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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SANTA CLARA**

10 **DOWNTOWN COURTHOUSE**

11 G. MITCHELL KIRK; and CALIFORNIA
12 RIFLE & PISTOL ASSOCIATION,
INCORPORATED,

13 Plaintiffs and Petitioners,

14 vs.

15 CITY OF MORGAN HILL; MORGAN HILL
16 CHIEF OF POLICE DAVID SWING, in his
official capacity; MORGAN HILL CITY
17 CLERK IRMA TORREZ, in her official
capacity; and DOES 1-10,

18 Defendants and Respondents.

Case No: 19CV346360

**SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS IN
SUPPORT OF PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Date: July 2, 2020
Time: 9:00 a.m.
Judge: Judge Peter Kirwan
Dept.: 19

[Filed concurrently with Plaintiffs' Notice of
Motion and Motion for Summary Judgment,
Memorandum of Points and Authorities, Request
for Judicial Notice, and Declarations of Anna M.
Barvir, G. Mitchell Kirk, and Michael Barranco]

Action filed: April 15, 2019

Under Code of Civil Procedure section 437c, subdivision (b), and California Rules of Court, rule 3.1350, Plaintiffs G. Mitchell Kirk and California Rifle & Pistol Association, Incorporated, submit the following Separate Statement of Undisputed Facts in Support of Plaintiffs' Motion for Summary Judgment against Defendants City of Morgan Hill, Morgan Hill Chief of Police David Swing, and Morgan Hill City Clerk Irma Torrez.

UNDISPUTED MATERIAL FACTS

#	Moving Parties' Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
1	<p>Plaintiff G. Mitchell Kirk is a resident, taxpayer, and law-abiding firearm owner in and subject to the laws of the city of Morgan Hill, California.</p> <p>Pls.' Ver. Compl. Decl. & Inj. Rel. & Verif. Petit. Writ Mand. &/or Prohib. ("Pls.' Verif. Compl."), at ¶ 13 & p.21 (attached to Decl. Anna M. Barvir ("Barvir Decl.") as Ex. X); Defs.' Ver. Answer Verif. Compl. Decl. & Inj. Rel. & Verif. Petit. Writ Mand. &/or Prohib. ("Defs.' Verif. Answer") ¶ 13 (attached to Barvir Decl. as Ex. Y); Decl. G. Mitchell Kirk ("Kirk Decl.") ¶¶ 2-4.</p>	
2	<p>Plaintiff Kirk is not a law enforcement officer, peace officer, United States marshal, member of the United States military or National Guard, or a federally licensed firearm dealer.</p> <p>Kirk Decl. ¶ 5.</p>	
3	<p>Plaintiff California Rifle & Pistol Association, Incorporated ("CRPA"), is a nonprofit membership organization incorporated under the laws of California with headquarters in Fullerton, California.</p> <p>Pls.' Verif. Compl. ¶ 14 & pp. 12, Barvir Decl. Ex. X; Defs.' Verif. Answer ¶ 14, Barvir Decl. Ex. Y; Statement of Information (Form SI-100) Re: CRPA (May 11, 2018) (attached to Barvir Decl. as Ex. AA); Decl. Michael Barranco ("Barranco Decl.") ¶ 3.</p>	
4	<p>CRPA has tens of thousands of members and supporters in California, including members</p>	

1		who reside in, conduct business in, visit, or travel through Morgan Hill, or who are otherwise subject to the laws of the city of Morgan Hill.	
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3		Pls.' Verif. Compl. ¶ 14, Barvir Decl. Ex. X;	
4		Defs.' Verif. Answer ¶ 14, Barvir Decl. Ex. Y; Barranco Decl. ¶¶ 3, 5.	
5	5	Plaintiff CRPA counts among its members and supporters law enforcement officers, peace officers, members of the United States military and National Guard, and federally licensed firearm dealers.	
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8		Barranco Decl. ¶¶ 3, 6.	
9	6	Plaintiff CRPA also represents the interests of countless members and supporters who are not law enforcement officers, peace officers, United States marshals, members of the United States military or National Guard, or federally licensed firearm dealers.	
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12		Barranco Decl. ¶ 7.	
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14	7	Defendant City of Morgan Hill is a municipal corporation formed under the laws of California.	
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16		Pls.' Verif. Compl. ¶ 15, Barvir Decl. Ex. X;	
17		Defs.' Verif. Answer ¶ 15, Barvir Decl. Ex. Y.	
18	8	Defendant David Swing is the Chief of Police of the Morgan Hill Police Department.	
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20		Pls.' Verif. Compl. ¶ 16, Barvir Decl., Ex. X;	
21		Defs.' Verif. Answer ¶ 16, Barvir Decl., Ex. Y.	
22	9	Defendant Irma Torrez is the City Clerk of Morgan Hill.	
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24		Pls.' Verif. Compl. ¶ 17, Barvir Decl., Ex. X;	
25		Defs.' Verif. Answer ¶ 17, Barvir Decl., Ex. Y.	
26	10	On November 8, 2016, California voters enacted Proposition 63, which included, among other things, a requirement that firearm owners report to law enforcement if their firearm is lost or stolen.	
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28		Pls.' Verif. Compl. ¶ 4, Barvir Decl., Ex. X;	
		Defs.' Verif. Answer ¶ 4, Barvir Decl., Ex.	

1		Y; Pls.' Req. Jud. Ntc. Supp. Mot. Summ. J. ("Pls.' Req. Jud. Ntc.") Ex. C, at pp. 22-23.	
2	11	Proposition 63 created Penal Code section 25250, which requires victims of firearm theft within the state to report to a local law enforcement agency that their firearm has been stolen within five days of the theft or within five days after the victim reasonably becomes aware of the theft.	
3		Pls.' Verif. Compl. ¶ 4, Barvir Decl., Ex. X; Defs.' Verif. Answer ¶ 4, Barvir Decl., Ex. Y; Req. Jud. Ntc. Ex. C, at pp. 22-23; Pen. Code § 25250, subd. (a) ("Commencing July 1, 2017, every person shall report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost.")	
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12	12	Proposition 63 also created Penal Code section 25270, which lays out which facts must be included in a section 25250 report to law enforcement. These details include "the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report."	
13		Req. Jud. Ntc. Ex. C, at p. 23; Pen. Code, § 25270.	
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19	13	Under Penal Code section 25250, subdivision (b), if a firearm owner recovers any firearm previously reported lost or stolen, they must so inform local law enforcement within five days.	
20		Req. Jud. Ntc. Ex. C, at p. 23; Pen Code, § 25250, subd. (b) ("Every person who has reported a firearm lost or stolen under subdivision (a) shall notify the local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days if the firearm is subsequently recovered by the person.")	
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26	14	Proposition 63 also created a number of exceptions to the state theft-reporting law.	
27		Req. Jud. Ntc. Ex. C, at p. 23; Pen. Code, §§	
28			

1		25250, subd. (c), 25255.	
2	15	Under Penal Code section 25250, subdivision (c), created by Proposition 63, no person is required to report the theft or loss of “an antique firearm within the meaning of subdivision (c) of [Penal Code] section 16170.”	
3		Req. Jud. Ntc. Ex. C, at p. 23; Pen. Code § 25250, subd. (c).	
4			
5	16	Under Penal Code section 25255, subdivisions (a) through (d), created by Proposition 63, the state theft-reporting requirement does not apply to:	
6		(1) any law enforcement officer or peace officer acting within the scope of their duties who reports the loss or theft to their employing agency;	
7		(2) any United States marshal or member of the United States armed forces or the National Guard engaged in their official duties;	
8		(3) any federally licensed firearms importer, manufacturer, or dealer who reports the theft or loss in compliance with applicable federal law; or	
9		(4) any person whose firearm was lost or stolen before July 1, 2017.	
10		Req. Jud. Ntc. Ex. C, at p. 23; Pen. Code, § 25255.	
11			
12	17	Proposition 63 also created Penal Code section 25260, which requires “every sheriff or police chief [to] submit a description of each firearm that has been reported lost or stolen directly into the Department of Justice Automated Firearms System.”	
13		Req. Jud. Ntc. Ex. C, at p. 23; Pen. Code, § 25260.	
14			
15	18	Proposition 63 also created Penal Code section 25275, which makes it a crime to report a firearm has been lost or stolen knowing that report to be false.	
16		Req. Jud. Ntc. Ex. C, at p. 23; Pen. Code, § 25275, subd. (a) (“No person shall report to a local law enforcement agency that a firearm	

1		has been lost or stolen, know that report to be false. A violation of this section is an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250) for a first offense, and by a fine no exceeding one thousand dollars (\$1000) for a second or subsequent offense.”)	
2	19	Under Penal Code section 25250, should his firearm be lost or stolen, Plaintiff Kirk has five days to report the loss or theft to local law enforcement in the jurisdiction where the loss or theft occurred.	
3		Pls.’ Verif. Compl. ¶ 4, Barvir Decl., Ex. X; Defs.’ Verif. Answer ¶ 4, Barvir Decl., Ex. Y; Req. Jud. Ntc. Ex. C, at pp. 22-23; Pen. Code § 25250, subd. (a); Kirk Decl. ¶ 5.	
4	20	Under Penal Code section 25250, should a member of CRPA have their firearm lost or stolen, they have five days to report the loss or theft to local law enforcement in the jurisdiction where the loss or theft occurred.	
5		Pls.’ Verif. Compl. ¶ 4, Barvir Decl., Ex. X; Defs.’ Verif. Answer ¶ 4, Barvir Decl., Ex. Y; Req. Jud. Ntc. Ex. C, at pp. 22-23; Pen. Code § 25250, subd. (a); Barranco Decl. ¶ 8.	
6	21	On November 28, 2018, the City of Morgan Hill adopted Ordinance No. 2289 (“the Ordinance”), which amended, inter alia, section 9.04.030 of the Morgan Hill Municipal Code.	
7		Pls.’ Verif. Compl. ¶ 1, Barvir Decl., Ex. X; Defs.’ Verif. Answer ¶ 1, Barvir Decl., Ex. Y; Req. Jud. Ntc. Exs. A, at pp. 8-9, E, at pp. 61-62, Ex. F, at pp. 61, 67; Morgan Hill Mun. Code § 9.04.030.	
8	22	The Ordinance requires individuals to report the loss or theft of a firearm to the Morgan Hill Police Department within 48 hours if the loss or theft occurred within the city of Morgan Hill <i>or</i> the owner of the firearm resides in the city of Morgan Hill.	
9		Pls.’ Verif. Compl. ¶¶ 2-3, Barvir Decl., Ex. X; Defs.’ Verif. Answer ¶¶ 2-3, Barvir Decl., Ex. Y; Req. Jud. Ntc. Ex. A, at pp. 8-9, Ex. D, at pp. 45-46, 48, Ex. F at pp. 75-76; Morgan Hill Mun. Code § 9.04.030 (“Duty to report theft or loss of firearms. Any person who owns or possesses a firearm (as defined	

1		in Penal Code Section 16520 or as amended) shall report the theft or loss of the firearm to the Morgan Hill Police Department within	
2		forty-eight hours of the time he or she knew or reasonably should have known that the	
3		firearm had been stolen or lost, whenever: (1) the person resides in the city of Morgan Hill;	
4		or (2) the theft or loss of the firearm occurs in the city of Morgan Hill”).	
5			
6	23	The penalties for violating Penal Code Section 25250 are listed in Section 25265 and are as follows:	
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8		“(a) Every person who violates Section 25250 is, for a first violation, guilty of an	
9		infraction, punishable by a fine not to exceed one hundred dollars (\$100).	
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11		(b) Every person who violates Section 25250 is, for a second violation, guilty of an	
12		infraction, punishable by a fine not to exceed one thousand dollars (\$1,000).	
13			
14		(c) Every person who violates Section 25250 is, for a third or subsequent violation, guilty	
15		of a misdemeanor, punishable by imprisonment in a county jail not exceeding	
16		six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that	
17		fine and imprisonment.”	
18		Pen. Code, § 25265.	
19	24	Violation of MHMC section 9.04.030 include confiscation and/or fines.	
20		Req. Jud. Ntc. Ex. B, at p. 12; Morgan Hill Mun. Code, § 1.19.010 (“This chapter	
21		provides for an administrative citation process that may be used by the city to	
22		address any violation of the municipal code . . .”); Req. Jud. Ntc. Ex B, at p. 14; Morgan	
23		Hill Mun. Code. § 1.19.060, subd. (B) (“If no specific fine amount is set, the amount of the	
24		fine shall be one hundred dollars for a first violation, two hundred dollars for a second	
25		violation of the same ordinance within one year, and five hundred dollars for each	
26		additional violation of the same ordinance within one year”); Req. Jud. Ntc. Ex. A, at p.	
27		10; Morgan Hill Mun. Code, § 9.04.060 (“Any instrument, device or article used or	
28		possessed in violation of the provisions of this chapter is declared to be a public	
		nuisance and may be confiscated and	

1		possessed by a police officer of the city and turned over to the chief of police under the conditions set forth in this section. If no	
2		complaint for violation of this chapter is filed within seventy-two hours of the taking, the	
3		instrument or device shall be returned to the person from whom it was taken. If a	
4		complaint for violation of this chapter is filed within seventy-two hours, the chief of police	
5		may return it to the person from whose possession it was taken upon such conditions	
6		as he deems desirable for the public welfare. If the person from whom it was taken is not	
7		convicted of a violation of this chapter, then the device or instrument shall be returned to	
8		him without any conditions. If there is a conviction and sixty days have expired since	
9		the date of conviction, the same may be destroyed by the chief of police or returned	
10		to the person from whom it was taken upon such conditions as the chief deems desirable	
11		for the public welfare.”)	
12	25	While the City was considering adopting the ordinance, Plaintiff CRPA twice notified	
13		lawmakers of its opposition to the law, explaining that section 25250 preempted the	
14		City’s proposed 48-hour reporting requirement.	
15		Letter from Tiffany D. Cheuvront to Donald Larkin, Morgan Hill City Attorney (June 1,	
16		2018) (attached to Barvir Decl. as Ex. BB, at pp. 53-60); Letter from Tiffany D. Cheuvront	
17		to Donald Larkin, Morgan Hill City Attorney (Oct. 22, 2018) (attached to Barvir Decl. as	
18		Ex. CC, at pp. 62-65).	
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20	26	On October 30, 2018, Plaintiff CRPA again notified Defendant Morgan Hill in writing of	
21		its position that Penal Code section 25250 preempted Ordinance No. 2289, requesting	
22		that the City voluntarily repeal the Ordinance.	
23		Pls.’ Verif. Compl. ¶ 7, Barvir Decl., Ex. X; Defs.’ Verif. Answer ¶ 7, Barvir Decl., Ex.	
24		Y; Letter from Tiffany D. Cheuvront to Donald Larkin, Morgan Hill City Attorney	
25		(Oct. 30, 2018) (attached to Barvir Decl. as Ex. DD, at pp. 67-69).	
26			
27	27	Defendant City of Morgan Hill did not voluntarily repeal Ordinance No. 2289, and it	
28		took effect as Morgan Hill Municipal Code 9.04.030 on December 29, 2018. The City	

1		has enforced the law since that time and has never disavowed its intention to do so.	
2		Pls.' Verif. Compl. ¶¶ 7, 8, 11 Barvir Decl. Ex. X; Defs.' Verif. Answer ¶¶ 7, 11, Barvir Decl., Ex. Y; Req. Jud. Ntc. Ex. A, at p. 9; Def. Morgan Hill's Resp. Pls.' Form Interrogs., Set One, at p. 8:16-18 (attached to Barvir Decl. as Ex. Z).	
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6	28	Plaintiff CRPA also wrote to the city of Palm Springs, notifying local lawmakers that section 25250 preempted its local attempt to shorten the time that firearm-theft victims have to report their property stolen. On November 14, 2018, after receiving CRPA's analysis, the city of Palm Springs voluntarily repealed its 48-hour reporting requirement.	
7		Barvir Decl. Exs. EE-KK, at pp. 71-111.	
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11	29	Like Morgan Hill, a number of cities throughout California have adopted their own local firearm theft-reporting laws.	
12		Req. Jud. Ntc. Exs. M-W, at pp. 424-444.	
13			
14	30	The city of Los Angeles requires the reporting of lost or stolen firearms to local law enforcement within 48 hours.	
15		Req. Jud. Ntc. Ex. M, at p. 423; L.A. Mun. Code, § 55.2	
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18	31	The city of Oakland requires the reporting of lost or stolen firearms to local law enforcement within 48 hours.	
19		Req. Jud. Ntc. Ex. N, at p. 426; Oakland Mun. Code, § 9.36.131.	
20			
21	32	The city of Port Hueneme requires the reporting of lost or stolen firearms to local law enforcement within 48 hours.	
22		Req. Jud. Ntc. Ex. P, at p. 430; Port Hueneme Mun. Code, § 3914.10.	
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25	33	The city of Sacramento requires the reporting of lost or stolen firearms to local law enforcement within 48 hours.	
26		Req. Jud. Ntc. Ex. Q, at p. 430; Sacramento Mun. Code, § 9.32.180.	
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34	The city of San Francisco requires the reporting of lost or stolen firearms to local law enforcement within 48 hours. Req. Jud. Ntc. Ex. R, at p. 434; S.F. Mun. Code, § 616.	
35	The city of Sunnyvale requires the reporting of lost or stolen firearms to local law enforcement within 48 hours. Req. Jud. Ntc. Ex. U, at p. 440; Sunnyvale Mun. Code, § 9.44.030.	
36	The city of Tiburon requires the reporting of lost or stolen firearms to local law enforcement within 48 hours. Req. Jud. Ntc. Ex. W, at p. 444; Tiburon Mun. Code, § 32-27.	
37	The city of Oxnard requires the reporting of lost or stolen firearms to local law enforcement within 72 hours. Req. Jud. Ntc. Ex. O, at p. 428; Oxnard Mun. Code, § 7-141.1.	
38	The city of Simi Valley requires the reporting of lost or stolen firearms to local law enforcement within 72 hours. Req. Jud. Ntc. Ex. T, at p. 438; Simi Valley Mun. Code, § 5-22.12.	
39	The city of Thousand Oaks requires the reporting of lost or stolen firearms to local law enforcement within 72 hours. Req. Jud. Ntc. Ex. V, at p. 442; Thousand Oaks Mun. Code, § 5-11.02.	
40	The city of Santa Cruz requires the reporting of lost or stolen firearms to local law enforcement within five days. Req. Jud. Ntc. Ex. S, at p. 436; Santa Cruz Mun. Code, § 9.30.010.	
41	At the October 24, 2018 meeting of the Morgan Hill City Council, councilmembers received within their agenda packets a City Council Staff Report and a PowerPoint Presentation citing that the city of San Jose requires reporting of lost or stolen firearms to	

1		local law enforcement within 24 hours. Req. Jud. Ntc. Ex. F, at pp. 73, 75-76, 277.	
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3	42	In adopting MHMC section 9.40.030, the City of Morgan Hill cited four general “reasons for requiring theft reporting.” Req. Jud. Ntc. Ex. F, at p. 75.	
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6	43	In adopting MHMC section 9.40.030, the City of Morgan Hill claimed that “[w]hen a crime gun is traced by law enforcement to the last purchaser of record, the owner may falsely claim that the gun was lost or stolen to hide his or her involvement in the crime or in gun trafficking” and that “[r]eporting laws provide a tool for law enforcement to detect this behavior and charge criminals who engage in it.” Req. Jud. Ntc. Ex. F, at p. 75.	
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12	44	In adopting MHMC section 9.40.030, the City of Morgan Hill claimed that “[r]eporting laws help disarm prohibited persons by detering them from falsely claiming that their firearms were lost or stolen.” Req. Jud. Ntc. Ex. F, at p. 75.	
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16	45	In adopting MHMC section 9.40.030, the City of Morgan Hill claimed that “[r]eporting laws protect gun owners from unwarranted criminal accusations when their guns are recovered at a crime scene and make it easier for law enforcement to locate a lost or stolen firearm and return it to its lawful owner.” Req. Jud. Ntc. Ex. F, at p. 75.	
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21	46	In adopting MHMC section 9.40.030, the City of Morgan Hill claimed that “[r]eporting laws make gun owners more accountable for their weapons.” Req. Jud. Ntc. Ex. F, at p. 75.	
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25	47	In adopting MHMC section 9.40.030, the City of Morgan Hill did not cite any evidence showing that its 48-hour theft-reporting requirement is more likely to serve the City’s interests than the statewide 5-day requirement. Req. Jud. Ntc. Ex. D, at pp. 42, 46-46, Ex. F,	
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1		at pp. 73-88, 265-289, Ex. H, at pp. 308-309, Ex. J, pp. 347-362.	
2	48	In adopting MHMC section 9.40.030, the City of Morgan Hill did not cite any evidence showing that its 48-hour theft-reporting requirement is more likely to deter false reporting that a firearm has been lost or stolen to cover up criminal activity than the statewide 5-day requirement.	
3		Req. Jud. Ntc. Ex. D, at pp. 42, 46-46, Ex. F, at pp. 73-88, 265-289, Ex. H, at pp. 323-326, Ex. J, pp. 347-362.	
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8	49	In adopting MHMC section 9.40.030, the City of Morgan Hill did not cite any evidence showing that its 48-hour theft-reporting requirement is more likely to deter false reporting by prohibited persons that a firearm has been lost or stolen than the statewide 5-day requirement.	
9		Req. Jud. Ntc. Ex. D, at pp. 42, 46-46, Ex. F, at pp. 73-88, 265-289, Ex. H, at pp. 323-326, Ex. J, pp. 347-362.	
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14	50	In adopting MHMC section 9.40.030, the City of Morgan Hill did not cite any evidence showing that its 48-hour theft-reporting requirement is more likely to protect gun owners from unwarranted criminal accusations when their guns are recovered at a crime scene than the statewide 5-day requirement.	
15		Req. Jud. Ntc. Ex. D, at pp. 42, 46-46, Ex. F, at pp. 73-88, 265-289, Ex. H, at pp. 323-326, Ex. J, pp. 347-362.	
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21	51	In adopting MHMC section 9.40.030, the City of Morgan Hill did not cite any evidence showing that its 48-hour theft-reporting requirement is more likely to aid law enforcement in recovering lost or stolen firearm than the statewide 5-day requirement.	
22		Req. Jud. Ntc. Ex. D, at pp. 42, 46-46, Ex. F, at pp. 73-88, 265-289, Ex. H, at pp. 323-326, Ex. J, pp. 347-362.	
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26	52	In adopting MHMC section 9.40.030, the City of Morgan Hill did not cite any evidence showing that its 48-hour theft-reporting requirement is more likely to make gun owners more accountable for their weapons	
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1		than the statewide 5-day requirement.	
2		Req. Jud. Ntc. Ex. D, at pp. 42, 46-46, Ex. F,	
3		at pp. 73-88, 265-289, Ex. H, at pp. 323-326,	
4	53	Ex. J, pp. 347-362.	
5		There is no reliable body of academic or	
6		scientific work establishing that firearm	
7		theft-reporting requirements, in general, have	
8		any impact on the City's purported interests	
9		in its 48-hour reporting requirement.	
10		Morrall et al., The Science of Gun Policy: A	
11		Critical Synthesis of Research Evidence on	
12		the Effects of Gun Policies in the United	
13		States (Rand Corp. 2018) p. 180. ("RAND	
14		Study") (attached to Barvir Decl. as Ex. EE).	
15	54	There is no reliable body of academic or	
16		scientific work that would establish that	
17		requiring the reporting of firearm theft or loss	
18		to law enforcement within 48 hours is more	
19		likely to aid law enforcement than requiring	
20		the reporting within 5 days.	
21		See RAND Study, at p. 180, Barvir Decl. Ex.	
22		EE.	
23	55	According to the United States Department	
24		of Justice, while about 90% of burglaries	
25		involving stolen firearms were reported to	
26		law enforcement between 2005 and 2010,	
27		only about 1 of every 5 firearms had been	
28		recovered between 1 day and 6 months after	
		reporting.	
		Langton, U.S. Dept. of Justice, Crime Data	
		Brief: Firearms Stolen During Household	
		Burglaries and Other Property Crimes, 2005-	
		2010 (Nov. 2012) ("USDOJ Crime Brief")	
		p. 256 (attached to Barvir Decl. as Ex. PP);	
		see also RAND Study, at p. 180, Barvir Decl.	
		Ex. EE.	
	56	According to the United States Department	
		of Justice, although "victimizations involving	
		stolen firearms could have occurred from one	
		day to up to six months before the NCVS	
		[National Crime Victimization Study]	
		interview [from which these statistics were	
		drawn], the amount of time that had elapsed	
		made no significant difference in the	
		percentage of households for which guns had	
		not been recovered at the time of the	
		interview."	

1		USDOJ Crime Brief, at p. 256, Barvir Decl. Ex. PP.	
2	57	The Legal Community Against Violence (“LCAV”), now known as the Giffords Law Center to Prevent Gun Violence, has published a series of “model laws” for state and local governments to adopt. Among the model laws the organization has promoted throughout California requires the reporting of lost or stolen firearms.	
3		Legal Community Against Violence, Model Laws for a Safer America: Seven Regulations to Promote Responsible Gun Ownership and Sales (Sept. 2011) (“LCAV Model Laws”) pp. 273, 329-333 (attached to Barvir Decl. at Ex. QQ).	
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10	58	The LCAV Model Laws cite the federal law requirement that firearm dealers report the loss or theft of firearms in their inventory within 48 hours as justification for the 48-hour limit proposed in the 2011 version of the organizations’ theft-reporting model law.	
11		LCAV Model Laws, at pp. 332-333, Barvir Decl. Ex. OO.	
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15	59	In 2011, the Association of Bay Area Governments (“ABAG”) published a report recommending that area cities and counties, including the City of Morgan Hill, adopt model ordinances requiring the reporting of lost or stolen firearms.	
16		Req. Jud. Ntc. Ex. F, at pp. 75-76, 89-104; Association of Bay Area Governments, A High Price to Pay: The Economic and Social Costs of Youth Gun Violence in San Mateo County (Sept. 2011) (“ABAG Report”) p. 192 (attached to Barvir Decl. at Ex. MM).	
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22	60	LCAV has assisted ABAG in its efforts to promote gun control laws in the Bay Area region of California, and it prepared the model laws for ABAG’s Youth Gun Violence Task Force. Among those model laws was a requirement for the reporting of firearm theft or loss.	
23		Legal Community Against Violence, 2009 California Report: Recent Developments in Federal, State, and Local Gun Laws (June 12, 2009) pp. 390-391 (attached to Barvir Decl.	
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	as Ex. RR).	
61	In enacting Penal Code section 25250, the statewide theft-reporting requirement, Proposition 63 voters recognized that such laws help law enforcement “investigate crimes committed with stolen guns, break up gun trafficking rings, and return guns to their lawful owners.” Req. Jud. Ntc. Ex. C, at p. 22.	
62	Supporters of Proposition 63, which created Penal Code section 25250, informed voters that the reporting of lost and stolen firearms would “help police shut down gun trafficking rings and locate caches of illegal weapons,” “recover stolen guns before they’re used in crimes and return them to their lawful owners.” Ballot Pamp., Gen. Elec. (Nov. 8, 2016) rebuttal to argument against Prop. 63, p. 402 (attached to Barvir Decl. as Ex. SS).	

Dated: May 1, 2020

MICHEL & ASSOCIATES, P.C.

s/ Anna M. Barvir

Anna M. Barvir
Attorneys for Plaintiffs

PROOF OF SERVICE
STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

I, Laura Palmerin, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

On May 1, 2020, I served the foregoing document(s) described as

**SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

on the interested parties in this action by placing

☐ the original
☒ a true and correct copy

thereof by the following means, addressed as follows:

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 X (BY ELECTRONIC TRANSMISSION) As follows: I served a true and correct copy by electronic transmission via One Legal. Said transmission was reported and completed without error.

 X (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 1, 2020, at Long Beach, California.

s/ Laura Palmerin

Laura Palmerin