public, private or parochial, day care center or nursery or pre-school, elementary, intermediate, junior high, vocational, or high school.

b. The term "school zone" means in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public, private or parochial day care center or nursery or pre-school, elementary, intermediate, junior high, vocational, or high school, or within one thousand feet of the real property boundary line comprising any such school.

c. The term "firearm" means a firearm, rifle, shotgun, or assault weapon, as such terms are defined in section 10-301 of the administrative code, or a machine gun, as defined in penal law section 265.00.

HISTORICAL NOTES:

Section added at General Election, November 6, 2001 (Question 3 § 1) eff. immediately upon certification that electors have approved the amendments.

NEW YORK CITY CHARTER  
CHAPTER 18-C: PUBLIC SAFETY\*

NYC Charter § 460

§ 460 Gun-free school safety zones.

a. It shall be a crime for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

b. Subdivision a of this section shall not apply where the firearm is:

(i) possessed and kept in such individual's home in a school zone, provided that such individual is licensed or permitted to possess such firearm; or

(ii) possessed and kept at such individual's business in a school zone, provided that such individual is licensed or permitted to possess such firearm.

c. Affirmative defenses to the crime established in subdivision a shall include possession of a firearm:

(i) carried for personal safety between such individual's business, home, or bank in a school zone, provided that such individual is licensed or permitted to possess such firearm for such purpose;

(ii) just purchased or obtained by such individual and being transported that same day for the first time to such individual's home or business in a school zone where it will be stored, provided that such individual is licensed or permitted to possess such firearm;

(iii) carried between a police department facility for inspection and an individual's business, home, bank, or point of purchase in a school zone, provided that such individual is licensed or permitted to possess such firearm;

(iv) carried by licensed or permitted individuals and being transported to or from an authorized target practice facility;

(v) carried between a gunsmith for demonstrably needed repairs and an individual's business or home in a school zone, provided that such individual is licensed or permitted to possess such firearm;

(vi) used in an athletic or safety program approved by a school in a school zone, or by the police commissioner, or in accordance with a contract entered into between a school within the school zone and the individual or an employer of the individual, provided that such individual is licensed or permitted to possess such firearm for such purpose; or

(vii) used in accordance with a contract entered into between a business within the school zone and the individual or an employer of the individual, provided that such individual is licensed or permitted to possess such firearm for such purpose.

d. It shall be a crime for any person, knowingly or with reckless disregard for the safety of another, to discharge a firearm in a school zone.

e. Affirmative defenses to the crime established in subdivision d shall include discharge of a firearm:

(i) by an individual for self-defense, provided that such individual is licensed or permitted to possess such firearm for such purpose;

(ii) for use in a special event or safety program authorized by a school in a school zone or by the police commissioner;

(iii) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual, provided that such individual is licensed or permitted to possess such firearm for such purpose; or

(iv) by an individual in accordance with a contract entered into between a business and the individual or an employer of the individual, provided that such individual is licensed or permitted to possess such firearm for such purpose.

f. Any person who violates this section shall be guilty of a misdemeanor, punishable by imprisonment of not more than one year or by a fine of not more than ten thousand dollars, or both.

g. In addition to the penalties prescribed in subdivision f of this section, any person who violates this section shall be liable for a civil penalty of not more than ten thousand dollars.

h. This section shall not apply to a police officer, as such term is defined in section 1.20 of the criminal procedure law, or a federal law enforcement officer, as such term is defined in section 2.15 of the criminal procedure law.

i. The police commissioner may promulgate rules implementing the provisions of this section. The police commissioner shall provide written notice of the requirements of this section to all persons who receive an official authorization to purchase a firearm and to all persons applying for a license or permit, or renewal of a license or permit. Failure to receive such notice shall not be a defense to any violation of this section.

j. The city of New York and its agencies, officers or employees shall not be liable to any party by reason of any incident or injury occurring in a gun-free school safety zone arising out of a violation of any provision of this section.





**HANDGUN LICENSE APPLICATION  
ADDENDUM**  
PD 643-041A (11-10)

This form is to be used to provide a detailed explanation for any **"yes"** answers to questions 10 through 28 on the **HANDGUN LICENSE APPLICATION (PD 643-041)**. This form may be reproduced if necessary.

**Question  
Number**

**Detailed Explanation**

The undersigned affirms that the statements made and answers given herein are accurate and complete, and hereby authorizes the New York City Police Department, License Division to make appropriate inquiries in connection with processing this application. **False written statements in this document are punishable** under Section 210.45 of the New York Penal Law (making a punishable false written statement) and also will be sufficient cause for denial of an application, license or permit by the New York City Police Department, License Division.

Date \_\_\_\_\_ Signature \_\_\_\_\_

JA 354



## Affidavit of Co-Habitant

State of New York

County of \_\_\_\_\_ ss.:

I, \_\_\_\_\_, residing at  
(Name of person making affidavit)

\_\_\_\_\_  
(Address, including zip code)

in the City of New York, do hereby affirm that the applicant,

\_\_\_\_\_  
(Name of applicant)

currently resides with me at the above address.

My relationship to the applicant is \_\_\_\_\_  
(Nature of relationship)

My telephone number is \_\_\_\_\_

I understand that the applicant has applied for a rifle/shotgun permit or handgun license from the New York City Police Department, and I have no objection to him/her receiving a permit or license and storing firearms in my home.

\_\_\_\_\_  
(Signature)

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Exhibit B

## Fingerprint/Identification Services

The New York State Division of Criminal Justice Services has been responsible for maintaining the state's fingerprint database and processing fingerprint transactions for more than 100 years.

The core business function of the agency's Office of Criminal Justice Operations is receiving, processing and identifying criminal, civil and crime scene fingerprints against a base file of more than 40 million fingerprint images.

The outcome of this important public safety operation is the positive identification of subject individuals, and the timely dissemination of their complete and accurate criminal history information to authorized agencies.

Professional fingerprint examiners integrate time-honored identification skills with state-of-the-art biometric identification technology to support New York's criminal justice system and the criminal history background check process for certain jobs and licenses.

### Criminal Identification

The Criminal Identification unit processes fingerprint transactions associated with misdemeanor and felony arrests, incarcerations and criminal justice-related inquiries.

DCJS receives criminal fingerprint transactions from law enforcement around the clock. Each transaction is processed in under one hour in order to determine positive identification, past criminal history and warrant information.

Criminal history record reports, commonly referred to as "rap sheets," are returned electronically, and by mail, to contributing law enforcement agencies, district attorney offices and to courts for use in arraignment and bail determinations.

[SAFIS-Latent Brochure \(pdf\)](#)

[Download Evidence Submission form to submit latent print evidence to DCJS' Latent Print Unit \(pdf\)](#)

### Civil Identification

The Civil Identification unit is responsible for processing fingerprint submissions that are associated with applications for certain occupations or licenses that require a criminal history background check pursuant to state statute or local law.

Background checks are required for a variety of jobs, ranging from school teachers, school bus drivers and child care workers to police officers, nursing home employees and taxi cab drivers. The Civil Identification unit receives applicant fingerprint submissions from more than 850 contributing agencies statewide.

Each applicant fingerprint submission is processed in under two days with criminal history record reports returned to contributing agencies electronically and by mail. The Civil Identification unit also provides a point of contact for customers with questions or problems with their fingerprint submissions.

### Origins of the New York State Bureau of Identification

In September 1996, the New York State Bureau of Identification celebrated 100 years of continuous service. To commemorate this achievement, *Origins of the New York State Bureau of Identification* was published in book form.



Exhibit C



The City of New York  
Office of Management and Budget  
75 Park Place, NY 10007

FY 2003  
COST ANALYSIS METHODOLOGY  
FEE INCREASE

CITY FUNDS ONLY

COST AREA	FY 2003 BASIS	ALLOCATION
1. Direct Personnel	Payroll records, staff assignments, salaries, salary adjustments such as COLA, merits, night or shift differential.	Percentage of time assigned to job. Percentage of workload.
A. Collective Bargaining	There is no provision for Collective Bargaining in FY 2003.	Salaries of eligible personnel only.
2. Fringe Benefits	Use 25.70% of direct personal service including collective bargaining costs as per O.M.B. Letter. For uniform and trade personnel, see instructions.	Allocated Direct Personnel costs.
3. OTPS & Misc.	2003 Prelim./Expense Budget for Agency OTPS and Miscellaneous Direct Cost.	Ratio of People (1) (4)
4. Executive Mgmt. Costs	2003 Prelim./Expense Budget for Agency Executive Mgmt. Costs (including Fringe Benefit).	Ratio of Direct Costs (2)
5. Admin. Service Costs	2003 Prelim./Expense Budget for Agency Admin. Service Costs (including Fringe Benefit).	Ratio of Direct Costs (2)

SEE PAGE 3 OF 3 FOR NOTES - (1) (2) (3) AND (4)

Page 1



The City of New York  
Office of Management and Budget  
75 Park Place, NY 10007

FY 2003  
COST ANALYSIS METHODOLOGY  
FEE INCREASE

\*\*\*\*\* Retain Documentation On Basis and Computation \*\*\*\*\*

CITY FUNDS ONLY

COST AREA	FY 2003 BASIS	ALLOCATION
6. Space & Utilities Indirect Costs		
Leased Space	Based on YTD or anticipated Rent Data for FY 2003 OR Based on No Rent Rent for Agency, if known, rental for similar space in geographic area of User Service, or other rental in the building.	Ratio of Space (3) where rent for space is known.  Square Footage of User Service space. Alternatives: To be applied when rent is not known. \$27.55 to \$29.00 per sq. foot 2003*. (See Instructions)
Space in City Owned Buildings	Based on square footage  Based on 2% of Building Acquisition Cost plus 2% of improvement costs.	\$27.55 to \$29.00 per sq. foot 2003*. (See Instructions)  Alternatives - Ratio of people (1) for building occupied by a single agency or: Ratio of Space (3) if occupied by > one agency.
Space in City In-Rem Buildings	Square Footage	\$27.55 to \$29.00 per sq. foot 20038 (See instructions).
Utilities	2003 Prelim./Expense Budget, Intra-City Expenses.	Ratio of People (1) (4)

SEE PAGE 3 OF 3 FOR NOTES - (1) (2) (3) AND (4)

\* Average Cost in City owned space includes rent, electricity and cleaning. FY 2002 Rate was \$28.25



The City of New York  
Office of Management and Budget  
75 Park Place, NY 10007

FY 2003  
COST ANALYSIS METHODOLOGY  
FEE INCREASE

\*\*\*\*\* Retain Documentation On Basis and Computation \*\*\*\*\*

CITY FUNDS ONLY

COST AREA	FY 2003 BASIS	ALLOCATION
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7. Cost of Other Agency's Services  
Agency Allocation from O.M.B.'s (See Instructions). Ratio of People (1) (4)
8. Other Indirect Costs  
Cost of other units and other lines agencies that participate in providing this user service but do not charge a fee. As Applicable (1) (2)

NOTES:

- (1) Ratio of People :  
Number of people on the User Cost Analysis divided by the total number of people in entire agency.
- (2) Ratio of Direct :  
Direct cost of User Service divided by the total direct cost (personal service, fringe & OTPS) of the entire agency excluding Executive Management & Administrative Service direct costs. City Funds only.
- (3) Ratio of Space :  
Space occupied by employees on User Service over total occupied by all agencies in the building.
- (4) Warning :  
There is the possibility that some functions of an agency or a Unit of Appropriation, may require 'an extraordinary amount of OTPS. When using the ratio of people method, the OTPS allocated to a specific user cost may be unreasonably high, distorting the costs. Isolating OTPS costs to aspecific budget codes may be an alternative method of allocation.





The City of New York  
**Office of Management and Budget**  
75 Park Place, NY 10007

FY2003  
The City of New York  
Office of Management and Budget

**Instructions For Completion of User Service Cost Analysis**

**CITY FUNDS ONLY**

*Submit one completed copy of the User Service Analysis Form to the Office of Management and Budget for each direct user service provided by your agency.*

1. Indicate Agency and Administration or Department
2. Describe User Service rendered.
3. Indicate the approval required to change the fee schedule. (e.g.. City Council).

A. Indicate Date of Last Increase.

**4. Cost Analysis**

A. **Direct Costs**

1. **Personal Service**

Indicate the direct personnel salary costs, as allocated, for the rendering of this User Service.

- Review the payroll record of employees included in the analysis. Include staffing and salary levels, bonuses, differentials, etc.
- Percentage or portion of time the staff spends administering this user service. Compile and retain all cost analysis computations and tables so that your supporting documentation can be reviewed and justified.

Use budgeted payroll costs, including overtime and differentials. Exclude vacant positions, unless agency intends to fill those positions. Include all payroll budgeted costs on either per annum, per session, or per diem basis. Analysis may include the cost of employees from other organizational units who contribute to the rendering of the service.

a. **Fiscal 2003 Collective Bargaining Increase**

There is no provision for collective bargaining in FY 2003 Prelim. Budget. When using FY 2002 PS and a baseline to arrive at FY 2003's amount contact Expense Task Force to determine if collective bargaining increase was budgeted in individual payroll titles or in a lump sum for your agency.

2. **Fringe Benefits**

Use 25.70% of line 4A-1 (Personal Service) and 4A-1a (Collective Bargaining) as a fair approximation of fringe benefits, unless due to known agreements, terms or conditions, a different ratio is known to exist, such as one for uniformed personnel. (Variations from the 25.70 percent (%) rate may occur for per diem, per session employees.)

3. **OTPS & Miscellaneous Cost**

The FY 2003 cost estimate for consultant services, contractual services, supplies, etc., purchased or rented for **direct use in provision of this user service**. The detailed schedule used in computing this item should be retained for review. Intra-City cost for telephones service, lighting should not be overlooked.

4. **Total Direct Costs**

Add lines 4A-1, 4A-1a, 4A-2, 4A-3.

B. **Indirect Costs**

1. **Executive Management Overhead**

To derive the dollar cost of Executive Management Overhead attributable to this User Service:

- Accumulate the amount of Executive Management cost: Personal Service, OTPS, and Fringe Benefits.
- Divide the direct cost of this User Service by the total direct cost of the entire agency: Personal Service, OTPS, & Fringe Benefits (excluding Executive Management direct costs). Use costs reflected in the FY 2003 Prelim. / Expense Budget.
- Multiply this ratio by the total Executive Management expense and enter the result on line 4B-1.

2. **Administrative Services Overhead**

To derive the dollar cost of Administrative Services Overhead attributable to this User Service:

- Accumulate the amount of Administrative Service expenses (Personal Services, OTPS and Fringe Benefits).
- Divide the direct cost of this User Service (4A-a) by the total direct costs for the entire agency (excluding Executive Management and Administrative Services direct costs). Use the cost reflected in the FY 2003 Prelim. / Expense Budget.
- Multiply this ratio by the Administrative Services cost and enter result on line 4B-2.

**3. Space and Utilities**

Enter one of the following:

- a. The cost of leased office space utilized in providing this user service.
- b. If the space is within a city owned building (agency does not pay rent), the space may be computed at the Citywide rent which averages between \$27.55 to \$29.00 per Sq. ft, unless a different rate is known to be more appropriate. The rent estimate includes the following amounts and options:

	Per Sq. foot
• Office Space	\$23.73
• Cleaning	\$1.75 to \$2.75
• Electricity - PASNY@	\$1.75
• Electricity - PASNY@	\$2.50

*Note:* Electricity from Con Edison is estimated at \$2.50 per sq. foot. Where other than office space is involved, such as piers, parking lots, laboratories, warehouses, etc. use acceptable trade rental figures.

Estimate the fair portion of utility costs, direct or intra-city (telephone, light ,etc.), assigned to space and utility costs of line 4B-3.

**4. Costs of Other Agency Services (CAP)**

A "Line Agency" receives services from the City's "Support Agencies" such as the Office of Management and Budget, Department of Citywide Administrative Services, Law Dept., Employees Retirement System, etc. A portion of such services and related costs are assigned to each particular user service. To properly account for these costs, allocate the amount furnished annually to your agency by OMB (contact Patricia Herrick, 75 Park Place 6th Floor, (212) 788-5843) to ascertain the cost of user service, as a separate cost item and not as a part of the Administrative Service Overhead

The total cost allocated to your agency should be the gross amount divided by the total agency headcount. The per capita amount is then applied against the total headcount (FTE) attributed to direct PS (4A-1). Enter allocation on Line 4B-4.

**5. Miscellaneous Indirect Costs**

Include all other indirect costs incurred in the provision of this user service, if such costs exist. Such indirect costs could be incurred by another unit of your agency or by another agency which provides support for your service, but does not charge a separate fee.

**6. Total Indirect Costs**

Add line 4B-1, 4B-2, 4B-3, 4B-4, 4B-5.

**C. Total Costs**

Add Direct Cost Total and Indirect Cost Total.



5. **Unit Cost and Fee Data**A. **Number of Units Rendered**

- The unit estimate should encompassed the total universe, including the uncollectibles and those users who will have their fees waived.
- Enter the number of Service Units to be actually rendered in FY 2003.
- Annualize the number of units if it's a new user service in operation for less than 12 months.
- For licenses, permits, fees, etc., renewed biennially or triennially, units should be averaged over the two or three-year cycle to avoid distortion.
- Be careful to adjust FY 2003 units to reflect any change in the number of inspectors, personnel, etc. that will directly increase or decrease the number of units served.

B. **Cost per Service Unit**

Enter the cost per unit of this User Service by dividing the amount on line 4C by amount on line 5A.

C. **Current Fee / Charge**

Enter the current NYC. fee charged for this User Service. If none, write, "none".

D. **Public/Private Unit Cost of Comparative Service**

If appropriate, obtain the names of three enterprises, public or private, which provide comparable service. Indicate the current fee that is being charged and the unit cost of service if known. Try to cite comparable service within the New York-New Jersey Metropolitan area.

6. **Recommendations for Change in Fee / Charge**

If you are recommending an increase in the fee, indicate why you are recommending this increase and the reason for setting the rate at the proposed level. Also indicate:

- How long would it take for you to begin implementation and collection of the new fees.
- A projection of increased revenue as a result of a fee change. Retain any table or formulas used for projection.

Attach extra pages for explanation, if necessary.

7. **Remarks**

Other observations about the fee increase.

8. **Preparer**

Name of the person who prepared the user service cost analysis.

9. **Signature of the Commissioner or the Commissioner's delegate.**10. **Be sure to include a copy of supporting documentation, schedules and worksheets used in the cost analysis.**



Exhibit D



To: City of New York  
Office of Management and Budget  
Miscellaneous Revenue Unit  
75 Park Place, 7th Floor  
New York, NY 10007

Submitted herewith is the License, Permit, and Fee  
User Cost Analysis Form for the:

New York City Police Department  
(Agency)

Agency Project Coordinator: Frank J. Doka  
Title: Assistant Commissioner  
Telephone Number: (646) 610-8342

Cover



The City of New York  
**Office of Management and Budget**  
 75 Park Place, New York, New York 10007

### USER COST ANALYSIS FORM FISCAL 2003

1. **Agency:** New York City Police Department
  
2. **Description of User Service :** to provide Handgun licenses
  
3. **Statutory Requirement For Change in Fee Schedule:**  
New York City Administrative Code Section 10-131, subdivision a, sets the fee  
for handgun licenses.

A. **Date of Last Fee Increase :** July, 1992

4. **Cost Analysis**

A. Direct Costs	<u>Fiscal 2003</u>
1) Personal Service Cost	\$ 2,395,682
a) Collective Bargaining Increase	N/A
2) Fringe Benefits	\$ 789,743
3) O.T.P.S. & Miscellaneous Direct Cost	\$ 129,312
4) Total Direct Cost	\$3,314,737

**B. Indirect Costs**

**Fiscal 2003**

**1) Executive Management Overhead**

**Personal Service, OTPS, Fringe Benefits**

**\$1,326**

**2) Administrative Service Overhead (Including Fringe)**

**\$177,007**

**3) Space and Utilities (included in Direct costs OTPS)**

**4) Cost of Other Agency Services**

**\$37,987**

**5) Miscellaneous Indirect Costs**

**6) Total Indirect Costs**

**\$216,320**

**C. Total Cost**

**\$3,531,057**





Name of Agency : New York City Police Department

Name of License : Handgun License

Recommendation : Increase fees to cover costs

**Action Required :**

(Please check all the appropriate boxes that are required for an increase in the direct user charge.)

	YES	NO
Commissioner Approval	<u>X</u>	
Corp. Counsel Approval	<u>X</u>	
Mayoral Approval	<u>X</u>	
Notice in City Record		<u>X</u>
City Council Action	<u>X</u>	
City Admin. Procedures Act (CAPA)		<u>X</u>
Special Board Approval (eg. Bd. of Health)		<u>X</u>
Promulgation in City Record		<u>X</u>
State Legislative Action		<u>X</u>
Other Agency or Governmental Body		<u>X</u>

Other Action: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Agency Response Sheet  
2003 Summary Report  
Direct User Charges**

Agency Name	Police Department				Agency No.			056
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
					</			

\* Print out additional sheets as necessary.

Exhibit E





The City of New York  
Office of Management and Budget  
75 Park Place, NY 10007

**FY 2010  
FEE INCREASE  
\*\*\*\*\* Retain Documentation On Basis and Computation \*\*\*\*\***

**CITY FUNDS ONLY**

<b>COST AREA</b>	<b>FY 2010 BASIS</b>	<b>ALLOCATION</b>
1. Direct Personnel		Percentage of time assigned to job. Percentage of workload.
A. Collective Bargaining	Payroll records, staff assignments, salaries, salary adjustments such as COLA, merits, night or shift differential	Salaries of eligible personnel only.
2. Fringe Benefits	Not Applicable	
3. OTPS & Misc.	Use 43.32% of direct personal service including collective bargaining costs as per O.M.B. Letter. For uniform and trade personnel, see instructions.	Allocated Direct Personnel costs.
4. Executive Mgmt. Costs	2010 Prelim./Expense Budget for Agency OTPS and Miscellaneous Direct Cost.	Ratio of People (1) (4)
5. Admin. Service Costs	2010 Prelim./Expense Budget for Agency Executive Mgmt. Costs (including Fringe Benefit).	Ratio of Direct Costs (2)
	2010 Prelim./Expense Budget for Agency Admin. Service Costs (including Fringe Benefit).	Ratio of Direct Costs (2)

SEE PAGE 3 OF 3 FOR NOTES - (1) (2) (3) AND (4)



The City of New York  
Office of Management and Budget  
75 Park Place, NY 10007

FY 2010  
FEE INCREASE  
\*\*\*\*\* Retain Documentation On Basis and Computation \*\*\*\*\*

CITY FUNDS ONLY

COST AREA	FY 2010 BASIS	ALLOCATION
6. Space & Utilities Indirect Costs		
Leased Space	Based on YTD or anticipated Rent Data for FY 2010 OR Based on No Rent Rent for Agency, if known, rental for similar space in geographic area of User Service, or other rental in the building.	Ratio of Space (3) where rent for space is known.  Square Footage of User Service space. Alternatives: To be applied when rent is not known. \$28.44 to \$29.19 per sq. foot (See Instructions)
Space in City Owned Buildings	Based on square footage  Based on 2% of Building Acquisition Cost plus 2% of improvement costs.	\$28.44 to \$29.19 per sq. foot (See Instructions)  Alternatives - Ratio of people (1) for building occupied by a single agency or: Ratio of Space (3) if occupied by > one agency.
Space in City In-Rem Buildings	Square Footage	\$28.44 to \$29.19 per sq. foot
Utilities	2010 Prelim./Expense Budget, Intra-City Expenses.	Ratio of People (1) (4)

SEE PAGE 3 OF 3 FOR NOTES - (1) (2) (3) AND (4)



The City of New York  
**Office of Management and Budget**  
 75 Park Place, NY 10007

**FY 2010  
 FEE INCREASE  
 \*\*\*\*\* Retain Documentation On Basis and Computation \*\*\*\*\***

**CITY FUNDS ONLY**

<b>COST AREA</b>	<b>FY 2010 BASIS</b>	<b>ALLOCATION</b>
------------------	----------------------	-------------------

7. Cost of Other Agency's Services Agency Allocation from O.M.B.'s (See Instructions). Ratio of People (1) (4)

8. Other Indirect Costs Cost of other units and other lines agencies that participate in providing this user service but do not charge a fee. As Applicable (1) (2)

**NOTES:**

(1) Ratio of People : Number of people on the User Cost Analysis divided by the total number of people in entire agency.

(2) Ratio of Direct : Direct cost of User Service divided by the total direct cost (personal service, fringe & OTPS) of the entire agency excluding Executive Management & Administrative Service direct costs. City Funds only.

(3) Ratio of Space : Space occupied by employees on User Service over total occupied by all agencies in the building.

(4) Warning : There is the possibility that some functions of an agency or a Unit of Appropriation, may require 'an extraordinary amount of OTPS. When using the ratio of people method, the OTPS allocated to a specific user cost may be unreasonably high, distorting the costs. Isolating OTPS costs to aspecific budget codes may be an alternative method of allocation.





2. **Fringe Benefits**

Use 43.32% of line 4A-1 (Personal Service) and 4A-1a (Collective Bargaining) as a fair approximation of fringe benefits, unless due to known agreements, terms or conditions, a different ratio is known to exist, such as one for uniformed personnel. (Variations from the 43.32 percent (%) rate may occur for per diem, per session employees.)

3. **OTPS & Miscellaneous Cost**

The FY 2010 cost estimate for consultant services, contractual services, supplies, etc., purchased or rented for direct use in provision of this user service. The detailed schedule used in computing this item should be retained for review. Intra-City cost for telephones service, lighting should not be overlooked.

4. **Total Direct Costs**

Add lines 4A-1, 4A-1a, 4A-2, 4A-3.

B. **Indirect Costs**

1. **Executive Management Overhead**

To derive the dollar cost of Executive Management Overhead attributable to this User Service:

- Accumulate the amount of Executive Management cost: Personal Service, OTPS, and Fringe Benefits.
- Divide the direct cost of this User Service by the total direct cost of the entire agency: Personal Service, OTPS, & Fringe Benefits (excluding Executive Management direct costs). Use costs reflected in the FY 2010 Prelim. / Expense Budget.
- Multiply this ratio by the total Executive Management expense and enter the result on line 4B-1.

2. **Administrative Services Overhead**

To derive the dollar cost of Administrative Services Overhead attributable to this User Service:

- Accumulate the amount of Administrative Service expenses (Personal Services, OTPS and Fringe Benefits).
- Divide the direct cost of this User Service (4A-a) by the total direct costs for the entire agency (excluding Executive Management and Administrative Services direct costs). Use the cost reflected in the FY 2010 Prelim. / Expense Budget.
- Multiply this ratio by the Administrative Services cost and enter result on line 4B-2.

**3. Space and Utilities**

Enter one of the following:

a. The cost of leased office space utilized in providing this user service.

b.

If the space is within a city owned building (agency does not pay rent), the space may be computed at the Citywide rent which averages between \$28.44 to \$29.19 per Sq. ft, unless a different rate is known to be more appropriate. The rent estimate includes the following amounts and options:

	Per Sq. foot	Range	
• Office Space	\$25.00	\$25.00	\$25.00
• Cleaning	\$1.69	\$1.69	\$1.69
• Electricity - PASNY@	\$1.75	\$1.75	
• Electricity - Con Edison	\$2.50		\$2.50
		\$28.44	\$29.19

*Note:* Where other than office space is involved, such as piers, parking lots, laboratories, warehouses, etc. use acceptable trade rental figures.

Estimate the fair portion of utility costs, direct or intra-city (telephone, light ,etc.), assigned to space and utility costs of line 4B-3.

**4. Costs of Other Agency Services (CAP)**

A "Line Agency" receives services from the City's "Support Agencies" such as the Office of Management and Budget, Department of Citywide Administrative Services, Law Dept., Employees Retirement System, etc. A portion of such services and related costs are assigned to each particular user service. To properly account for these costs, allocate the amount furnished annually to your agency by OMB to ascertain the cost of user service, as a separate cost item and not as a part of the Administrative Service Overhead rate.

The total cost allocated to your agency should be the gross amount divided by the total agency headcount. The per capita amount is then applied against the total headcount (FTE) attributed to direct PS (4A-1). Enter allocation on Line 4B-4.

**5. Miscellaneous Indirect Costs**

Include all other indirect costs incurred in the provision of this user service, if such costs exist. Such indirect costs could be incurred by another unit of your agency or by another agency which provides support for your service, but does not charge a separate fee.

**6. Total Indirect Costs**

Add line 4B-1, 4B-2, 4B-3, 4B-4, 4B-5.

**C. Total Costs**

Add Direct Cost Total and Indirect Cost Total.

**5. Unit Cost and Fee Data****A. Number of Units Rendered**

- The unit estimate should encompassed the total universe, including the uncollectibles and those users who will have their fees waived.
- Enter the number of Service Units to be actually rendered in FY 2010
- Annualize the number of units if it's a new user service in operation for less than 12 months.
- For licenses, permits, fees, etc., renewed biennially or triennially, units should be averaged over the two or three-year cycle to avoid distortion.
- Be careful to adjust FY 2010 units to reflect any change in the number of inspectors, personnel, etc. that will directly increase or decrease the number of units served.

**B. Cost per Service Unit**

Enter the cost per unit of this User Service by dividing the amount on line 4C by amount on line 5A.

**C. Current Fee / Charge**

Enter the current NYC. fee charged for this User Service. If none, write, "none"

**D. Public/Private Unit Cost of Comparative Service**

If appropriate, obtain the names of three enterprises, public or private, which provide comparable service. Indicate the current fee that is being charged and the unit cost of service if known. Try to cite comparable service within the New York-New Jersey Metropolitan area.

**6. Recommendations for Change in Fee / Charge**

If you are recommending an increase in the fee, indicate why you are recommending this increase and the reason for setting the rate at the proposed level. Also indicate:

- How long would it take for you to begin implementation and collection of the new fees.
- A projection of increased revenue as a result of a fee change. Retain any table or formulas used for projection.

Attach extra pages for explanation, if necessary.

**7. Remarks**

Other observations about the fee increase.

**8. Preparer**

Name of the person who prepared the user service cost analysis.

**9. Signature of the Commissioner or the Commissioner's delegate.****10. Be sure to include a copy of supporting documentation, schedules and worksheets used in the cost analysis.**

Exhibit F





The City of New York  
**Office of Management and Budget**  
 75 Park Place, New York, New York 10007

### USER COST ANALYSIS FORM FISCAL 2010

1. Agency: Police Department
2. Description of User Service : Premise Residence (PR)
3. Statutory Requirement For Change in Fee Schedule: \_\_\_\_\_

A. Date of Last Fee Increase :

4. Cost Analysis

A. Direct Costs of the Service

Fiscal 2010

- |  |               |
|--|---------------|
| 1) Personal Service Cost   | \$501,356 (a) |
| a) Collective Bargaining Increase  | N/A           |
| b) Funded Overtime   |               |
| 2) Fringe Benefits   | \$359,981     |
| 3) O.T.P.S.  | \$37,507 (a)  |
| 4) Total Direct Cost (not including space and utilities, which are included below) | \$898,844 (a) |

**B. Indirect Costs of the Service**

**Fiscal 2010**

- |  |               |
|--|---------------|
| 1) Executive Management Overhead<br>PS + OTPS (Incl. space and utilities) + Fringe Benefits                      | \$232 (a)     |
| 2) Administrative Service Overhead (Including Fringe)<br>PS + OTPS (Incl. space and utilities) + Fringe Benefits | \$58,952 (a)  |
| 3) Space and Utilities (Direct Service Cost)   | \$40,779 (a)  |
| 4) Cost of Other Agency Services (Gross CAP)   | \$5,717 (a)   |
| 5) Miscellaneous Indirect Costs (if any)   |               |
| 6) Total Indirect Costs  | \$105,680 (a) |

**C. Total Cost**

**\$1,004,524 (a)**

**5. Unit Costs / Fee Data**

**Fiscal 2010**

A. Number of Units Rendered	1,028
B. Cost per Service Unit	\$977.16
C. Current Triennial Charge / Fee Per Service Unit	\$340.00
D. Public / Private Unit Cost Comparable Service	N/A

**Name of Municipality / Enterprise**

**Current Fee**

**Current Cost**

1)			
2)			
3)			

**6. Recommendations for Change in Fee or Charge:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**7. Remarks :**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**8. Preparer :** \_\_\_\_\_ **Telephone #:** \_\_\_\_\_

**9. Signed:** \_\_\_\_\_ **Date :** \_\_\_\_\_

\* Please attach all supporting documentation for direct and indirect costs for the above analysis.

Name of Agency : New York Police Department

Name of License : 0

Recommendation : \_\_\_\_\_

**Action Required :**

(Please check all the appropriate boxes that are required for an increase in the direct user charge.)

	YES	NO
Commissioner Approval	_____	_____
Corp. Counsel Approval	_____	_____
Mayoral Approval	_____	_____
Notice in City Record	_____	_____
City Council Action	_____	_____
City Admin. Procedures Act (CAPA)	_____	_____
Special Board Approval (eg. Bd. of Health)	_____	_____
Promulgation in City Record	_____	_____
State Legislative Action	_____	_____
Other Agency or Governmental Body	_____	_____

Other Action?: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Exhibit G



The City of New York  
**Office of Management and Budget**  
 75 Park Place, New York, New York 10007

### USER COST ANALYSIS FORM FISCAL 2010

1. Agency: Police Department
2. Description of User Service :  
All Other Renewals
3. Statutory Requirement For Change in Fee Schedule: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

A. Date of Last Fee Increase :

#### 4. Cost Analysis

##### A. Direct Costs of the Service

Fiscal 2010

- |  |                        |
|--|------------------------|
| 1) Personal Service Cost   | <u>\$1,617,640 (a)</u> |
| a) Collective Bargaining Increase  | <u>N/A</u>             |
| b) Funded Overtime   | <u></u>                |
| 2) Fringe Benefits   | <u>\$970,868</u>       |
| 3) O.T.P.S.  | <u>\$143,445 (a)</u>   |
| 4) Total Direct Cost (not including space and utilities, which are included below) | <u>\$2,731,952 (a)</u> |

**B. Indirect Costs of the Service**

**Fiscal 2010**

- |  |               |
|--|---------------|
| 1) Executive Management Overhead<br>PS + OTPS (incl. space and utilities) + Fringe Benefits                      | \$703 (a)     |
| 2) Administrative Service Overhead (Including Fringe)<br>PS + OTPS (incl. space and utilities) + Fringe Benefits | \$181,188 (a) |
| 3) Space and Utilities (Direct Service Cost)   | \$155,960 (a) |
| 4) Cost of Other Agency Services (Gross CAP)   | \$21,864 (a)  |
| 5) Miscellaneous Indirect Costs (if any)   |               |
| 6) Total Indirect Costs  | \$359,714 (a) |

**C. Total Cost**

**\$3,091,666 (a)**

**5. Unit Costs / Fee Data**

**Fiscal 2010**

A. Number of Units Rendered 8,912

B. Cost per Service Unit \$346.92

C. Current Triennial Charge / Fee Per Service Unit \$340.00

D. Public / Private Unit Cost Comparable Service N/A

**Name of Municipality / Enterprise**

**Current Fee**

**Current Cost**

1) \_\_\_\_\_

2) \_\_\_\_\_

3) \_\_\_\_\_

**6. Recommendations for Change in Fee or Charge:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**7. Remarks :** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**8. Preparer :** \_\_\_\_\_ **Telephone #:** \_\_\_\_\_

**9. Signed:** \_\_\_\_\_ **Date :** \_\_\_\_\_

\* Please attach all supporting documentation for direct and indirect costs for the above analysis.



Exhibit H

# The City of New York



## Comprehensive Annual Financial Report of the Comptroller for the Fiscal Year Ended June 30, 2010

JOHN C. LIU  
*Comptroller*

SIMCHA FELDER  
*Deputy Comptroller*

MICHAEL N. SPITZER  
*Assistant Comptroller for Accounting*

PATRICK D. TONER  
*Chief Accountant*

**The City of New York**

**Comprehensive  
Annual Financial Report  
of the  
Comptroller**

**INTRODUCTORY SECTION**

**Part I**

**Fiscal Year Ended June 30, 2010**

## Comptroller's Report for Fiscal 2010

## Part II-E—General Fund—Schedule G3 (Cont.)

## Revenues vs. Budget by Agency

Revenue Source Within Agency	Budget		Actual Revenue	
	Adopted	Modified	2010	2009
040 DEPARTMENT OF EDUCATION (cont.)				
45001 Pollution Remediation—Bond Sales	\$ —	\$ 170,872,000	\$ 170,872,000	\$ 158,543,320
Total Department of Education	11,040,961,431	11,346,498,910	11,349,409,397	10,675,491,203
Net Change in Estimate of Prior Receivables	—	—	(44,592,049)	(30,030,252)
Net Total Department of Education	11,040,961,431	11,346,498,910	11,304,817,348	10,645,460,951
042 CITY UNIVERSITY OF NEW YORK				
00461 Higher Education Services and Fees—Community Colleges	198,362,000	265,533,000	274,062,643	217,574,535
00760 Rentals—Other	2,300,000	2,300,000	2,500,000	1,100,000
00859 Sundries	185,000	185,000	229,264	368,109
03229 Energy Efficiency and Renewable Energy	—	153,224	84,735	46,776
13946 Education Stabilization Fund	10,752,000	10,752,000	10,752,000	—
13947 Government Services Stabilization Fund	2,978,000	2,978,000	2,978,000	—
27909 State Aid—Community Colleges	152,387,550	159,557,230	161,597,125	166,652,550
27911 Hunter Public School Aid	1,800,000	1,800,000	1,800,000	1,800,000
27912 State Aid—Senior Colleges	35,000,000	35,000,000	—	—
29271 Community College Child Care	2,865,000	2,693,100	2,693,100	2,693,100
29350 Community College Rents	4,819,000	6,308,120	6,308,120	6,497,280
29355 College Discovery Program	881,265	828,390	828,389	828,389
43900 Private Grants	2,500,000	2,500,000	1,153,781	1,363,675
Total City University of New York	414,829,815	490,588,064	464,987,157	398,924,414
054 CIVILIAN COMPLAINT REVIEW BOARD				
00470 Other Services and Fees	—	—	38	318
Total Civilian Complaint Review Board	—	—	38	318
056 POLICE DEPARTMENT				
00200 Licenses—General	2,100,000	2,100,000	1,740,008	3,533,096
00250 Permits—General	825,000	825,000	970,710	892,329
00470 Other Services and Fees	29,146,000	28,746,000	28,709,233	30,801,061
00472 Parking Meter Revenues	586,000	700,000	935,959	610,264
00600 Fines—General	—	—	46,034	4,972
00847 E-911 Surcharges	38,700,000	36,000,000	37,221,765	37,106,860
00848 Wireless and Cell Phone Surcharges	20,800,000	21,700,000	21,868,346	21,365,728
00859 Sundries	9,622,000	9,872,000	8,686,191	10,477,736
03060 Public Safety Interoperable Communications	—	308,061	308,061	—
03200 Gang Resistance Education Training	—	127,220	127,218	112,194
03270 Law Enforcement Terrorism Prevention Program	—	7,408,428	7,411,429	6,048,030
03276 Buffer Zone Protection Plan (BZPP)	—	—	—	502
03279 Securing the Cities	—	20,572,921	20,572,921	53,357
03280 Port Security	—	3,370,721	3,370,718	681,958
03281 Rail and Transit Security	—	8,891,135	8,891,133	3,403,778
03285 ARRA—Rail and Transit Security	—	4,900,978	4,595,702	—
04017 Federal Assistance for United Nations	15,000,000	15,000,000	15,000,000	14,119,887

(Continued)



## Comptroller's Report for Fiscal 2010

## Part II-E—General Fund—Schedule G3 (Cont.)

## Revenues vs. Budget by Agency

Revenue Source Within Agency	Budget		Actual Revenue	
	Adopted	Modified	2010	2009
056 POLICE DEPARTMENT (cont.)				
04028 Drug Enforcement Overtime . . . . .	\$ 702,500	\$ 4,742,763	\$ 4,742,763	\$ 4,459,773
04099 Federal Asset Forfeiture . . . . .	—	3,707	3,707	109,863
04139 Weed and Seed Project . . . . .	—	93,195	93,195	43,097
04213 Bulletproof Vest Program . . . . .	—	169,800	169,800	913,360
04221 Byrne Narcotics Control Auxiliary Program . . . . .	—	—	—	36,467
04233 PSA3 Narcotics Surveillance Program . . . . .	—	1,357,792	1,357,750	1,456,542
04244 Urban Areas Security Initiative . . . . .	—	28,921,930	28,959,638	19,479,936
04247 Missing Children's Assistance Program . . . . .	—	846	846	—
04249 Domestic Preparedness Equipment Support . . . . .	—	3,556,738	3,556,719	3,317,326
04250 Public Safety Partnership & Community Policy . . . . .	—	1,768,576	1,768,575	1,449,360
04256 National Institute of Justice Research (NIJR) . . . . .	—	—	—	84,310
04261 Justice Assistance Grant Funds . . . . .	2,551,448	20,688	20,688	1,095,508
04265 Services for Trafficking Victims . . . . .	—	57,526	57,527	216,513
04268 Forensic DNA Capacity Enhancement . . . . .	—	69,051	69,050	—
04271 Recovery Act Justice Assistance Local . . . . .	—	2,343,780	2,343,779	—
19929 Forfeiture Law Enforcement . . . . .	—	3,607,235	3,605,028	4,965,350
19934 Soft Body Armor Vests Program . . . . .	—	980,570	980,570	327,320
19935 Enforcement of Navigation Laws . . . . .	132,000	400,000	400,000	400,000
19939 Narcotics Control . . . . .	—	—	—	49,930
19949 State Felony Program (EDDCP) . . . . .	4,000	4,000	3,998	4,000
23801 Highway Emergency Local Patrol . . . . .	—	1,642,030	1,642,030	1,786,997
23802 NYSDOT Traffic Control . . . . .	—	468,657	468,653	598,538
23947 Emergency Medical Technical Training . . . . .	59,800	59,800	83,855	63,950
29853 Aid to Crime Labs . . . . .	536,208	778,767	778,717	2,042,176
29856 Aid to Prosecution . . . . .	—	354,730	354,730	96,499
29869 State Local Initiative . . . . .	—	1,989,630	1,989,629	1,797,303
29873 Motor Vehicle Theft Insurance Fraud . . . . .	—	625,885	631,020	742,814
29905 Reimbursement of Retirees . . . . .	500,000	500,000	500,000	500,000
29970 State Aid . . . . .	—	1,825,221	1,825,220	553,470
29978 State Aid Pension Reimbursement . . . . .	8,141,495	8,141,495	13,411,063	12,707,093
29982 NYS Dormitory Authority Grant . . . . .	—	3,099	3,099	—
30400 Stop Driving While Intoxicated . . . . .	—	719,721	714,381	681,850
30402 Buckle-Up New York Program . . . . .	—	1,345,854	1,345,854	1,317,796
30406 Combat Aggressive Driving Program . . . . .	—	347,214	329,580	561,095
30551 Wireless Emergency 911 Surcharges . . . . .	4,200,000	6,139,482	6,139,481	6,198,273
30906 Local Government Records Management . . . . .	—	12,101	12,099	42,162
31914 Asset Forfeiture—Private . . . . .	—	6,851,755	6,851,732	11,703,105
35904 Williamsburg Bridge Project . . . . .	—	2,370,891	2,370,892	2,736,230
35940 Gowanus Prospect Expressway . . . . .	—	—	—	35,377

(Continued)

## Comptroller's Report for Fiscal 2010

## Part II-E—General Fund—Schedule G3 (Cont.)

## Revenues vs. Budget by Agency

Revenue Source Within Agency	Budget		Actual Revenue	
	Adopted	Modified	2010	2009
056 POLICE DEPARTMENT (CONT.)				
35967 TEA—Macombs Dam Bridge .....	\$ —	\$ 1,250	\$ 1,250	\$ —
35997 TEA—Flushing Avenue .....	—	223,276	223,276	365,903
36000 TEA—Citywide Construction Project .....	—	16,137,642	16,137,644	15,655,366
41916 Summer Gang Resistance and Training Program .....	—	—	—	10,313
43900 Private Grants .....	—	1,237,855	1,240,007	2,514,207
43928 Housing Authority Police Grant ....	69,082,461	72,981,315	72,608,182	72,428,919
44010 Transit Authority Fare Evasion Overtime .....	—	3,340,157	3,340,157	3,568,623
44011 Community Oriented Policing Service .....	—	83,838	83,838	186,012
44038 Ford Warranty Program .....	—	243,618	243,618	239,106
44049 GMC—Chevrolet Impala .....	—	2,128,517	2,128,517	1,653,480
44061 Non-Governmental Grants .....	—	436,268	436,269	10,238
45001 Pollution Remediation—Bond Sales ..	—	1,256,858	1,256,858	—
Total Police Department .....	202,688,912	340,867,587	345,740,712	308,417,302
Net Change in Estimate of Prior Receivables .....	—	—	(226,904)	(2,781,101)
Net Total Police Department .....	202,688,912	340,867,587	345,513,808	305,636,201
057 FIRE DEPARTMENT				
00320 Franchises—Other .....	1,137,000	1,137,000	1,338,376	1,292,256
00470 Other Services and Fees .....	98,199,000	74,900,000	77,258,785	75,685,972
00859 Sundries .....	—	—	134,416	14,194
03005 Cooperative Forestry Assistance ....	—	—	—	597,026
03268 Assistance to Firefighters Grant ....	—	2,056,161	2,067,055	—
03280 Port Security .....	—	307,458	342,373	113,034
04032 Gateway National Park Protection ..	25,000	—	—	25,000
04213 Bulletproof Vest Program .....	—	7,234	7,234	30,753
04244 Urban Areas Security Initiative .....	4,909,957	18,824,587	19,184,533	16,712,213
04249 Domestic Preparedness Equipment Support .....	—	8,244,115	8,244,112	861,123
04271 Recovery Act Justice Assistance Local .....	—	1,460,836	1,460,835	—
13019 9/11/01 Related Medical Monitoring ..	3,400,702	28,350,269	28,269,798	24,635,510
15611 Occupational Safety and Health Program .....	—	—	—	150,731
29970 State Aid .....	—	—	—	24,988
29978 State Aid Pension Reimbursement ..	22,197,798	22,197,798	24,371,149	30,615,005
30003 Officer Induction Training School ...	940,000	954,633	954,633	940,000
30906 Local Government Records Management .....	—	6,939	6,938	11,902
30953 Emergency Medical Service Program .....	583,519	310,205	310,205	617,288
30955 911 Grant .....	262,482	262,482	262,482	262,482
37941 Health Research .....	279,663	169,532	180,845	159,024
43900 Private Grants .....	165,306,794	167,263,583	167,263,583	174,162,472

(Continued)

Exhibit I

From:  
Sent:  
To:  
Subject:

Attachments:

**MAYORS AGAINST  
ILLEGAL GUNS**

★ MAYORS AGAINST ILLEGAL GUNS ★ [www.mayorsagainstillegalguns.org](http://www.mayorsagainstillegalguns.org)

**FOR IMMEDIATE RELEASE**

January 24, 2011

No. 11

**MAYORS, MARTIN LUTHER KING III AND FAMILY MEMBERS OF GUN VIOLENCE VICTIMS  
URGE CONGRESS TO FULFILL INTENT OF HISTORIC 1968 GUN LAW AND FIX NATION'S  
BROKEN BACKGROUND CHECK SYSTEM**

*Mayors Launch National Campaign to Collect Missing Records and Close Loopholes to Prevent the Next Mass  
Shooting and the Killing of 34 People Per Day With Guns*

*Campaign Launched Online at [www.fixgunchecks.org](http://www.fixgunchecks.org)*

The bi-partisan coalition of Mayors Against Illegal Guns, led by New York City Mayor Michael R. Bloomberg and Boston Mayor Thomas M. Menino, was joined by Martin Luther King III and dozens of survivors and family members of gun violence victims to launch a national campaign urging Congress to take two simple but critical steps to fix our nation's broken background check system: 1) fulfill the letter of the historic 1968 gun law and ensure that all names of people prohibited from buying a gun are in the background check system; and 2) fulfill the intent of the historic 1968 gun law by subjecting every gun sale to a background check.

"The time has clearly come to finally fulfill the intent of the common sense gun law passed after the 1968 assassinations of Martin Luther King, Jr. and Bobby Kennedy, by creating a loophole-free background check system for the sale of firearms," said Mayor Bloomberg. "Every day, 34 Americans are murdered with guns – and most of them are purchased or possessed illegally."

"There are those who fail to truly read the 2nd amendment," said Mayor Menino. "They ignore the need for a common sense approach to guns in our communities. The best way to respond to the heinous acts of violence we have seen in our nation's history is to prevent them from ever happening again. Lax screening in response to these tragic shootings is no virtue."

"For decades we have tolerated senseless gun violence, which has struck down too many of our fellow citizens, particularly our young people," said Martin Luther King III, President and CEO of the King Center. "If we want to create a nonviolent society, we must enforce our public safety laws to keep the angry and dangerous few from destroying the peace and harmony of the many. I wholeheartedly join Mayor Bloomberg in calling on



the President and Congress to finally deliver on the long unfilled promise to make sure that every gun buyer passes a background check. It is unconscionable to do anything less."

"President Kennedy and Senator Robert Kennedy, my uncle and my father, dedicated their lives to serving their country," said Kathleen Kennedy Townsend, former Lieutenant Governor of Maryland and eldest child of Robert F. Kennedy. "But because of assassins armed with guns, they both made the ultimate sacrifice, and their lives of service were cut short. The 34 Americans whose lives are cut short by a gun each day may not be presidents or senators, but each life is a future cut short, a life of accomplishments left undone, and a family torn apart. We owe a duty to each victim to make their life, and their sacrifice, a part of the national movement to fix our gun background check system so it is thorough, complete and comprehensive."

"We've learned from recent shootings that it is vital that the federal gun background check system have accurate and complete information on people prohibited from possessing firearms," said former Attorney General Michael Mukasey. "President Bush supported and Congress passed a piece of the necessary reform in 2007 after Virginia Tech, and it has had a significant impact by more than tripling the number of mental health records in the system. But it is clear, particularly after Tucson, that it was just one step on a longer path toward the effective and comprehensive background check system we need. I applaud America's mayors for their efforts to build a better system."

"As Governor of Vermont, I received an A-rating from the NRA and I strongly support the right of law-abiding Americans to own a gun," said Howard Dean. "I also believe with equal strength that felons, drug abusers, and the mentally ill have no right to guns. In fact, that's been the law in our country for 43 years since the assassinations of Martin Luther King and Robert F. Kennedy. What we need now is a background check system that works to enforce the law – one that ensures that every record is in the system that belongs there and that every gun buyer goes through a background check. I stand with America's mayors in their effort to make the system work."

#### *Historic 1968 Legislation*

In 1968, after the assassinations of Rev. Martin Luther King, Jr. and Senator Robert F. Kennedy, Congress, at the urging of President Johnson, passed a law establishing the common-sense concept that certain categories of people including convicted felons, the mentally ill, and known drug abusers should not be allowed to possess or purchase guns.

Because no system was created for actually translating its intent into reality, the effectiveness of the 1968 act was undermined. It was not until 1993, when President Clinton signed the Brady Bill, that a national instant background check system, designed to prevent mentally unbalanced people from obtaining firearms, was created to help enforce the 1968 law.

It has become clear that the Brady Bill was not enough to fulfill the intent of the historic 1968 gun law. The Columbine High School shooters used guns that were purchased without a background check at a gun show. The Virginia Tech shooter passed a background check when he should have failed it due to his record of mental health problems.

In April 2007, after the Virginia Tech massacre which claimed the lives of 32 people, Congress passed the NICS Improvement Act to submit all the required records into the background check system. Congress has failed to provide enough funding to support these efforts. In FY 2010, Congress allocated \$20 million to support state initiatives to submit records to the background check system, only 5% of the \$375 million authorized by the NICS Improvement Act.

Millions of records of individuals who are prohibited by law from buying guns are still missing from the database. Ten states have not submitted any mental health records to NICS and 18 states have submitted fewer than 100 mental health records.

### *Two Simple Ideas*

Mayors Against Illegal Guns, a bipartisan coalition of more than 550 mayors, proposes that the U.S. fulfill the intent of the 1968 law by fixing the broken background check system.

First, the system should contain all the records of felony convictions, domestic violence incidents, drug history, and determinations of mental illness that would prevent those categories of troubled people from buying guns. The new Congress should set a goal of getting this job finished within three years.

Second, Congress should subject every gun sale to a background check by closing the loopholes that permit guns to be sold without them. Licensed gun dealers are covered by the Brady Bill. But "occasional sellers," for example those that sell firearms at gun shows, through classified ads or even on the internet, do not have to conduct background checks. The only way to prevent guns from falling into the hands of violent criminals, the mentally unstable, and other already prohibited dangerous persons is through a comprehensive national background check system with no loopholes. Reasonable exceptions would include, for example, transfers of guns within families, or by wills, or to people who have a valid state-issued gun permit issued within the last five years that meets or exceeds the Federal background check standard.

The Mayor and Martin Luther King III were joined by a number of survivors and family members of gun violence victims to call attention to the fact that 34 people in the United States lose their lives to gun violence every day. Among them were: Tom Mauser, father of Daniel Mauser, a victim of the 1999 Columbine High School tragedy; Omar and Randa Samaha, whose sister was shot and killed at Virginia Tech in 2007; Lynnette Alameddine, whose son was killed at Virginia Tech in 2007; Lori Haas, whose daughter survived 2 gun shots in the back of the head at Virginia Tech; and Jeannette Richardson, whose son was killed in the front yard of her home in Virginia in 2003; Toby Hoover, whose husband, Dale Stone, was shot in 1973 in Ohio; Sally Sheasby, whose son was shot and killed in Ohio in 2005; Deborah Sohovich, whose son was shot and killed in Columbus, Ohio; Rebecca Pryor, whose friend was shot and killed in Pennsylvania; Rev. Donald and Kim Odom, parents of Steven Odom who was shot and killed in 2007; and Bryan Miller, brother of Mike Miller, an FBI agent who was shot and killed in 1994 and director of public advocacy for Heeding God's Call.

New York City area family members and survivors include: Steven and Patty McDonald, Steven is a NYPD police officer who was shot in the line of duty, his wife, Patty McDonald, is the Mayor of Malverne, NY; Vada Vasquez, a student at Bronx Latin High School who was shot as she walked home from school in 2009; Tatyana Timoshenko, mother of Russel Timoshenko, an NYPD officer who was shot and killed in 2007; Kenny McLaughlin, a teacher at Grand Street Campus High School in Brooklyn, who was shot during a 1996 mugging in Brooklyn; Arlene and Jack Locicero, parents of Amy Locicero Federici, who was shot and killed in the 1993 Long Island Rail Road massacre; Gloria Cruz, whose 10-year niece was shot and killed, and established the Bronx chapter of New Yorkers Against Gun Violence; Devorah Halberstam, whose son was murdered in 1994 in a terrorist attack on the Brooklyn Bridge; and Shaina Harrison, whose cousin was shot and killed in 2009 and is working with New Yorkers Against Gun Violence;

Also, joining the group was Rev. James Coen, Pastor of the Oak Ridge Presbyterian Church, where Phyllis Schneck, one of the Tucson victims was an active member.

[www.fixgunchecks.org](http://www.fixgunchecks.org)

Mayors Against Illegal Guns today launched a new online advocacy campaign, [www.fixgunchecks.org](http://www.fixgunchecks.org) to call attention to the glaring problems in our nation's gun background check system, and allow citizens to join a movement to fix it.

### *Poll Finds Strong Support for Common Sense Improvements*

The week after the Tucson shooting Mayors Against Illegal Guns released the results of a poll conducted jointly by Momentum Analysis, a polling firm with Democratic clients, and American Viewpoint, a polling firm with Republican clients. The poll reveals that Americans and gun owners strongly support a sensible approach to gun laws that protects the Second Amendment rights of law-abiding Americans while also keeping criminals and other dangerous people from accessing firearms.

The poll of over 1,000 registered voters was conducted the week after the Tucson shooting. According to the poll, 90 percent of Americans and 90 percent of gun owners support fixing gaps in government databases that are meant to prevent the mentally ill, drug abusers and others from buying guns. Also according to the poll, 86 percent of Americans and 81 percent of gun owners support requiring all gun buyers to pass a background check, no matter where they buy the gun and no matter who they buy it from.

### *About Mayors Against Illegal Guns*

Since its inception in April 2006, Mayors Against Illegal Guns has grown from 15 mayors to over 550. Mayors Against Illegal Guns has united the nation's mayors around these common goals: protecting their communities by holding gun offenders and irresponsible gun dealers accountable, demanding access to trace data that is critical to law enforcement efforts to combat illegal gun trafficking, and working with legislators to fix gaps, weaknesses and loopholes in the law that make it far too easy for criminals and other prohibited purchasers to get guns.

-30-

Contact:	Mayor Bloomberg's Press Office	(212) 788-2958
	Mayor Menino's Press Office	(617) 635-4461



## A PLAN *to* PREVENT FUTURE TRAGEDIES

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In 1968, assassins gunned down Martin Luther King, Jr. and Robert F. Kennedy. In the wake of that double tragedy, Congress passed the first federal laws to limit access to guns, by prohibiting dangerous people, like felons, drug abusers, and the mentally ill from purchasing or possessing guns.

In 1993, Congress passed the Brady Bill, named for President Reagan's press secretary James Brady, who had been critically wounded in the assassination attempt on President Reagan. The Brady Bill created a system of background checks that helped to make real the purpose of the 1968 law.

Unfortunately, incomplete records and loopholes in the law have stopped background checks from doing their job:

- The Columbine killers got around the system by using guns bought at a gun show from an unlicensed seller: no paperwork, no questions asked.
- At Virginia Tech, a killer got a gun he should have been prohibited from buying because his records were never reported to the FBI's gun background check system.
- The shooter in Tucson also got a gun he should have been prohibited from buying because his records weren't in the database - and then got a second gun because lax federal regulations frustrated the intent of the law.

Most murders that take place with illegal guns do not make the headlines. Every day, 34 Americans are murdered with guns, and most of them are possessed illegally. Since, 1968, more than 400,000 Americans have been killed with guns.

The system needs to be fixed. Creating a comprehensive system to keep guns out of the hands of dangerous people requires two steps:

Step one: Get all the names of people who should be prohibited from buying a gun into the background check system.

Step two: Close the loopholes in the background check system by requiring a background check for every gun sale.



**STEP ONE: GET ALL THE NAMES OF PEOPLE WHO SHOULD BE PROHIBITED FROM BUYING A GUN INTO THE BACKGROUND CHECK SYSTEM.**

**Context:** NICS, the National Instant Criminal Background Check System, which is used to conduct background checks on prospective gun buyers, is missing millions of records. Federal law requires records concerning the mentally ill, drug abusers, perpetrators of domestic violence, and other people who are forbidden, under current state and federal law, from having guns to be included in the system. The problem of missing records became obvious in 2007, when Seung Hui Cho, who was prohibited from owning a gun due to mental illness, was not listed in the background check system and was therefore able to buy two guns to commit the Virginia Tech massacre. Congress responded by passing the NICS Improvement Amendments Act, which encourages states to share records. As a result, the number of records in NICS' Mental Defective File increased significantly under the new law, from nearly 300,000 in 2006 to more than 1.1 million today. The murders in Tucson, however, show that problems persist. The shooter, Jared Loughner, was able to buy a shotgun less than a year after admitting to the U.S. Army that he was a regular drug abuser because the armed forces had not forwarded his name to NICS. Today, there are just over 2,000 people listed as drug abusers in NICS.

Revised legislation would strengthen the NICS system in six ways:

**Funding:** Fully fund the NICS Improvement Amendments Act to help agencies and states cover the costs of gathering records and making them electronically available to the FBI.

The legislation, enacted in 2008, is failing to achieve its goals in part because Congress has supplied only 5.3% of the authorized amount from Fiscal Year 2009 through Fiscal Year 2011. That money was supposed to be available to states to help cover the cost of gathering and supplying records.

The revised law would guarantee full funding to states and federal agencies to comply with reporting requirements to the NICS database.

**Penalties:** Establish tougher penalties for states that do not comply with the law by cutting more of their Justice Department funding.

The NICS Improvement Amendments Act establishes only minor penalties for non-compliance. It sets out a timeline, and in each year starting in Fiscal Year 2011 states are required to turn over a target percentage of the records they have naming people who should not be allowed to buy guns under federal law. If they do not comply, they could face cuts to a portion of their federal justice assistance funding. The potential cuts are small, however: only 3% to 5% of a single grant (Byrne Justice Assistance Grants or JAG), which provides about \$300 million a year nationwide to states. Furthermore, DOJ has almost total discretion to reduce or waive them.

Revised legislation would put in place tighter deadlines and stricter penalties for states to comply with the law and submit records. States would be required to turn over 75% of their records within two years of enactment and 90% of their records within six years or they would face cuts not only to JAG grants, but also to other Justice Department programs that normally guarantee a share to each state, such as the State Criminal Alien Assistance Program (SCAAP, \$249 million a year); Title II grants for juvenile justice (\$60 million a year); Juvenile Accountability Block Grants (JABG, \$46 million a year), and Enforcing Underage Drinking Laws Block Grants (\$20 million a year). Furthermore, these penalties would rise to 50% of each grant.

*Why it matters: Across the country, the total potential penalties that face all states combined under the current NICS Improvement Amendments Act are only about \$15 million.*

**Federal reporting: Require every federal agency to certify to the Attorney General twice a year that all relevant records have been submitted.**

Under the NICS Improvement Amendments Act, each Federal agency must provide to DOJ, at least quarterly, the name of any person it is aware is federally prohibited from buying guns. Current law does not, however, hold any person accountable for guaranteeing an agency's compliance. And federal agencies are not following the law. For example, only three agencies have sent any records on drug abusers to the FBI.

Revised legislation would hold agencies accountable for quarterly reporting by requiring the head of each agency to report to the Attorney General, twice a year, about the number of records it has shared in each category of prohibited person. Each report would include the agency head's written certification that all relevant records have been transmitted.

*Why it matters: Even though Jared Loughner admitted to the U.S. Army that he regularly abused drugs, the Army did not submit his name to the FBI for inclusion in NICS as required by law, and less than a year later, Loughner was able to pass a background check and buy a shotgun. Later, Loughner bought the Glock he used to kill six people and injure 13 others.*

**Mental health definitions: Clarify the definition of mentally ill people who are prohibited from having guns to ensure that dangerous people are included in NICS.**

Two critical changes are needed to ensure that people who are mentally ill are listed in NICS. First, the system should include people who have been suspended or expelled from a federally funded college or university because of mental illness. Second, it should include people who are compelled by a court to take medication for mental illness or to get other mental health care, even if they are not "committed" to in-patient treatment, as the ATF currently interprets the law.

*Why it matters: Jared Loughner was deemed too mentally ill to come to school without a note from a mental health professional, but safe enough to buy a gun.*

**Drug abuse definitions:** Clarify the definition of drug abusers who are prohibited from having guns to ensure that dangerous people are included in NICS.

Since 1968, federal law has prohibited anyone "who is an unlawful user of or addicted to any controlled substance" from possessing any gun. The revised law would do two things to enforce that prohibition. First, it would reverse the overly narrow interpretation that ATF and the FBI now give to the law. They interpret it to apply only to people who have had a drug-related arrest, a drug-related conviction, a failed drug test, or an admission of drug use within the previous year. The revised law would change that one-year prohibition to a five-year prohibition. Second, the revised law would require federal courts to report to NICS anyone sentenced to mandatory drug treatment even if the requirement was part of a diversionary program that does not result in conviction.

**Due process:** Safeguard the rights of people who are listed in NICS.

The revised legislation would continue to ensure that individuals who were wrongly included in NICS as a prohibited purchaser are able to seek relief and be removed from the list of prohibited gun purchasers. For example, those who were arrested on a drug charge within the past five years but can show they have recovered from their addiction would be able to regain their gun rights. So would people who had been mentally ill but have recovered and no longer present a risk.

## **STEP TWO: CLOSE THE LOOPHOLES IN THE BACKGROUND CHECK SYSTEM BY REQUIRING A BACKGROUND CHECK FOR EVERY GUN SALE.**

**Context:** Even if the NICS database included the name of every person prohibited from having a gun under federal or state law, it would still be easy and legal to obtain guns with no background check, no questions asked. That is because the current law only applies to gun sales by federally licensed dealers.

Under current federal law, only persons "engaged in the business" of selling guns are required to get a license, keep paperwork, and conduct background checks. People who maintain they are collectors or only occasionally sell guns are not required to do these checks. Such sellers often congregate at gun shows, which is why many refer to this exception as the "gun show loophole." But felons can exploit the loophole whether they are at a gun show or not - buying guns with no background checks at unlicensed sellers' homes, via classified ads, or even in some cases on the internet. Experts estimate that over six million guns a year - perhaps 40% of all sales - are made by unlicensed private dealers not subject to the law.

#### Background checks:

The new law would require that non-licensed people selling guns ensure that the buyer has undergone a background check in NICS. Sellers would be able to do so in three ways. First, the seller can go to a licensed dealer to have a background check run on the buyer. The revised law would cap the fee for conducting these background checks on behalf of private sellers at \$15. Second, the seller can inspect a permit issued to the buyer by a state or local government that confirms they have passed a background check within the previous five years. Third, the seller can go to or contact a law enforcement official for the background check at the time of purchase.

*Why it matters: ATF has reported that over 27% of the guns involved in its criminal trafficking investigations were tied to trafficking by unlicensed sellers, and over 30% were tied to trafficking at gun shows.*

#### Reasonable exceptions:

Similar to the Brady Law, revised legislation would exempt certain gun permittees and some types of transactions from background checks:

- Sales to a federally licensed dealer, manufacturer or wholesaler (including sales of curio or relic firearms to a licensed collector);
- Sales to law enforcement;
- Transfers of guns to an immediate family member, grandchild, or grandparent;
- Inheritance of guns; and
- Sharing guns while hunting, at a shooting range, or at a competition.

LEARN MORE at  
**www.FIXGUNCHECKS.org**  
 www.MAYORSAGAINSTILLEGALGUNS.org



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; GEORGE GRECO; GLENN  
HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY;  
SECOND AMENDMENT FOUNDATION, INC.; and THE  
NEW YORK STATE RIFLE & PISTOL ASSOCIATION,  
INC.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG, in his Official Capacity as  
Mayor of the City of New York; CITY OF NEW YORK;  
and ERIC SCHNEIDERMAN, in his Official Capacity as  
Attorney General of the State of New York,

Defendants.

**DECLARATION OF  
ANDY SHIWNARAIN**

11 Civ. 2356 (JGK)  
ECF Case

ANDY SHIWNARAIN, declares under the penalty of perjury, pursuant to 28  
U.S.C. § 1746, that the foregoing is true and correct:

1. I am a Supervising Budget Analyst at the New York City Office of  
Management and Budget (“OMB”). I have been employed by OMB since 2006. I am  
responsible for overseeing revenue for several City agencies, including the Police Department,  
Department of Finance, and the Department of Investigation.

2. I submit this declaration in opposition to plaintiffs’ motion for summary  
judgment and in support of City defendants’ cross-motion for summary judgment. This  
declaration is based on my personal knowledge, my review of the city’s records and  
conversations with employees, officers, and agents of the City of New York.

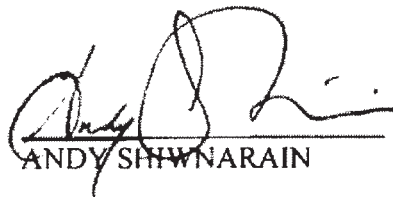
3. OMB staff worked in connection with the New York City Police  
Department (“NYPD”), when the NYPD prepared its User Cost Analysis Form for Fiscal Year

2003 calculating the costs associated with the NYPD License Division's function of licensing persons for the possession of firearms in the City of New York.

4. In 2010, I worked closely with NYPD License Division Commanding Officer Andrew Lunetta and other OMB staff in preparing the User Cost Analysis Form for Fiscal Year 2010 that analyzed the costs to the License Division for processing applications for firearms permits. The 2010 analysis looked at the costs for each type of license and permit issued by the License Division, by license type.

5. After the License Division completed its User Cost Analysis in 2010, OMB compiled the data and prepared a Pistol and Long Gun Cost Analysis Summary Sheet that set forth the cost analyses for the various licenses and permits issued by the License Division, along with conclusions about the percentage fees proposed as potential legislation at that time. A copy of the Pistol and Long Gun Cost Analysis Summary Sheet, as of July 23, 2010, is annexed hereto as Exhibit "A."

Dated: New York, New York  
July 28, 2011



ANDY SHW NARAIN

Exhibit A

**Pistol and Long Gun Cost Analysis**  
As of 7/23/10

Total Annual Cost  
Number of Units Rendered Annually  
Cost Per Service Unit  
Current Triennial Fee  
Current Fee as a Percentage of Cost  
CIC Proposed Triennial Fee  
CIC Fee as a Percentage of Cost  
Difference (CIC Proposed - Current Fee)

E1 & E5	E4 <sup>1</sup>	E2 & E3	E7	E9 <sup>2</sup>	E6	E8	Total
Carried Carry License and Carry Insurance State/Local Contribution	Retired Law Enforcement	Private Business & Professional Services	Carry Business	All Other Businesses	Sub/Multi-gun and Tactical Firearms	Sub/Multi-gun and Tactical Firearms	
\$1,329,825	\$601,723	\$1,037,206	\$362,962	\$3,091,666	\$1,204,624	\$1,496,782	\$9,124,789
844	839	1,057	651	8,912	883	6,159	29,345
\$1,576	\$712	\$981	\$557	\$347	\$1,364	\$243	\$472
\$340	\$340	\$340	\$340	\$340	\$140	\$140	\$340
22%	47%	35%	61%	98%	10%	58%	
\$110	\$50	\$70	\$40	\$25	\$65	\$12	
7%	7%	7%	7%	7%	5%	5%	
(\$170)	\$23	(\$205)	\$433	\$415	(\$271)	(\$178)	

Redacted

Redacted

Annual Recurring Subsidy at Current Fee  
Annual Recurring Subsidy at CIC Proposed Fee

E1 & E5	E4 <sup>1</sup>	E2 & E3	E7	E9 <sup>2</sup>	E6	E8	Total
Carried Carry License and Carry Insurance State/Local Contribution	Retired Law Enforcement	Private Business & Professional Services	Carry Business	All Other Businesses	Sub/Multi-gun and Tactical Firearms	Sub/Multi-gun and Tactical Firearms	
\$1,042,865	\$6,327	\$677,826	\$141,508	\$35,786	\$1,080,958	\$634,568	\$3,619,839
\$1,236,985	\$11,195	\$963,216	\$336,908	\$1,663,947	\$1,147,208	\$1,422,878	\$6,778,237

Annual Revenue Estimate with Current Fee Structure<sup>3</sup>  
Annual Revenue Estimate with CIC Proposed Fees Savings / (Cost)

\$3,600,000  
\$450,000  
(\$3,150,000)

<sup>1</sup> Per NYPD, approximately 98% of Retired Law Enforcement new application permits receive a fee waiver.  
<sup>2</sup> Per NYPD, in the category All Other Businesses (E9), Retired Law Enforcement accounts for approximately 43%.



**9 Fees**

1. Concealed Carry licenses (CB-Carry Business / CL-Limited Carry / SC-Special Carry)
2. Premise Business (PB)
3. Premise Residence (PR)
4. Retired Law Enforcement (SX)
5. Carry Guard/Gun Custodian (CG and CD)
6. Rifle/Shotgun and Theatrical permits (PE and TH)
7. Carry Business Renewals
8. Rifle/Shotgun and Theatrical permit Renewals
9. All Other Renewals

**Nine (9) fees with descriptions**

1) **CONCEALED CARRY LICENSES**

New application investigation fee for Carry Business, Limited Carry and Special Carry handgun license applications.

2) **PREMISE BUSINESS LICENSES**

New application investigation fee for Premise Business handgun license applications.

3) **PREMISE RESIDENCE**

New application investigation fee for Premise Residence handgun license applications.

4) **RETIRED LAW ENFORCEMENT**

New application investigation fee for Retired Law Enforcement handgun license applications that are not eligible for statutory fee waiver.

5) **CARRY GUARD/GUN CUSTODIAN**

New application investigation fee for Carry Guard and Gun Custodian handgun license applications.

6) **RIFLE/SHOTGUN**

New application investigation fee for Rifle/Shotgun permit and Theatrical permit applications.

7) **CARRY BUSINESS RENEWAL**

Renewal fee for Carry Business licenses.

8) **RIFLE/SHOTGUN RENEWALS**

Renewal fee for Rifle/Shotgun permits and Theatrical permits.

9) **ALL OTHER RENEWALS**

Renewal fee for Premise Residence, Special Carry, Limited Carry, Carry Guard, Gun Custodian, Premise Business, and Retired Law Enforcement handgun licenses.

## **EXPENSE CATEGORIES 1 - 14**

### **Expense category 1**

- Attributable to fee for concealed carry licenses (CB-Carry Business / CL-Limited Carry / SC-Special Carry)
- fee category 1

### **Expense category 2**

- Attributable to fee for Premise Business licenses (PB)
- fee category 2

### **Expense category 3**

- Attributable to fee for Premise Residence licenses (PR)
- fee category 3

### **Expense category 4**

- Attributable to fee for Retired Law Enforcement licenses (SX)
- fee category 4

### **Expense category 5**

- Attributable to fee for Carry Guard and Gun Custodian licenses (CG and CD)
- fee category 5

### **Expense category 6**

- Attributable to fee for Rifle/Shotgun and Theatrical permits (PE and TH)
- fee category 6

### **Expense category 7**

- Attributable to fee for Renewal of Carry Business and Limited Carry licenses (CB and CL)
- fee category 7

### **Expense category 8**

- Attributable to fee for Renewal of Rifle/Shotgun and Theatrical permits (PE and TH)
- fee category 8

### **Expense category 9**

- Attributable to fee for Renewal of all other licenses (PB, PR, CG, CD, SC, and SX)
- fee category 9

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; GEORGE GRECO; GLENN  
HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY;  
SECOND AMENDMENT FOUNDATION, INC.; and  
THE NEW YORK STATE RIFLE & PISTOL  
ASSOCIATION, INC.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG, in his Official Capacity as  
Mayor of the City of New York; CITY OF NEW YORK;  
and ERIC SCHNEIDERMAN, in his Official Capacity as  
Attorney General of the State of New York,

Defendants.

**CITY DEFENDANTS’  
RESPONSES TO  
PLAINTIFFS’  
STATEMENT OF  
MATERIAL FACTS  
PURSUANT TO  
LOCAL RULE 56.1  
AND CITY  
DEFENDANTS’  
COUNTER RULE 56.1  
STATEMENT OF  
MATERIAL  
UNDISPUTED FACTS**

11 Civ. 2356 (JGK)  
ECF Case

Pursuant to Rule 56.1 of the Local Civil Rules of the United States District Court for the Southern District of New York, defendants Michael Bloomberg in his official capacity as Mayor of the City of New York and the City of New York (collectively “City defendants”) submit the following responses to Plaintiffs’ Statement of Undisputed Material Facts, dated June 22, 2011, and following counter statement of undisputed material facts:

### **GENERAL STATEMENTS AND OBJECTIONS**

City defendant’s responses to Plaintiffs’ Statement of Undisputed Material Facts, dated June 22, 2011 (“Plaintiffs’ Rule 56.1 Statement”), are provided herein. However, any such disputed allegations are either not material or are not genuine and do not raise any triable issue of fact that would require a denial of City defendant’s cross-motion for summary judgment. Any statements that are not disputed are not disputed solely for purposes of this motion.



**CITY DEFENDANTS' RESPONSES TO PLAINTIFFS' RULE 56.1 STATEMENT**

City defendant respond to each of the paragraphs utilizing the numbering scheme set forth in Plaintiffs' Rule 56.1 Statement.

1. City defendants do not dispute the statements set forth in paragraph "1."
2. City defendants do not dispute the statements set forth in paragraph "2."
3. City defendants do not dispute the statements set forth in paragraph "3."
4. City defendants do not dispute the statements set forth in paragraph "4."
5. City defendants do not dispute the statements set forth in paragraph "5."
6. City defendants do not dispute the statements set forth in paragraph "6."
7. City defendants do not dispute the statements set forth in paragraph "7."
8. City defendants do not dispute the statements set forth in paragraph "8."
9. City defendants do not dispute the statements set forth in paragraph "9."
10. City defendants do not dispute the statements set forth in paragraph "10."
11. City defendants do not dispute the statements set forth in paragraph "11."
12. City defendants do not dispute the statements set forth in paragraph "12."
13. City defendants do not dispute the statements set forth in paragraph "13."
14. City defendants do not dispute the statements set forth in paragraph "14."
15. City defendants do not dispute the statements set forth in paragraph "15."
16. City defendants do not dispute the statements set forth in paragraph "16."
17. City defendants do not dispute the statements set forth in paragraph "17."
18. City defendants do not dispute the statements set forth in paragraph "18."
19. City defendants do not dispute the statements set forth in paragraph "19."
20. City defendants do not dispute the statements set forth in paragraph "20."

21. City defendants do not dispute the statements set forth in paragraph “21.”

22. City defendants do not dispute the statements set forth in paragraph “22.”

23. City defendants do not dispute the statements set forth in paragraph “23.”

24. City defendants do not dispute the statements set forth in paragraph “24.”

25. City defendants do not dispute the statements set forth in paragraph “25.”

26. City defendants do not dispute the statements set forth in paragraph “26.”

27. City defendants do not dispute the statements set forth in paragraph “27.”

28. City defendants do not dispute the statements set forth in paragraph “28.”

29. City defendants do not dispute the statements set forth in paragraph “29.”

30. City defendants dispute the statements set forth in paragraph “30” to the extent that it characterizes the \$94.25 fee as a fee “for fingerprinting and background checks conducted by the New York State Division of Criminal Justice Services,” as the fee is for the New York State Division of Criminal Justice Services to run the applicant’s fingerprints; and asserts that such dispute is neither material nor genuine. See Declaration of NYPD Commanding Officer Andrew Lunetta, dated July 28, 2011 (“Lunetta Dec.”) ¶ 9, Exhibit “B;” [http://criminaljustice.state.ny.us/pio/fp\\_services.htm](http://criminaljustice.state.ny.us/pio/fp_services.htm) (last visited July 18, 2011).

31. City defendants do not dispute the statements set forth in paragraph “31.”

32. City defendants do not dispute the statements set forth in paragraph “32.”

33. City defendants do not dispute the statements set forth in paragraph “33.”

34. City defendants do not dispute the statements set forth in paragraph “34.”

35. City defendants do not dispute the statements set forth in paragraph “35.”

36. City defendants do not dispute the statements set forth in paragraph “36.”

37. City defendants do not dispute the statements set forth in paragraph “37.”

38. City defendants do not dispute the statements set forth in paragraph “38.”

39. City defendants do not dispute the statements set forth in paragraph “39.”

40. City defendants do not dispute the statements set forth in paragraph “40.”

41. City defendants do not dispute the statements set forth in paragraph “41.”

42. City defendants do not dispute the statements set forth in paragraph “42.”

43. City defendants dispute the statements set forth in paragraph “43” insofar as it characterizes the attached transcript excerpts as “pertinent,” and otherwise do not dispute the statement and assert that any dispute is not material.

44. City defendants do not dispute the statements set forth in paragraph “44.”

45. City defendants do not dispute the statements set forth in paragraph “45.”

46. City defendants do not dispute the statements set forth in paragraph “46.”

47. City defendants do not dispute the statements set forth in paragraph “47.”

48. City defendants do not dispute the statements set forth in paragraph “48.”

49. City defendants do not dispute the statements set forth in paragraph “49.”

50. City defendants do not dispute the statements set forth in paragraph “50.”

51. City defendants do not dispute the statements set forth in paragraph “51.”

52. City defendants do not dispute the statements set forth in paragraph “52.”

#### **CITY DEFENDANTS’ COUNTER STATEMENT PURSUANT TO RULE 56.1**

Pursuant to Rule 56.1 of the Local Rules of the United States District Court for the Southern District of New York, City defendants, through their attorney Michael A. Cardozo, Corporation Counsel of the City of New York, submit the following Counter Statement of

Undisputed Material Facts as to which City defendants contend there is no genuine issue to be tried:

**The Parties**

1. All individually-named plaintiffs currently have valid New York City Police Department issued Premises Residence licenses. See Plaintiffs' Rule 56.1 Statement, ¶¶ 9-15.
2. All individually-named plaintiffs have paid the \$340 license fee to obtain their Premises Residence handgun licenses. See Plaintiffs' Rule 56.1 Statement, ¶¶ 9-15.
3. Defendant, Michael Bloomberg, sued in his official capacity as Mayor of the City of New York, is currently the mayor of the City of New York. See Complaint, ¶ 55.
4. Defendant, the City of New York, is a domestic municipal corporation organized and existing under the laws of the State of New York. See New York City Charter § 1.
5. The New York City Police Department, License Division ("NYPD") processes applications for Premises Residence firearms licenses in the City of New York. See Declaration of NYPD License Division Commanding Office Andrew Lunetta, dated July 28, 2011 ("Lunetta Dec."), ¶¶ 2-3.
6. The License Division issues licenses for Premises Residence firearms in the City of New York. See Lunetta Dec., ¶¶ 2-3, 9, 16-17.
7. The License Division conducts an investigation of all applicants for firearms licenses in the City of New York. See Lunetta Dec., ¶¶ 11-15.



**The License Division's Role in Processing Issuance and Renewal Applications for Premises Residences Handgun Licenses**

8. In New York City, the License Division of the New York City Police Department is responsible for processing handgun license applications, including those for premises residence handgun licenses. See Penal Law §§ 400.00; 265.00(10); Lunetta Dec., ¶¶ 2-3.

9. The different firearms licenses and permits issued by the License Division, along with a description of the license type are codified in title 38, chapter 5 of the Rules of the City of New York ("RCNY") (types of handgun licenses) and title 38, chapter 1 of the RCNY (rifle, shotgun, and longarm permits). See 38 RCNY §§ 5-01; 1-02; [http://www.nyc.gov/html/nypd/html/permits/handgun\\_licensing\\_information.shtml](http://www.nyc.gov/html/nypd/html/permits/handgun_licensing_information.shtml) (last visited July 7, 2011).

10. Holders of Premises Residence handgun licenses are restricted to possessing the licensed weapon at the specific home address designated on the licensee. See 38 RCNY § 5-01(a).

11. Premises Residence licensees are also authorized to transport the licensed handgun directly to and from an authorized small arms range/shooting club, secured and unloaded in a locked container. See 38 RCNY §§ 5-01(a); 5-22(a)(14).

12. Pursuant to Penal Law § 400.00(1), "[n]o license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true." Article 400 of the Penal Law details the duties of the licensing officer which include, *inter alia*, determining whether the applicant meets the eligibility requirements set forth under Penal Law 400.00(1); inspecting mental hygiene records for previous or present mental illness;

investigating the truthfulness of the statements in the application; and having the applicant's fingerprints forwarded for review against the records of the New York State Division of Criminal Justice Services ("DCJS") and the FBI "to ascertain any previous criminal record. See Penal Law § 400.00(1).

13. After an investigation, the licensing officer may not approve the application if, inter alia, "good cause exists for the denial of the license." Penal Law §400.00(1)(g).

14. In ensuring an applicant meets the requirements of Penal Law § 400.00, the License Division must conduct an investigation that requires an assessment of the applicant's mental hygiene records for previous and present mental illness, an investigation of criminal records, and documentation of the applicant's physical descriptive data. See Penal Law § 400.00(4).

15. License Division staff review applications for completeness and accuracy, and investigate the information provided by the applicant License Division. See Lunetta Dec., ¶¶ 11-15. For example, investigators reach out to various federal, state, and city agencies for information about the applicant's history, making requests for additional documentation to support statements made in the application, reviewing the DCJS fingerprint response, mental health checks, and requesting further information regarding any arrests or convictions reported therein, and interviewing the applicant. See id. The investigation often involves interviews of third parties to obtain relevant information. See Lunetta Dec., ¶¶ 12, 14

16. DCJS does not investigate applicants, the License Division does. DCJS runs a fingerprint report for all arrests in the State of New York and then sends the fingerprints

to the FBI to check for out of state arrests and warrants.<sup>1</sup> See Lunetta Dec., ¶ 13, Exhibit “B,” [http://criminaljustice.state.ny.us/pio/fp\\_services.htm](http://criminaljustice.state.ny.us/pio/fp_services.htm); DCJS provides identifying information of arrestees, the date and location of all arrests, the arrest charges, and the Penal Law sections associated with the arrest. Lunetta Dec., ¶ 13.

17. There are currently 36,077 active licenses that have been issued by the License Division for the possession of handguns in New York City; and 20,806 active permits for the possession of rifles and shotguns. Lunetta Dec., ¶ 2.

18. The License Division, currently processes an average of 2,612 new applications and 9,522 renewal applications each year for the issuance and renewal of the various types of handgun licenses issued by the License Division. In addition, the License Division processes 973 applications for rifle and shotgun permits. Lunetta Dec., ¶ 3.

19. Currently, the License Division has 79 employees. The License Division is divided into several different sections and units, and is overseen by a five member Executive Staff, that includes a director, deputy inspector (as commanding officer), a captain (as executive officer), and a lieutenant and sergeant (as Integrity Control Officer and Assistant). Lunetta Dec., ¶ 4.

20. The License Division has sections of staff established for various tasks. For example, there is an Intake Section, New Applications Section, Carry Guard Section, Retired Law Enforcement Section, Rifle/Shotgun Section, Issuing Section, Incident Section, Cancellation Section, Renewal Section, Special Operations Section, and Administrative Hearing Section. Lunetta Dec., ¶ 5.

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<sup>1</sup> The \$94.25 fingerprint fee that is remitted to DCJS is a one-time fee that an applicant is required to make only for their initial application – not for any renewals. See Lunetta Dec., ¶ 9, n.4.

21. A Premises Residence Unit was designated within the New Applications Section in 2009 so that the License Division could focus resources on investigating applications and recordkeeping with respect to Premises Residence licenses. Lunetta Dec., ¶ 6.

22. The Premises Residence Unit is currently comprised of three staff members that are dedicated to investigating Premises Residence applications only. It is comprised of a sergeant who oversees the unit, and two full-time investigators. Other investigators assigned in the New Applications Section are assigned to investigate Premises Residence applications in addition to other applications for various business and carry licenses. Other License Division employees are also involved in the issuance and processing of Premises Residence handgun licenses, including the License Division Executive Staff, Police Administrative Aides and secretaries who are involved in assisting with specific investigative steps, maintaining records and statistics, and issuing the licenses. There is also intake administrative staff, and records room staff, among others. Lunetta Dec., ¶ 7.

23. When the License Division and the New York City Office of Management and Budget (“OMB”) performed a User Cost Analysis in 2010, based on information provided by the License Division, the percentages of time spent for the various uniformed and civilian NYPD License Division staff directly involved in the issuance of Premises Residence Licenses totaled the FTE or “full-time equivalent” of 7.80 staff members. Lunetta Dec., ¶¶ 8, 39, Exhibit “F” (User Cost Analysis Fiscal Year 2010 for Premises Residence Licenses).

#### **City Council Authority to Set Fees for Premises Residence Handgun Licenses**

24. In accordance with New York State Penal Law (“Penal Law”) § 400.00(14), the New York City Council is authorized to set the fees for the issuance and renewals of all pistol licenses issued in the City of New York. See Penal Law § 400.00(14).

25. Penal Law § 400.00(14) provides, in relevant part, as follows:



**Fees.** In the city of New York and the county of Nassau, the annual license fee shall be twenty-five dollars for gunsmiths and fifty dollars for dealers in firearms. In such city, the city council and in the county of Nassau the Board of Supervisors shall fix the fee to be charged for a license to carry or possess a pistol or revolver and provide for the disposition of such fees. (Emphases added).

26. Penal Law § 400.00(14) has provided the City of New York with the authority and discretion to set its own fees for the issuance and renewal of licenses to possess or carry a pistol through the City Council since 1947. See Penal Law § 400.00(14).

27. In 1947, the New York State Legislature noted that the then-\$1.50 state-imposed fee was “inadequate to compensate for the administrative expense entailed in the issuance” of licenses to possess and carry handguns, particularly with respect to the need for the New York City Police Commissioner to conduct a thorough investigation into the “safety and welfare of the community.” See Declaration of Michelle Goldberg-Cahn, dated July 28, 2011 (“Goldberg-Cahn Dec.”), Exhibit “A,” at 2-3.

28. The New York State legislature found that the City of New York was spending significantly more on its investigation than the costs received from the fees. See Goldberg-Cahn Dec., Exhibit “A.”

29. Since 1948, the City Council has enacted legislation establishing the fees for licenses to possess and carry handguns in the City of New York. See New York City Admin. Code § 10-131 (which amended Admin. Code § 436-5.0).

#### **Legislative History of Handgun Fees in New York City**

30. Local Law 32 of 1948 increased the annual fee for a handgun license from \$1 to \$10 for the initial license, and \$5 for each renewal license in the City of New York. See Goldberg-Cahn Dec., Exhibit “B,” at 2 (Local Law 32/1948).

31. In 1948, the New York City Police Commissioner submitted a memorandum to the Mayor in support of the increase fees. See Letter from Police Commissioner Wallander to Mayor O'Dwyer, dated February 16, 1948, Goldberg-Cahn Dec., Exhibit "B," at 7-9. The Police Commissioner's letter states, in relevant part, as follows:

I reiterate my statements made at the public hearing of the Committee on General Welfare of the council that the cost to the City of New York of investigation, processing, issuance of licenses, supervision, and maintenance of records exceeds by a large amount the present fees, and that because of the fact that the applicant for, and recipient of, a pistol license is receiving a special service, distinguished from the service which the City and Police Department are bound by law to perform for all the citizens, a licensee should be required to defray a reasonable portion of the cost of this special service.

\* \* \*

All of the taxpayers of the City should not be required to pay a majority of the cost for special services rendered to a certain class or group of people.

Goldberg-Cahn Dec., Exhibit "B," at 7-8.

32. The Police Commissioner explained that the investigation is necessary to ensure firearms be kept out of the hands of unqualified persons. See Goldberg-Cahn Dec., Exhibit "B," at 8. The Police Commissioner further stated that "[w]e are unwilling to sacrifice our present efficient method of issuing pistol licenses in the interest of decreasing the cost of licensing fees." Id.

33. In response to a request from the mayor for a memorandum from the police commissioner to ensure that the proposed fees were not in excess of costs, the NYPD Police Commissioner submitted a letter to the Mayor, dated May 13, 1948, which contained a detailed memorandum prepared by the NYPD explaining how license applications are processed in accordance with the NYPD regulations. See Goldberg-Cahn Dec., Exhibit "B," at

24-29. The memorandum details the application, interview, fingerprinting, and investigation process that was in effect at that time. See Goldberg-Cahn Dec. Exhibit “B,” at 25-29.

34. The NYPD stated that, on average, NYPD personnel spent a total of 13 hours per application and that noted that even at wages of \$1.00 per hour, the cost would exceed the \$10 licensing fee. See Goldberg-Cahn Dec., Exhibit “B,” at 29.

35. In 1962, the City Council passed legislation, Local Law 47 of 1962, which increased pistol license application fees to \$20 for the issuance of the initial license and \$10 for each annual renewal license. See Goldberg-Cahn Dec., Exhibit “C” (Local Law 47 of 1962).

36. The legislative history for Local Law 47 of 1962 contains copies of a letter from Police Commissioner Murphy to Mayor Wagner, dated June 7, 1962, stating that the fees in effect prior to that time were insufficient because costs of labor, services, and supplies had increased each year. Goldberg-Cahn Dec., Exhibit “D,” at 7-8.

37. The Police Commissioner noted that the increased costs were, in part, due to new procedures adopted in 1957 that require an “extensive and thorough” investigation of all applicants for the issuance or renewal of a license to possess or carry firearms. Goldberg-Cahn Dec., Exhibit “D,” at 7-8.

38. The NYPD prepared a cost analysis in support of Local Law 47 of 1962 that demonstrated that the cost of an original application was \$19.67 and the cost of a renewal application was \$10.89. See Goldberg-Cahn Dec., Exhibit “D,” at 7-8.

39. The City Council next amended the fees for pistol licenses in 1973. See Goldberg-Cahn Dec., Exhibit “E” (Local Law 78 of 1973). Local Law 78 of 1973 increased the fee to \$30 for the initial application and \$20 for renewal applications for up to two years.

Renewal licenses for a period of one year or less would remain at \$10. Renewal licenses would now be valid for longer than one year. See Goldberg-Cahn Dec., Exhibit “E.”

40. Local Law 42 of 1979 amended Admin. Code § 436-5.0(a) to increase the license application fee for handgun licenses to \$50 for the initial application, and \$25 for renewals. Licenses were valid for a two year period. See Goldberg-Cahn Dec., Exhibit “F” (Local Law 42 of 1979).

41. The Report of the City Council Committee of Finance for Local Law 42 of 1979 noted that the “cost per service unit” was \$63.78. See Goldberg-Cahn Dec; Exhibit “F,” at 1822 (Comm. Rpt.).

42. The City Council enacted Local Law 37 of 1985, amending Admin. Code § 436-5.0 to increase the fee to \$100 for both the initial issuance and renewal applications for pistol licenses for a two year period. See Goldberg-Cahn Dec., Exhibit “G” (Local Law 37 of 1985).

43. The City Council Report of the Committee of Finance in support of Local Law 37 of 1985 stated that the average cost for processing handgun license applications and renewals to the City was \$102. See Goldberg-Cahn Dec., Exhibit “G,” at 31 (second page of exhibit).

44. In 1989, the City Council passed Local Law 51 of 1989 amending what had previously been renumbered as Admin. Code § 10-131(a)(2) to increase the fee for initial and renewal pistol license applications to \$135. The fees were for two year licenses. See Goldberg-Cahn Dec., Exhibit “H” (Local Law 51 of 1989).

45. The Report of the City Council Committee of Finance for Local Law 51 of 1989 stated that the average cost of each application to the City of New York was \$134.88.



Goldberg-Cahn Dec., Exhibit “H,” at 51 (third page of exhibit) (Report of the Committee of Finance for Local Law 51 of 1989).

46. In 1992, the City Council amended the fees for issuance and renewal of handgun licenses with Local Law 42. The City Council increased the fee from \$135 to \$170. See Goldberg-Cahn Dec., Exhibit “I” (Local Law 42 of 1992).

47. The City Council most recently amended the fees and the duration of firearms licenses in 2004 with Local Law 37. Local Law 37 extended the length of a handgun license from two to three years. In addition, the legislation increased the fees from \$170 for a two-year license, to \$340 for a three year license. See Goldberg-Cahn Dec., Exhibit “J” (Local Law 37 of 2004).

48. The Report of the Committee on Finance of the City Council in support of Local Law 37 of 2004, detailed the costs of the License Division of the NYPD. At the time of the report, the License Division had 40,400 total handgun licensees, 23,300 total rifle and shotgun permit holders, and 4,173 Special Patrolmen. See Goldberg-Cahn Dec., Exhibit “K” (Committee Report for Local Law 37 of 2004).

49. The Council Report found that the License Division incurred over \$6 million in personnel costs per year. See Goldberg-Cahn Dec., Exhibit “K,” at 2700. In 2004 alone, the License Division processed 3,900 handgun applications, 1200 rifle/shotgun permit applications, and 900 Special Patrolmen applications for that year. Id. The report set forth the Committee’s findings that the revenue collected by the License Division was \$3,350,000 annually for fees associated with processing applications and renewals of handgun licenses and rifle and shotgun permits, which was far less than the actual costs of licensing (including

personnel costs, equipment, modernization costs, and costs to monitor compliance with the laws and rules of the City and State pertaining to guns). Id.

50. The Committee on Finance in 2004 concluded that the license fee collected “does not reflect the actual costs of licensing, including the expenses for equipment and other resources necessary to process applications, handle investigations, address incidents, and monitor compliance with the laws and rules associated with city and state gun laws.” Goldberg-Cahn Dec., Exhibit “K,” at 2700.

51. Prior to the introduction of what became Local Law 37 of 2004, NYPD, with the oversight of the New York City Office of Management and Budget (“OMB”), prepared a detailed cost analysis of the cost of processing license applications processed by the NYPD License Division. See Lunetta Dec., ¶¶ 20-23, Exhibit “D,” annexed thereto (2004 User Cost Analysis); Declaration of Andy Shiwnarain, dated July 28, 2001 (“Shiwnarain Dec.”), ¶ 3.

52. The OMB User Cost Analysis stated that the cost per service unit for each application processed by the NYPD License Division was \$343.49. See Lunetta Dec., ¶¶ 24, 31, Exhibit “D,” at 3 (fourth page).

53. As a result, OMB suggested to the City Council that the proposed permit fee should be increased to \$340.00 to cover the costs of processing the license. See Lunetta Dec., ¶¶ 32-34, Exhibit “D.”

54. Admin. Code § 10-131(a)(2), as amended by Local Law 37 provides:

2. Every license to carry or possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefor, a fee of three hundred forty dollars for each original or renewal application for a three year license period or part thereof, a fee of ten dollars for each replacement application of a lost license.

Admin. Code § 10-131(a)(2) (emphasis added).

### **State Legislation Detailing Where License Fees are Deposited**

55. The Laws of 1995, Chapter 503 amended Admin. Code § 10-131(a)(6) to provide for all fees collected by the NYPD for license applications to go to the NYPD “general fund,” instead of the NYPD “pension fund.” See Goldberg-Cahn Dec., Exhibit “L” (L. 1995, ch. 503).

56. Chapter 503 of New York Laws of 1995 shifted payments of fines and fees to go into the City of New York General Fund, rather than the Police Pension Fund. See Goldberg-Cahn Dec., Exhibit “L.”

57. The legislation substituted an obligation for the City to fund the NYPD pension fund. See Goldberg-Cahn Dec., Exhibit “L.”

58. Admin. Code § 13-203(11) refers to Admin. Code § 13-213.1(3)(c), which makes all monies received for fees payable to the general fund. See Admin. Code § 13-203(11).

59. Admin. Code § 13-213.1(3)(c) provides: “...on and after July first, nineteen hundred ninety-five, all moneys which otherwise would be paid to pension fund, subchapter one pursuant to the provisions of section 13-203 of this subchapter or any other provision of law, or from any other source whatsoever, shall instead be paid to the general fund of the city established pursuant to section one hundred nine of the New York city charter.” Admin. Code § 13-213.1(13).

### **The City’s 2010 User Cost Analysis for Handgun Licenses**

60. In the summer of 2010, the NYPD, working together with OMB, analyzed the costs to the License Division for processing handgun license applications. NYPD and OMB analyzed the cost to the License Division by the various license types. NYPD prepared a User

Cost Analysis for each of the different handgun licenses that it processes. See Lunetta Dec., ¶¶ 35-42, Exhibits “D,” “E,” and “F,” annexed thereto; Shiwnarain Dec., ¶ 4-5.

61. The 2010 User Cost Analysis calculated the total cost to the License Division for each Premises Residence pistol license initial application as \$977.16. Lunetta Dec., ¶ 38, Exhibit “F.”

62. The 2010 User Cost Analysis calculated the total cost to the License Division for renewals of each Premises Residence license as \$346.92. Lunetta Dec., ¶ 38, Exhibit “G.”

63. In September, 2010, the New York City Council introduced legislation to change the current application fee structure for pistol licenses to charge different fees for each type of handgun license types issued by NYPD. See Goldberg-Cahn Dec., Exhibit “N,” annexed thereto; Lunetta Dec., ¶ 35.

64. This 2010 legislation was proposed at the same time as the NYPD had enacted other changes in the pistol license application process to make the licensing process more efficient and “customer friendly” – i.e., utilizing technology to speed up the application and review process, providing copies of license applications online, accepting credit card payment, extending the hours of the License Division, among other things. See Lunetta Dec., ¶ 37; see also Goldberg-Cahn Dec., Exhibit “O” (City Council Committee on Public Safety Report in Support of Int. 313, dated September 15, 2010).

65. City Council Introduction No. 313 of 2010 proposed to charge applicants a smaller percentage of the total costs to the NYPD for firearms licenses, by specific license type. See Goldberg-Cahn Dec., Exhibit “N,” annexed thereto (Int. 313 of 2010); Shiwnarain Dec., Exhibit “A,” annexed thereto.

66. Specifically, the proposal sought to amend the fee to be 7% of the total cost to the License Division for all handgun licenses (or a 93% discount), and 5% of the cost for rifles, shotguns, and theatrical permits. See Shwinarain Dec., ¶ 5, Exhibit “A,” annexed thereto. Ultimately, the City Council Committee on Finance declined to move forward with the proposed legislation. See Goldberg-Cahn Dec., Exhibits “P” (transcript of City Council Committee September 15, 2010 hearing) and “Q” (City Council Committee meeting details), annexed thereto.

67. The current fee for the issuance and renewal of a Premises Residence handgun license is \$340. See Admin. Code § 10-131(a)(2).

68. The \$340 license application fee has been in effect since 2004. See Local Law 37 of 2004. See Admin. Code § 10-131(a)(2); Goldberg-Cahn Dec., Exhibits “J” (Local Law 37 of 2004) and “O” (Council Comm. Hrg. Tr.).

69. In addition, for initial applications, the applicant must pay a \$94.25 fee that is used for DCJS fingerprinting. Lunetta Dec., ¶¶ 9, 13.

70. The fingerprint fee is a one time fee; it is not paid for renewal applications. Lunetta Dec., ¶ 9.

71. The \$340 fee represents only 34.79% of the costs incurred as of 2010; and a 65.21% discount to the applicant. See Lunetta Dec., ¶ 19.

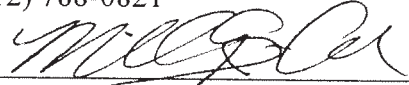
72. The fees received by the License Division for licenses to possess handguns are deposited in the New York City General Fund. See Admin. Code §§ 10-131(a)(6), 13-213.1(3)(c); Goldberg-Cahn Dec., Exhibit “L” (L. 1995, ch. 503); Lunetta Dec. ¶¶ 44-45, Exhibit “I,” annexed thereto (New York City Comptroller’s Comprehensive Annual Finance Report), at 175.



73. License application fee monies have been deposited in the City's General Fund since 1996. See Admin. Code §§ 10-131(a)(6), 13-213.1(3)(c); Goldberg-Cahn Dec., Exhibit "L."

Dated: New York, New York  
July 28, 2011

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By: Michelle Goldberg-Cahn  
Assistant Corporation Counsel

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		
Shui W. Kwong, et al.,	:	Civil Action Number:
	:	11 cv 2356
Plaintiffs,	:	
	:	(Hon. John G. Koeltl)
-against-	:	
	:	
Michael Bloomberg, et al.,	:	
	:	
Defendants.	:	
-----X		

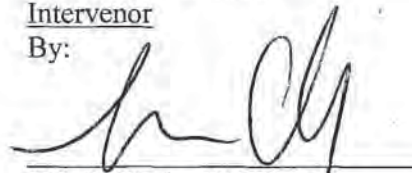
**NOTICE OF CROSS-MOTION FOR  
SUMMARY JUDGMENT BY INTERVENOR  
NEW YORK STATE ATTORNEY GENERAL  
ERIC T. SCHNEIDERMAN**

**PLEASE TAKE NOTICE** that, upon the Memorandum of Law dated July 28, 2011; the Statement of Uncontested Material Facts Pursuant to Local Rule 56.1; the Declaration of Monica A. Connell, sworn to July 28, 2011; the Declaration of James Sherman, executed on July 27, 2011, Intervenor New York State Attorney General Eric T. Schneiderman will cross-move for summary judgment before the Honorable John G. Koeltl, at a time and place to be determined by the Court, dismissing Plaintiffs' claim challenging the constitutionality of Penal Law § 400.00(14), declaring that that section does not violate Plaintiffs' rights under the United States Constitution, and granting such other and further relief as the Court deems just, proper and appropriate.

**PLEASE BE FURTHER ADVISED** that pursuant to the Federal Rules of Civil Procedure, and the May 25, 2011 Stipulation and Order of this Court, opposition papers to this motion, if any, must be served and filed on or before August 19, 2011.

Dated: New York, New York  
July 28, 2011

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State of New York  
Intervenor  
By:



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**CERTIFICATE OF SERVICE**

On 29 June 2012 I served the foregoing Joint Appendix Vol. II by electronically filing it with the Court's CM/ECF system, which generates a Notice of Filing and effects service upon counsel for all parties in the case.

I affirm the foregoing statement under penalty of perjury under the laws of the United States of America.

Dated: June 29, 2012

s/ David D. Jensen  
David D. Jensen  
Attorney for Plaintiffs-Appellants