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10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

14 **Kim Rhode et al.,**
 15
 16 Plaintiffs,
 17
 18 v.
 19 **Xavier Becerra, in his official capacity**
as Attorney General of the State of
California, et al.,
 20 Defendants.

3:18-cv-00802-BEN-JLB

**THIRD SUPPLEMENTAL
 DECLARATION OF MAYRA G.
 MORALES IN SUPPORT OF
 DEFENDANT XAVIER
 BECERRA'S OPPOSITION TO
 PLAINTIFFS' MOTION FOR
 PRELIMINARY INJUNCTION**

Dept: 5A
 Judge: Hon. Roger T. Benitez
 Action Filed: 4/27/2018

28

1 **THIRD SUPPLEMENTAL DECLARATION OF MAYRA G. MORALES**

2 I, MAYRA G. MORALES, declare:

3 1. I am a Staff Services Manager III for the California Department of
4 Justice, Bureau of Firearms (hereafter generally referred to together as the
5 “Department”). I make this declaration of my own personal knowledge and
6 experience and, if called as a witness, I could and would testify competently to the
7 truth of the matters set forth herein.

8 2. To date, I have prepared three declarations for submission to the Court:

- 9 • The August 5, 2019 Declaration of Mayra G. Morales in Support of
10 Defendant Xavier Becerra’s Opposition to Plaintiffs’ Motion for
11 Preliminary Injunction, ECF No. 34-1;
12 • The September 27, 2019 Supplemental Declaration of Mayra G. Morales
13 in Support of Defendant Xavier Becerra’s Opposition to Plaintiffs’
14 Motion for Preliminary Injunction, ECF No. 42; and
15 • The November 18, 2019 Second Supplemental Declaration of Mayra G.
16 Morales in Support of Defendant Xavier Becerra’s Opposition to
17 Plaintiffs’ Motion for Preliminary Injunction, ECF No. 48.

18 3. This third supplemental declaration updates the tables in my November
19 28 Second Supplemental Declaration for July through October 2019, and adds data
20 for November 2019 through January 2020. To aid in readability, the tables are
21 presented following my signature.

22 4. Section I of this declaration provides a narrative summary of the
23 information on Basic Ammunition Eligibility Check (which I will refer to as “Basic
24 Checks”) from July 1, 2019, through January 31, 2020. The data underlying this
25 summary appears in Tables 1.1 through 1.3. This declaration adds new entries into
26 Tables 1.2 and 1.3 to show median processing times for Basic Checks.

1 5. Section II provides a narrative summary of information on Standard
2 Ammunition Eligibility Checks (which I will refer to as “AFS Checks”) for July 1,
3 2019, through January 31, 2020. The data underlying this summary appears in
4 Tables 2.1 through 2.4. This section contains three noteworthy updates from my
5 November 18 Second Supplemental Declaration. First, the numbers in Table 2.2,
6 which lists the reasons for AFS Check rejections, have been corrected to account
7 for a misallocation of certain rejections in the reported reasons. This misallocation
8 did not affect the total number of rejections or the actual reason for any rejection.
9 Second, I have recently become aware of a potential source of slight discrepancies
10 in the numbers reported in Table 2.2 going forward that I want to bring to the
11 Court’s and parties’ attention now. Third, this declaration adds a new Table 2.4,
12 which lists the weekly AFS Check rejection rate from July 1, 2019, through
13 February 23, 2020.

14 6. Section III of this declaration updates information about purchasers who
15 had been denied as prohibited, but who, upon additional review, were determined to
16 be not prohibited. The Department has now reviewed a majority of the 770
17 transactions where a purchaser was denied as prohibited, and it has determined that
18 16 of those purchasers were in fact eligible.

19 **I. BASIC AMMUNITION ELIGIBILITY CHECK INFORMATION FOR JULY 2019**
20 **THROUGH JANUARY 2020**

21 7. The Basic Check is described in California Code of Regulations, title 11,
22 section 4303. This check can be used irrespective of whether a purchaser or
23 transferee (I will generally refer to these together as “purchaser”) can take
24 advantage of one of the other eligibility checks.

25 8. Under section 4303(b), a Basic Check costs \$19 and entails submitting
26 identifying information, including the purchaser’s name, date of birth, current
27 address, and ID number, to the Department’s Dealer Record of Sale (DROS) Entry
28 System (DES). The process proceeds in two steps. First, the Department

1 automatically checks the person's ID or driver license number (I will generally
2 refer to IDs and driver licenses as "IDs"), name, and date of birth, against DMV
3 records to confirm the information submitted matches a DMV record and that the
4 ID is valid. If the information matches, then the submitted information is
5 automatically run through four state databases: (1) Automated Criminal History
6 Record System (ACHS); (2) Mental Health Firearms Prohibition System (MHFPS);
7 (3) California Restraining and Protective Order System (CARPOS); and (4) Wanted
8 Persons System (WPS).

9 9. If a purchaser's information results in no hits in the system, the Basic
10 Check is processed automatically, meaning that Department employees are not
11 directly involved in the process. If the purchaser's information results in a hit in
12 one of the four systems, the eligibility check will require manual review by a
13 Department analyst. A manual review can take anywhere from a few minutes to
14 days or weeks depending on the nature of the hit in the database. For instance, if
15 the ACHS shows the purchaser was charged with a felony, but does not have a
16 disposition of that felony, the manual check would entail tracking down the
17 disposition, which can take at least several business days.

18 10. Table 1.1 lists the Basic Check approvals, rejections, and denials for July
19 1, 2019, through January 31, 2020.

20 11. From July 1, 2019, through January 31, 2020, the Department has
21 processed 19,599 Basic Checks. Of those, 95.3% have been approved and about
22 1.7% have been rejected because the purchaser's information does not match
23 Department of Motor Vehicle records or the records used to make a determination
24 were incomplete, thereby preventing Department analysts from ascertaining
25 whether the purchaser was prohibited.

26 12. Over 570 people, or 2.9% of the total processed, have been denied
27 because the Department's records show them to be prohibited persons.
28

1 13. Table 1.2 sets forth the average processing times for Basic Checks that
2 were submitted to the Department, by month, from July 2019 through January 2020
3 that had eligibility determinations made on or before January 31, 2020. As I
4 explained in my November 18 Second Supplemental Declaration, the average
5 processing times for previously reported months tends to increase due to a small
6 number of transactions skewing the average upward. *See* Second Supp. Decl. ¶ 14
7 & p. 10 n.3, ECF No. 48. These longer transaction times affected the averages for
8 those months. A Basic Check can be delayed for many reasons, most often it is
9 because a Department analyst must conduct additional research on an arrest cycle
10 for a prohibiting event with missing disposition. The Department will do its due
11 diligence to obtain the necessary information. However, if the Department is
12 unable to obtain the information, it will ultimately reject the transaction because an
13 eligibility determination could not be made.

14 14. For the typical purchaser, the Basic Check processing time takes an
15 average of one to two days. In July, it took 1 day and 17.5 hours for the typical
16 purchaser (though, as discussed in the footnotes to Tables 1.2 and 1.3, the average
17 time is higher). By October, the processing time had decreased to 1 day and 4
18 hours. The processing times for the typical purchaser in November, December, and
19 January were roughly the same.

20 15. Another way to assess the experience of ammunition purchasers is to
21 look at the median processing time—the processing time at which 50% of the
22 transactions in the month took less time and 50% took more time. The median will
23 provide additional information on how long the majority of the transactions are
24 actually taking. Table 1.2 now includes the median processing time for Basic
25 Checks. For example, for July Basic Checks all decisions average (mean) time was
26 73 hours (or 3 days) but the median of those decisions is 27 hours. That gives a
27 sense of how much the outlier cases affect the average.
28

1 16. Table 1.3 lists the average processing times for Basic Checks that were
2 approved manually and automatically for the months of July 2019 through January
3 2020. These numbers are a subset of the Basic Checks that were submitted during
4 those months and that had eligibility determinations made on or before January 31,
5 2020. This table also lists median processing times.

6 17. Just under one-quarter of the approved Basic Checks were processed
7 automatically. The average processing time across all seven months was roughly
8 2 hours.

9 18. Just over three-quarters of the approved Basic Checks were processed
10 manually. Subject to the observation above that some outliers affected the average,
11 the typical approved Basic Check that is manually processed takes about two
12 business days.

13 **II. AFS CHECK (STANDARD AMMUNITION ELIGIBILITY CHECK)**
14 **INFORMATION FOR JULY THROUGH JANUARY 2020**

15 19. This section of my declaration provides the information that the
16 Department has collected as of January 31, 2020, regarding AFS Check rejections.
17 The AFS Check is described in more detail in my September 27 Supplemental
18 Declaration. Suppl. Decl. ¶¶ 19-25, 28-31, ECF No. 42. The regulation outlining
19 the AFS Check is located in California Code of Regulations, title 11, section 4302.

20 20. Section II.A of this declaration provides the data on AFS Checks for July
21 1, 2019, through January 31, 2020. Section II.B sets forth the reasons for AFS
22 Check rejections in those months. The section also contains two new subsections.
23 Subsection II.B.1 explains a correction to previously reported data on this topic.
24 Subsection II.B.2 discusses small discrepancies in the data reporting the reasons for
25 the rejections (but not the actual reasons themselves) that have arisen, or will likely
26 arise, as that data is re-tabulated over time. Section II.C provides information on
27 purchasers who were rejected in an AFS Check, but who later purchased
28 ammunition on or before January 31, 2020.

1 **A. AFS Check Approvals, Denials, and Rejections for July 2019**
 2 **Through January 2020**

3 21. Table 2.1 sets forth the AFS Check approvals, denials, and rejections for
 4 July 1, 2019 through January 31, 2020. As noted in my September 27
 5 Supplemental Declaration, Suppl. Decl. ¶ 27, ECF No. 42, denials occur when
 6 official records identify the purchaser as a prohibited person who cannot lawfully
 7 possess a firearm or ammunition. *See also* Second Supp. Decl. ¶ 21, ECF No. 48.
 8 Rejections occur when the purchaser's information does not match an AFS record.

9 22. From July 1, 2019, through January 31, 2020, the Department has
 10 processed 616,257 AFS Checks. It has approved 515,022 (83%), rejected 101,047
 11 (16.4%) because the information submitted by the purchaser does not match an
 12 AFS entry, and denied 188 (0.03%) because the Department's information shows
 13 the purchaser to be on the Armed Prohibited Persons System (APPS) list.

14 23. The monthly rate of AFS Check rejections is set forth in the following
 15 chart:

Month	Rejections as Percent of Total AFS Checks by Month
July 2019	18.8%
August 2019	20.0%
September 2019	17.3%
October 2019	15.6%
November 2019	15.3%
December 2019	14.5%
January 2020	13.2%
February 1 through 23, 2020	13.1%

1 24. This declaration adds a new Table 2.4 that charts the weekly rejection
2 rate from July 2019 through the week ending February 23, 2020.¹ As the table in
3 the previous paragraph and new Table 2.4 show, the rejection rate has been steadily
4 declining since its high of 20% in August 2019. In some recent weeks, the rate has
5 dipped below 13%.

6 **B. Information on AFS Check Rejections for July 2019 Through**
7 **January 2020**

8 25. To recap from my September 27 Supplemental Declaration and
9 November 18 Second Supplemental Declaration, AFS Checks are a streamlined
10 eligibility check that rely on the purchaser already having undergone a firearms
11 background check and being subject to inclusion in APPS, in the event they later
12 become prohibited. By definition, an AFS Check will work only for those who
13 have an AFS record, and whose record is up to date. A purchaser without an AFS
14 record, or with an AFS record that is not current, will not be able to obtain an
15 eligibility determination; the system will reject that submission. Suppl. Decl. ¶ 28,
16 ECF No. 42; Second Supp. Decl. ¶ 24, ECF No. 48.

17 26. It again bears noting that an AFS Check rejection, due to the purchaser's
18 information not matching a record in AFS, is not a determination that the purchaser
19 is ineligible to purchase ammunition. It means that the purchaser cannot avail
20 themselves of that streamlined eligibility check. They may still use a Basic Check,
21 or, in certain situations, a Certificate of Eligibility Verification Check (California
22 Code of Regulations, title 11, section 4305) or Firearms Eligibility Check
23 (California Code of Regulations, title 11, section 4304). *See also* Suppl. Decl.
24 ¶¶ 21-25, ECF No. 42; Second Supp. Decl. ¶ 25, ECF No. 48.

25 _____
26 ¹ I am able to obtain data on weekly rejection rates quickly, allowing me to
27 provide the rejection rates through the week prior to the filing of this Third
28 Supplemental Declaration. Obtaining data on the reasons for the rejections—the
data in Table 2.2 and the following section—takes significantly more time and
resources. As a result, I am currently able to report that data only through January
31, 2020.

1 27. An AFS Check will be rejected if the purchaser's name, address, date of
2 birth, or ID number, or some combination of that information, does not match an
3 AFS record. Suppl. Decl. ¶ 30, ECF No. 42; Second Supp. Decl. ¶ 26, ECF No. 48.

4 28. Table 2.2 summarizes the reasons for the AFS Check rejections for
5 July 1, 2019 through January 31, 2020. This revised Table 2.2 corrects the
6 misallocation of some rejections resulting from a prospective ammunition purchaser
7 having transferred the firearm associated with their AFS record or a law
8 enforcement event pertaining to the firearm associated with their AFS records being
9 entered.

10 **1. Correction to previously reported data in Table 2.2.**

11 29. Prior versions of Table 2.2 have listed a category of rejections called
12 "AFS Entry No Longer Valid." Second Supp. Decl. Table 2.2 at p. 16, ECF
13 No. 48. This rejection occurs because although the purchaser's name, date of birth,
14 ID number, and address match an AFS record, the record is no longer active,
15 usually because the owner has transferred the firearm to someone else. A person
16 with an inactive AFS record cannot use that record to purchase ammunition using
17 an AFS Check because the firearm associated with the inactive record is no longer
18 associated with that individual.

19 30. When tabulating data for my previous declarations, Department staff
20 have relied on mirrored backups of the AFS database to determine the reason for
21 AFS Check rejections. This approach has avoided potential disruptions to the
22 system (including delays to ammunition transactions) that pulling data from the
23 active system can create. However, using the mirrored backup caused some
24 reporting inaccuracies attributable to the differences between real-time resolution of
25 ammunition transactions in the active system, and the information in the system at
26 the time it was last mirrored.

27 31. For instance, in my September 27 Supplemental Declaration, the
28 rejection information for the July AFS Checks was taken from a mirror of the AFS

1 database created in late May 2019. *See* Suppl. Decl. ¶ 34 & Table 2.2, ECF No. 42.
2 Thus, a person who had an active AFS record in late May 2019, when the system
3 was mirrored, but who transferred the firearm associated with that record, making it
4 inactive, before attempting to purchase ammunition in July, would have their
5 transaction rejected. That rejection would have been properly accounted for in the
6 numbers that I reported in Table 2.1. *See* Suppl. Decl. ¶ 26 & Table 2.1, ECF
7 No. 42. But the reported *reason* for that rejection reported in Table 2.2 may not
8 have been accurate because, in the mirrored system, the person had an active AFS
9 record. *See* Suppl. Decl. ¶ 34 & Table 2.2, ECF No. 42. Transactions like the one
10 in the hypothetical were reported largely as “No Identifiable AFS Entry,” though
11 they may have been listed in another category.

12 32. Table 2.2 in this declaration corrects these misallocated rejections, and
13 now allocates them to a more accurate reason for the rejection. To be clear, the
14 number of rejections reported was accurate and has not changed. Nor does any
15 correction change the actual reason any AFS Check was rejected. It simply corrects
16 how I reported the rejection in my September 27 Supplemental Declaration and
17 November 18 Second Supplemental Declaration.

18 33. I first became aware of the need for this correction in mid-January, as I
19 was gathering and reviewing data for November and December 2019. Acting as
20 quickly as practicable, I prepared an earlier draft of this declaration, which did not
21 include data for January 2020. That draft was in the process of being finalized for
22 filing on February 14, 2020, when this Court issued an order, ECF No. 52,
23 requesting data through January 2020. Since receiving that order, I have gathered
24 the data for January and incorporated it into this declaration. During this process, I
25 have learned of the potential for slight discrepancies in the reported reasons for
26 AFS Check rejections, which I discuss in the section that follows.

1 **2. Potential for slight discrepancies in data.**

2 34. The systems that the Department uses to tabulate the reasons for
3 rejections are dynamic, not static. New events or entries are added to AFS records
4 on a daily basis. Modifications to AFS records also occur on a daily basis. This
5 means that if, for instance, data sets are run on the reasons for the rejections in July
6 2019 six different times spread out over a year, they may change slightly because
7 individual AFS records have changed over that time.

8 35. A hypothetical example shows one way that this could play out: a person
9 has an AFS entry associated with a firearm, and the name, date of birth, and address
10 on their ID all match the AFS record, but the ID number does not match. On
11 August 1, 2019, the person attempts to purchase ammunition using an AFS Check
12 and is rejected because of the ID number. If the Department tabulates data on
13 rejections for August on October 1, 2019, the reason for that rejection would be
14 reported as an “ID number mismatch” in Table 2.2. But if the record is modified to
15 update the ID number on October 15, 2019, and the Department re-tabulates the
16 data on November 1, 2019, the reason for the rejection may be reported differently
17 in a later version of Table 2.2. This difference would not change the fact that the
18 August 1 AFS Check was rejected because of an ID number mismatch.

19 36. Potential discrepancies like the one in the hypothetical are likely to affect
20 reported reasons for rejections of a small number of transactions.

21 37. As with the correction described above, the potential for slight
22 discrepancies in the reported reasons for rejections in Table 2.2 does not change the
23 total number of rejections reported in Table 2.1 or the actual reason for any
24 rejection. Nor is it likely to prevent a Department analyst from ascertaining the
25 actual reason for a rejection of a specific transaction. From conferring with the
26 Department’s technical staff, I understand that these discrepancies are simply a
27 byproduct of aggregating and reporting data from a dynamic system.

28

1 38. All this is to say that data on the reasons for rejections that I have
2 reported reflect a snapshot that may change slightly over time. Currently, there
3 does not appear to be a way to avoid these minute discrepancies. But because they
4 likely will occur if the Department re-tabulates the numbers again in the future, I
5 am identifying the issue now, so the Court and parties will know the reason for any
6 small discrepancies they may note in my reporting over time.

7 **3. Reasons for AFS Check rejections.**

8 39. Having made these observations, the percentage breakdown of the
9 reasons for the rejections across the seven months from July 2019 through January
10 2020 remain consistent with what was previously reported. *See* Suppl. Decl. ¶¶ 31-
11 34 & Table 2.2, ECF No. 42 Second Suppl. Decl. ¶¶ 27-33 & Table 2.2, ECF
12 No. 48. Across all seven months, the most common reason AFS Checks were
13 rejected was that the purchaser's address did not match the address in an AFS
14 record. These purchasers' name, ID number, and date of birth matched an entry,
15 but their address did not match an entry. This accounted for about 38% (previously
16 reported as 36%) of the rejections over the four-month period. Second Suppl. Decl.
17 ¶ 28, ECF No. 48.

18 40. The next most common reason AFS Checks were rejected was that the
19 purchaser could not be associated with an AFS entry at all. In most cases, this
20 likely occurred because either the purchaser or the ammunition vendor mistakenly
21 chose to run an AFS Check where the purchaser did not have an AFS record. This
22 accounted for roughly one-quarter (previously reported as one-third) of all AFS
23 Check rejections. Second Suppl. Decl. ¶ 29, ECF No. 48. For instance, in October,
24 the Department rejected 3,497 AFS Checks, about 26% (previously reported as
25 4,288 and 32%, respectively) of all 13,498 rejections, for this reason. Second Suppl.
26 Decl. ¶ 29, ECF No. 48.

1 41. Name mismatches were another significant source of rejections. Across
2 the seven months, about 17% of AFS Checks were rejected for this reason
3 (previously reported as 13%). Second Supp. Decl. ¶ 30, ECF No. 48

4 42. These three reasons for rejections—address mismatches, no apparent
5 AFS entry, and name mismatches—accounted for about 82% of all rejections. The
6 remaining 18% or so of rejections occurred for various other reasons listed in Table
7 2.2.

8 **C. Information on Purchasers Rejected in an AFS Check Who**
9 **Later Purchased Ammunition on or before January 31, 2020**

10 43. At the Court's request, my September 27 Supplemental Declaration
11 included information on whether purchasers who were rejected in an AFS Check
12 had subsequently purchased ammunition. Suppl. Decl. ¶¶ 36-39, ECF No. 42.

13 44. Table 2.3 lists information on purchasers who were rejected who later
14 purchased ammunition by month.

15 45. As explained in my September 27 Supplemental Declaration, there is a
16 difference between the total number of rejections each month and the unique
17 individuals rejected. Suppl. Decl. ¶ 38, ECF No. 42; *see also* Second Supp. Decl.
18 ¶ 34, ECF No. 48. I understand that the primary difference between rejections and
19 denials and unique ID numbers is largely because some individual purchasers
20 attempted to use the AFS Check procedure more than once and were rejected or
21 denied on more than one occasion.

22 46. In my September 27 Supplemental Declaration, I reported that of the
23 9,027 unique purchasers rejected in July, 3,468 (38.41%) had purchased
24 ammunition as of August 31, 2019. Suppl. Decl. ¶ 39, Table 2.3, ECF No. 42. By
25 January 31, 2020, 4,295 (47.5%) unique purchasers in July had purchased
26 ammunition. That means that 827 additional people who had an AFS Check
27 rejected in July purchased ammunition between August 31, 2019, and January 31,
28 2020.

1 47. A similar trend occurred for the August numbers. In my September 27
2 Supplemental Declaration, I reported that of the 16,037 unique purchasers rejected
3 in August, 4,923 (30.69%) had purchased ammunition as of August 31, 2019.
4 Suppl. Decl. ¶ 39, Table 2.3, ECF No. 42. By January 31, 2020, that number had
5 increased to 7,276 (45.3%), meaning an additional 2,353 people who had an AFS
6 Check rejected in August purchased ammunition between August 31, 2019, and
7 January 31, 2020.

8 48. Of the 14,008 individuals who had an AFS Check rejected in September,
9 6,189 (44.1%) had purchased ammunition by January 31, 2020.

10 49. Of the 10,896 individuals who had an AFS Check rejected in October,
11 4,733 (43.4%) had purchased ammunition by January 31, 2020.

12 50. Of the 11,653 individuals who had an AFS Check rejected in November,
13 4,976 (42.7%) had purchased ammunition by January 31, 2020.

14 51. Of the 11,034 individuals who had an AFS Check rejected in December,
15 4,441 (40.2%) had purchased ammunition by January 31, 2020.

16 52. And of the 8,457 individuals who had an AFS Check rejected in January,
17 3,384 (40%) had purchased ammunition by January 31, 2020.

18 **III. PERSONS PREVENTED FROM PURCHASING AMMUNITION AND**
19 **SUBSEQUENTLY DEEMED ELIGIBLE**

20 53. In my September 27 Supplemental Declaration, I provided information in
21 response to the Court's inquiry about purchasers who had been denied approval to
22 purchase ammunition because they were prohibited, but who were later determined
23 to not be prohibited. Suppl. Decl. ¶ 40, ECF No. 42.

24 54. I updated that information in my November 18 Second Supplemental
25 Declaration. Second Supp. Decl. ¶¶ 39-42, ECF No. 48. I reported that between
26 July 1 and October 31, 2019, the Department had reviewed over 400 ammunition
27 purchase denials based on the purchaser being prohibited, and that 13 of those
28

1 purchasers had since been determined to be eligible to purchase ammunition.

2 Second Supp. Decl. ¶ 41, ECF No. 48.

3 55. At this point, the Department has reviewed over 590 of the transactions
4 where the purchaser was denied as prohibited. From July 1, 2019 through January
5 31, 2020, a total of six purchasers were denied on the grounds of a prohibiting
6 offense, mental health commitment, or restraining order, but was, ased on the face
7 of the official records, subsequently determined to have been eligible to purchase
8 ammunition at the time of purchase. A total of ten purchasers who where ineligible
9 to purchase ammunition on the face of their official records, were later determined
10 to be eligible after Department staff investigated the matter.

11 56. To summarize, with over three quarters of the 770 denials from July 1,
12 2019, through January 31, 2020, reviewed, 16 of the purchasers who were denied as
13 prohibited persons have since been determined to be eligible.

14
15
16 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
17 is true and correct.

18
19 Executed on: February 28, 2020

20
21 
22 MAYRA G. MORALES

TABLE 1 – Basic Ammunition Eligibility Checks

TABLE 1 – BASIC AMMUNITION ELIGIBILITY CHECKS

Table 1.1: Basic Checks — Approvals, Denials, & Rejections as of January 31, 2020²								
	July 2019	August 2019	September 2019	October 2019	November 2019	December 2019	January 2020	Total
Basic Checks ³ Received	3,798	5,066	3,213	2,400	1,946	1,908	1,422	19,753
Basic Checks Processed	3,798	5,066	3,213	2,400	1,945	1,889	1,288	19,599
Approved ⁴	3,607	4,852	3,056	2,287	1,857	1,796	1,230	18,685
Denied (Prohibited Persons)	119	130	88	76	57	62	40	572
Rejected (no match with DMV records)	22	17	24	10	10	14	10	107
Rejected (incomplete history)	50	67	45	27	21	17	8	235

² This table is based on data available on January 31, 2020, and updates the numbers in Table 1.1 in my November 18 Second Supplemental Declaration, which were based on data available on October 31, 2019. *See* Second Supp. Decl. at p. 9, Table 1.1, ECF No. 48. To provide one example of the change, the earlier table recorded that 60 Basic Check transactions submitted in October 2019 were denied because the purchaser was prohibited. *Id.* As of January 31, 2020, that number increased to 76, meaning that 16 additional Basic Check transactions submitted in October 2019 were denied between October 31, 2019, and January 31, 2020, because the purchaser was prohibited.

³ As of January 31, 2020, 1 (.05%) Basic Check received in November, 19 (.99%) Basic Checks received in December, and 36 (2.5%) Basic Checks received in January, had been delayed. In addition, 98 (6.9%) Basic Checks received in January 2020 had not yet been processed as of January 31, 2020. For example, checks received on January 31, 2020, likely would not have been processed by the time I collected data for this declaration.

⁴ Transactions that were initially denied, but later approved, are treated as approved for purposes of this table.

Table 1.2: Basic Checks — Processing Times as of January 31, 2020							
	July 2019	August 2019	September 2019	October 2019	November 2019	December 2019	January 2020
Average Time ⁵	3 days, 1 hr., 30 mins.	2 days, 7 hrs., 59 mins.	1 day, 13 hrs., 51 mins.	2 days, 6 hrs., 2 mins.	2 days, 3 hrs., 40 mins.	1 day, 17 hrs., 12 mins.	1 day, 5 hrs., 16 mins.
Median Time	1 day, 3 hrs., 15 mins.	21 hrs., 39 mins.	14 hrs., 38 mins.	20 hrs., 33 mins.	17 hrs., 53 mins.	14 hrs., 50 mins.	18 hrs., 24 mins.

⁵ As noted in my November 18 Second Supplemental Declaration, not all Basic Check transactions receive a determination in the month the transaction is submitted. *See* Second Supp. Decl. at p. 10, Table 1.2, n.3, ECF No. 48. A small number of transactions each month require a substantial amount of processing time. This relatively small number of transactions significantly increases the average, explaining the longer average processing time for months further in the past.

Table 1.3: Approved Basic Checks — Processing Times

	July 2019	August 2019	September 2019	October 2019	November 2019	December 2019	January 2020
Automatically Processed	811	1,092	713	559	413	437	308
Average Time	2 hrs., 5 mins.	1 hr., 40 mins.	2 hrs., 36 mins	2 hrs., 0 mins.	2 hrs., 30 mins	2 hrs., 1 min.	2 hrs., 11 mins.
Median Time	9 mins.	9 mins.	9 mins.	9 mins.	9 mins.	8 mins.	8 min
Manually Processed	2,796	3,760	2,343	1,728	1,444	1,359	922
Average Time ⁶	2 days, 12 hrs. 29 mins.	2 days, 4 hrs., 3 mins.	1 day, 6 hrs., 54 mins.	2 days, 7 hrs., 39 mins.	1 day, 21 hrs., 39 mins.	1 day, 17 hrs., 47 mins.	1 day, 11 hrs., 47 min.
Median Time	1 day, 23 hrs., 6 min.	1 day, 16 hrs.	16 hrs., 15 mins.	1 day, 3 hrs., 28 mins.	20 hrs., 48 mins.	19 hrs., 39 mins	22 hrs., 26 mins

⁶ For the reasons discussed in footnote 5, some of the average times do not exactly match the times reported in my prior declarations. See Second Supp. Decl. at p. 10, Table 1.3, ECF No. 48; Suppl. Decl. at p. 4, Table 1.3, ECF No. 42.

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

TABLE 2 – AFS CHECKS (STANDARD AMMUNITION ELIGIBILITY CHECKS)

Table 2.1: AFS Checks — Approvals, Denials, & Rejections								
	July 2019	August 2019	September 2019	October 2019	November 2019	December 2019	January 2020	Total
AFS Checks Processed	57,553	101,058	100,560	86,376	94,660	95,331	80,719	616,257
Approved	46,702	80,811	83,051	72,847	80,086	81,444	70,081	515,022
Denied (Prohibited Persons)	14	28	28	31	34	30	23	188
Rejected (no match with AFS records)	10,837	20,219	17,481	13,498	14,540	13,857	10,615	101,047

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

Table 2.2: AFS Checks — Reasons for Rejections as of January 31, 2020														
	July 2019		August 2019		September 2019		October 2019		November 2019		December 2019		January 2020	
Total Rejected	10,837		20,219		17,481		13,498		14,540		13,857		10,615	
Address Mismatch (name, date of birth, and ID number match)	4,256	39.27%	7,398	36.59%	6,706	38.36%	5,213	38.62%	5,681	39.07%	5,351	38.62%	4,253	40.07%
No Identifiable AFS Entry (purchaser not eligible for AFS Check)	2,900	26.76%	5,906	29.21%	4,859	27.80%	3,497	25.91%	3,805	26.17%	3,368	24.31%	2,350	22.14%
Name Mismatch (date of birth, address, and ID number match)	1,693	15.62%	2,984	14.76%	2,703	15.46%	2,295	17.00%	2,667	18.34%	2,597	18.74%	2,148	20.24%

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

Table 2.2: AFS Checks — Reasons for Rejections as of January 31, 2020														
	July 2019		August 2019		September 2019		October 2019		November 2019		December 2019		January 2020	
Name and ID Number Mismatch (date of birth and address match)	373	3.44%	726	3.59%	607	3.47%	448	3.32%	448	3.08%	415	2.99%	281	2.65%
AFS Entry No Longer Valid (Name, Date of Birth, ID Number, and Address Match)	339	3.13%	606	3.00%	493	2.82%	393	2.91%	411	2.83%	472	3.41%	338	3.18%
Name and Address Mismatch (date of birth and ID number match)	278	2.57%	624	3.09%	594	3.40%	461	3.42%	452	3.11%	495	3.57%	353	3.33%

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

Table 2.2: AFS Checks — Reasons for Rejections as of January 31, 2020														
	July 2019		August 2019		September 2019		October 2019		November 2019		December 2019		January 2020	
AFS Entry No Longer Valid (Partially Matched on a combination of Name, Date of Birth, ID, Address)	277	2.56%	541	2.68%	444	2.54%	329	2.44%	292	2.01%	297	2.14%	226	2.13%
ID Number and Address Mismatch (name and date of birth match)	245	2.26%	493	2.44%	370	2.12%	289	2.14%	225	1.55%	259	1.87%	187	1.76%
ID Number Mismatch (name, date of birth, and address match)	216	1.99%	415	2.05%	333	1.90%	266	1.97%	256	1.76%	274	1.98%	204	1.92%

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

Table 2.2: AFS Checks — Reasons for Rejections as of January 31, 2020														
	July 2019		August 2019		September 2019		October 2019		November 2019		December 2019		January 2020	
Date of Birth Mismatch (name, address, and ID number match)	169	1.56%	290	1.43%	221	1.26%	185	1.37%	214	1.47%	213	1.54%	185	1.74%
Date of Birth and ID Number Mismatch (name and address match)	36	0.33%	121	0.60%	66	0.38%	57	0.42%	45	0.31%	76	0.55%	44	.41%
Date of Birth and Address Mismatch (name and ID number match)	33	0.30%	64	0.32%	41	0.23%	41	0.30%	15	0.10%	18	0.13%	22	.21%

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

Table 2.2: AFS Checks — Reasons for Rejections as of January 31, 2020														
	July 2019		August 2019		September 2019		October 2019		November 2019		December 2019		January 2020	
Name and Date of Birth Mismatch (address and ID number match)	18	0.17%	27	0.13%	18	0.10%	18	0.13%	22	0.15%	17	0.12%	15	.14%
Name, Date of Birth, and Address Mismatch (ID number match)	4	0.04%	24	0.12%	26	0.15%	6	0.04%	7	0.05%	5	0.04%	9	.08%

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

Table 2.3: Purchasers Who were Rejected on an AFS Check and Subsequently Purchased Ammunition on or before January 31, 2020							
	July 2019	August 2019	September 2019	October 2019	November 2019	December 2019	January 2020
Individuals Rejected in AFS Checks	9,027	16,037	14,008	10,896	11,653	11,034	8,457
Number Who Purchased Ammunition on or before January 31, 2020, after an AFS Check Rejection	4,295 ⁷	7,276 ⁸	6,189 ⁹	4,733 ¹⁰	4,976	4,441	3,384

⁷ As of August 31, 2019, this number was 3,468. *See* Supp. Decl. at p. 11, Table 2.3, ECF No. 42. The difference between that number and the number in this table means that 827 additional people who received an AFS Check rejection in July 2019 were able to purchase ammunition using some form of eligibility check between August 31, 2019, and January 31, 2020.

⁸ As of August 31, 2019, this number was 4,923. *See* Supp. Decl. at p. 11, Table 2.3, ECF No. 42. The difference between that number and the number in this table means that 2,353 additional people who received an AFS Check rejection in August 2019 were able to purchase ammunition using some form of eligibility check between August 31, 2019, and January 31, 2020.

⁹ As of October 31, 2019, this number was 5,371. *See* Second Supp. Decl. at p. 19, Table 2.3, ECF No. 48. The difference between that number and the number in this table means that 818 additional people who received an AFS Check rejection in September 2019 were able to purchase ammunition using some form of eligibility check between October 31, 2019, and January 31, 2020.

¹⁰ As of October 31, 2019, this number was 3,580. *See* Second Supp. Decl. at p. 19, Table 2.3, ECF No. 48. The difference between that number and the number in this table means that 1,153 additional people who received an AFS Check rejection in October 2019 were able to purchase ammunition using some form of eligibility check between October 31, 2019, and January 31, 2020.

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

Table 2.4: AFS Check Rejection Rate by Week – July 1, 2019, through February 23, 2020			
Week	Total AFS Checks Submitted	AFS Check Rejections	Percent
July 1-7, 2019	11,269	1,990	17.66%
July 8- 14, 2019	12,918	2,305	17.84%
July 15-21, 2019	14,199	2,763	19.46%
July 22-28, 2019	13,859	2,725	19.66%
July 29 – August 4, 2019	16,423	3,282	19.98%
August 5-11, 2019	18,634	3,805	20.42%
August 12-18, 2019	20,597	4,212	20.45%
August 19-25, 2019	22,143	4,279	19.32%
August 26 – September 1, 2019	31,781	6,358	20.01%
September 2-8, 2019	25,872	4,719	18.24%
September 9-15, 2019	23,775	4,143	17.43%
September 16-22, 2019	23,413	3,931	16.79%
September 23-29, 2019	22,008	3,678	16.71%
September 30 – October 6, 2019	21,431	3,334	15.56%
October 7-13, 2019	19,479	3,149	16.17%
October 14-20, 2019	21,567	3,308	15.34%
October 21-27, 2019	18,436	2,872	15.58%

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

Table 2.4: AFS Check Rejection Rate by Week – July 1, 2019, through February 23, 2020			
Week	Total AFS Checks Submitted	AFS Check Rejections	Percent
October 28 – November 3, 2019	17,394	2,789	16.03%
November 4-10, 2019	22,027	3,504	15.91%
November 11-17, 2019	21,005	3,221	15.33%
November 18-24, 2019	19,004	2,902	15.27%
November 25 – December 1, 2019	25,823	3,797	14.70%
December 2-8, 2019	17,542	2,577	14.69%
December 9-15, 2019	22,557	3,268	14.49%
December 16-22, 2019	22,855	3,258	14.26%
December 23-29, 2019	22,878	3,295	14.40%
December 30, 2019 – January 5, 2020	21,538	2,991	13.89%
January 6-12, 2020	18,365	2,424	13.20%
January 13-19, 2020	19,106	2,545	13.32%
January 20-26, 2020	18,142	2,317	12.77%
January 27 – February 2, 2020	15,386	1,986	12.91%
February 3-9, 2020	18,262	2,327	12.74%

TABLE 2 – AFS Checks (Standard Ammunition Eligibility Checks)

Table 2.4: AFS Check Rejection Rate by Week – July 1, 2019, through February 23, 2020			
Week	Total AFS Checks Submitted	AFS Check Rejections	Percent
February 10-16, 2020	18,283	2,405	13.15%
February 17-23, 2020	17,848	2,377	13.32%
Total	675,819	108,836	16.10%

CERTIFICATE OF SERVICE

Case Name: **Rhode v. Becerra** No. 3:18-cv-00802- BEN-JLB

I hereby certify that on February 28, 2020, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

THIRD SUPPLEMENTAL DECLARATION OF MAYRA G. MORALES IN SUPPORT OF DEFENDANT XAVIER BECERRA’S OPPOSITION TO PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 28, 2020, at Sacramento, California.

Tracie L. Campbell
Declarant

/s/ Tracie Campbell
Signature