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9
 10 IN THE UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11
 12 CALIFORNIA RIFLE & PISTOL
 ASSOCIATION, INCORPORATED;
 13 THE SECOND AMENDMENT
 FOUNDATION; GUN OWNERS OF
 14 AMERICA, INC.; GUN OWNERS
 FOUNDATION; GUN OWNERS OF
 15 CALIFORNIA, INC.; ERICK
 VELASQUEZ, an individual;
 16 CHARLES MESSEL, an individual;
 BRIAN WEIMER, an individual;
 17 CLARENCE RIGALI, an individual;
 KEITH REEVES, an individual;
 18 CYNTHIA GABALDON, an individual;
 and STEPHEN HOOVER, an
 19 individual,

20 Plaintiffs,

21 v.

22 LOS ANGELES COUNTY SHERIFF'S
 DEPARTMENT; SHERIFF ROBERT
 23 LUNA, in his official capacity; LA
 VERNE POLICE DEPARTMENT; LA
 24 VERNE CHIEF OF POLICE
 COLLEEN FLORES, in her official
 25 capacity; ROBERT BONTA, in his
 26 official capacity as Attorney General of
 the State of California; and DOES 1-10,

27 Defendants.
 28

2:23-cv-10169

**DECLARATION OF PROFESSOR
 BRENNAN GARDNER RIVAS IN
 SUPPORT OF DEFENDANT ROB
 BONTA'S OPPOSITION TO
 PLAINTIFFS' MOTION FOR
 PRELIMINARY INJUNCTION**

Date: March 13, 2024
 Time: 1:30 p.m.
 Courtroom: 5C
 Judge: The Honorable Sherilyn
 Peace Garnett

1 **DECLARATION OF DR. BRENNAN GARDNER RIVAS**

2 I, Dr. Brennan Gardner Rivas, declare under penalty of perjury that the
3 following is true and correct:

4 1. I have been retained by the Office of the Attorney General of the
5 California Department of Justice to provide expert opinions and testimony in this
6 case. I submit this declaration on the basis of my training, professional expertise, and
7 research. For this engagement, I was asked to provide expert opinions about historical
8 gun regulations—including, but not limited to, licensing requirements—that were
9 implemented and enforced by different states and localities throughout the United
10 States.

11 2. This declaration is based on my own personal knowledge and
12 experience, and if I am called to testify as a witness, I could and would testify
13 competently to the truth of the matters discussed in this declaration.

14 **BACKGROUND AND QUALIFICATIONS**

15 3. I am a Ph.D. historian and independent scholar. During the 2021-2022
16 academic year, I was the Lloyd Lewis Fellow in American History at The Newberry
17 Library. From 2020 to 2021, I was a Bill & Rita Clements Fellow for the Study of
18 Southwestern America within the Clements Center for Southwest Studies at Southern
19 Methodist University. From 2019 to 2020, I was a Lecturer in American History at
20 Texas Christian University (TCU). My educational background includes a Ph.D. in
21 History from TCU, where my dissertation was on the development, evolution, and
22 enforcement of gun and weapon policy in Texas from the era of Mexican
23 independence to the 1930s.

24 4. My expertise includes historical weapon regulations in the United
25 States. I have authored multiple publications on this topic, including peer-reviewed
26 articles in the *Southwestern Historical Quarterly* and a chapter in an edited collection
27 published by Oxford University Press; in 2022, my article, “Enforcement of Public
28 Carry Restrictions: Texas as a Case Study” (June 2022), was published in the *UC*

1 *Davis Law Review*. I am currently completing a book manuscript based upon my
2 dissertation research.

3 5. A true and correct copy of my current curriculum vitae, which details
4 my education, experience, and publications, is attached as **Exhibit 1** to this
5 declaration. It contains all publications that I have authored within the last ten years,
6 including a number of articles related to the regulation of guns, especially as to the
7 history of nineteenth-century weapons policies and the socio-political context that
8 made them possible.

9 6. I am being compensated for services performed in the above-entitled
10 case at an hourly rate of \$200/hour for research, \$250/hour for document preparation,
11 and \$350/hour for deposition and trial testimony. My compensation is not contingent
12 on the results of my analysis or the substance of my testimony.

13 7. The opinions I provide in this declaration are based on my education,
14 expertise, research in the history of firearms and firearm regulation, and my review
15 and analysis of a wide range of primary and secondary sources.

16 8. This declaration is a work of historical scholarship, informed by analysis
17 of primary and secondary sources. Having studied the subject of historical gun
18 regulations for several years now, I have drawn upon knowledge gained from reading
19 numerous peer-reviewed books and articles, in addition to law review articles and
20 media such as blogs and news articles. I have also drawn upon primary sources, such
21 as historical laws and ordinances found in digital databases like Hein Online and
22 Hathi Trust, and historical newspaper articles from databases like Chronicling
23 America, ProQuest Databases, Newspapers.com, America's Historical Newspapers,
24 and more. The writing and composition of scholarly works of history require the
25 historian to evaluate both primary and secondary sources—using secondary sources
26 to contextualize and interpret primary sources in ways that illuminate the past rather
27 than confuse or obscure it.

28

1 **SUMMARY OF OPINIONS**

2 9. This declaration provides an overview of the various weapons
3 regulations that were crafted by different states and localities throughout American
4 history. These weapons regulations—which include, but are not limited to, licensing
5 requirements and criteria, laws and ordinances governing concealed and/or open
6 carry of weapons, sensitive places restrictions, and taxes on the sale and/or possession
7 of weapons—demonstrate a historical tradition of American states and localities
8 possessing the authority to implement and enforce their own weapons regulations
9 within their jurisdictions.

10 10. This declaration also discusses how historical weapons regulations
11 varied in urban versus rural locales, which reflected the different policy
12 considerations and practical concerns applicable to those places.

13 11. Additionally, this declaration addresses the limitations on the “traveler”
14 exception to certain historical firearms regulations, including a discussion of how this
15 exception was narrowly defined by state appellate courts to include only long-
16 distance travelers separated from the protections of organized communities.

17 12. Finally, this declaration discusses “dangerousness” as understood in the
18 nineteenth century, how weapon-carrying figured into a person’s status as
19 “dangerous,” and the extent to which it would have been an acceptable factor in
20 determining whether a person could bear arms in historical weapons licensing
21 regimes.

22 **OPINIONS**

23 13. Throughout the nineteenth century, Americans treated deadly weapons
24 differently than militia arms and regulated their presence in public spaces. Laws
25 regarding the carrying or concealment of such weapons in public spaces were
26 statutory enactments derived from longstanding English common law customs.
27 Nineteenth-century Americans enacted these laws to preserve order, protect the
28 peace, and reduce violent crime. Rates of homicide and crime fluctuated over time

1 and by locale, but were generally made worse by easier access to inexpensive
2 weapons like bowie knives and pocket pistols that were not only conducive to
3 concealment, but designed for it. The proliferation of these weapons, and particularly
4 pocket pistols, in the post-Civil War era unleashed a staggering wave of gun crime
5 which American communities tried to staunch through a host of regulatory measures.

6 14. It has not been uncommon in American history for towns and cities to
7 be subject to different deadly weapon policies than the state more broadly. There are
8 examples of cities enacting local public carry ordinances within states that lacked a
9 public carry law. Many of these examples come from the state of California and
10 involve licensing requirements for carrying deadly weapons. Public carry laws, for
11 both concealed weapons and the open-carry of weapons, have often reserved special
12 exemptions for “travelers” as defined under state law, reinforcing the idea that
13 population density was a factor in developing and enforcing weapon policies in the
14 nineteenth century.

15 15. This report identifies various regulatory measures implemented and
16 enforced by different localities, including public carry laws that targeted open- as
17 well as concealed-carry of weapons, and licensing laws, and examines differing
18 restrictions based on the needs of different jurisdictions.

19 **APPROACHES TO PUBLIC CARRY REGULATION IN THE**
20 **NINETEENTH CENTURY**

21 **Restrictions on Public Carry and Exceptions for Self-Defense and Emergencies**

22 16. In the early nineteenth century, state legislatures began enacting new
23 statutes against the carrying of weapons in response to rising levels of violence, often
24 focused on the regulation of carrying concealed weapons.¹ Some of these statutes
25 were challenged in state courts as violations of either the Second Amendment or an

26 _____
27 ¹ On violence in American history, including fluctuations over time and by region, see
28 Randolph Roth, *American Homicide* (Cambridge: Belknap Press of Harvard University Press, 2009).

1 analogous state right. With a few exceptions², the case law that developed held that
2 concealed carry statutes did not violate the right to bear arms.

3 17. Even though nineteenth-century case law generally coalesced around
4 the principle that concealed weapon laws were constitutional, that did not mean that
5 people wishing to *openly* carry deadly weapons as a form of preemptive self-defense
6 were engaging in what was considered constitutionally protected behavior—or
7 acceptable behavior at all. The text of public carry laws themselves, when taken
8 together, show quite plainly that nineteenth-century Americans did not understand
9 concealed carry laws to de facto allow everyday open-carrying of deadly weapons.
10 Some states specifically prohibited open carry, and others tailored open-carry
11 exceptions to be as narrow as possible in order to prevent people engaging in
12 everyday open carry as a mode of preemptive self-defense.³ But more importantly,
13 the everyday open carrying of deadly weapons was not particularly common in the
14 nineteenth century, and primary source evidence shows that it was not socially
15 acceptable outside of emergency circumstances.

16 18. Deadly weapons like knives and pistols were designed to be carried
17 concealed, so concealed carry regulations struck at the primary, preferred mode of

18
19 ² The most significant of these few exceptions was *Bliss v. Commonwealth*, 12 Ky. 90
20 (1822) (“...there is no difference between a law prohibiting the wearing concealed arms, and a law
forbidding the wearing such as are exposed; and if the former be unconstitutional, the latter must
be so likewise.”).

21 ³ For example, see 1882 West Virginia ch. 110, 317 § 8; 1871 Texas ch. 34, “An Act to
22 Regulate the Keeping and Bearing of Deadly Weapons,” 25–27; 1870 Tenn. 13, p. 28–29. In
23 response to appellate court decisions, lawmakers in Arkansas and Tennessee enacted public carry
24 laws with an open-carry exception that was as tightly restricted as possible. Their “open in his
25 hands” exception allowed open-carry only in a real emergency (not preemptive armed self-defense
26 as a matter of course) and only applied to certain kinds of firearms (not pocket pistols). *See* 1871
27 Tenn. 90, p. 81–82; Ark. 1881 ch. 96. A public carry law from the Florida Territory (1835) allowed
28 for open carry, but the legislation proved to be ineffective—presumably because so many people
were choosing to avail themselves of the open carry exception. In 1838, lawmakers enacted a
prohibitively high tax upon anyone wishing to engage in open carry, showing that Floridians and
their elected lawmakers did not view unrestrained open carry as a benign activity and indeed tried
to discourage the behavior as much as possible. 1835 Florida ch. 860, “An Act to prevent any
person in this Territory from carrying arms secretly,” 318; 1838 Florida, ch. 24. The title of the
1838 tax was “An Act in addition to An Act, (approved January 30, 1835) entitled “An Act to
prevent any person in this Territory from carrying arms secretly.”

1 carrying them. A commentator writing in 1877 said, “The very fact that men are
2 careful to conceal their revolvers argues that they are doubtful as to the propriety of
3 carrying of them,” and that if a young man were to walk along the street “with his
4 silver-mounted deringer hanging from his waist belt, he would expose himself to
5 unlimited ridicule.”⁴ The tendency toward concealing deadly weapons rather than
6 carrying them openly was in fact so strong that in the latter nineteenth century, men’s
7 trousers were often sold with a *pistol pocket* sewn into the rear hip.⁵

8 19. In 1856, a Louisiana court reasoned that partially exposed weapons were
9 “the result of accident or want of capacity in the pocket to contain, or clothes fully to
10 cover the weapon, and not the extremely unusual case of the carrying of such weapon
11 in full open view, and partially covered by the pocket or clothes.”⁶ An Arkansas case
12 from 1879 upheld the idea that a partially exposed weapon constituted an attempt at
13 concealment.⁷

14 20. There was some acceptance of the idea that a true emergency situation
15 might justify the open carrying of a deadly weapon temporarily. A version of
16 Delaware’s 1881 concealed carry law provides some insight into what nineteenth-
17 century Americans understood their concealed carry laws to allow in terms of open
18 carry. The law as-passed ended up being substantially different from the version

19 ⁴ “Carrying Concealed Weapons: True Comment on an Almost Universal American
20 Custom,” *Daily Constitution* (Atlanta, Georgia), May 23, 1877, 1. Reprinted from *Baltimore
21 American*. Some of the manners and etiquette books of the nineteenth century also addressed the
22 impropriety of carrying deadly weapons. For example, see William A. Alcott, *Advice to a Young
Gentleman on Entering Society* (Philadelphia: Lea and Blanchard, 1839),
147-149, https://books.google.com/books?id=430_rAHEPn8C&newbks=1&newbks_redir=0&source=gbs_navlinks_s.

23 ⁵ Scott Way, “A Few Random Remarks about Pockets,” *Puck* 16 (January 1885), 294 (“We
24 will merely glance at the pistol-pocket, in which a concealed deadly weapon is often carried,
25 especially in Prohibition districts, and then pass on to the coat-tail pocket.”); “The Pistol Pocket,”
26 *Chicago Daily Tribune* (Chicago, Illinois), February 11, 1885, 3 (“An important step toward
securing an abolition of the practice of pistol-carrying, a Galveston (Tex.) paper suggests that the
pistol-pocket should be prohibited by law.”); “The Hygiene of Pockets,” *Phrenological Journal
and Science of Health* (March 1886), 176 (“It is common now-a-days for trousers to be made with
a pocket placed little below the band in the back part of the garment. It is commonly termed the hip
or pistol pocket.”).

27 ⁶ *State v. Smith*, 11 La. Ann. 633 (1856).

28 ⁷ *Carr v. State*, 34 Ark. 448 (1879).

1 summarized by a newspaper while the legislature was still debating and amending
 2 the bill, and that earlier bill version contained a level of detail and context rarely
 3 found in historical public carry laws.⁸ The bill prohibited concealed carry and also
 4 prohibited anyone “to carry a gun or other deadly weapon in the street, except in a
 5 vertical position, and with the muzzle pointed toward the zenith.”⁹ This is the kind of
 6 open carry which certain drafters of the bill envisioned—one that prioritized public
 7 safety and precluded habitual open carry as an acceptable mode of preemptive self-
 8 defense. Other elements of the bill, some of which ended up in the law that passed,
 9 addressed other impermissible ways of using, carrying, and handling firearms. “It is
 10 likewise unlawful for any person to point a gun or other firearm at any person, either
 11 in jest or earnest,” and there were specific penalties for anyone who might draw a
 12 concealed weapon in a crowd or display one in public.¹⁰

13 21. Nineteenth-century public carry laws were also understood to coexist
 14 with the right to defend oneself. In Texas, where deadly weapons could not be carried
 15 in public at all, a self-defense exception was actually written into the law.¹¹ A
 16 weapon-carrier who was technically breaking the law simply by carrying could plead
 17 self-defense, show a judge or jury that his/her circumstances justified the behavior,
 18 and receive an acquittal or dismissal. Public carry laws were designed to stop
 19 individuals from preemptively going out armed on a habitual basis, not to foreclose
 20 people in deadly emergencies from defending themselves in accordance with the law
 21 of self-defense.

22 ⁸ Text of a bill in the Delaware legislature, quoted in “Doings of the Legislature,” *Smyrna*
 23 *Times* (Smyrna, Delaware), March 30, 1881, 2,
<https://chroniclingamerica.loc.gov/lccn/sn84020422/1881-03-30/ed-1/seq-2/>.

24 ⁹ *Id.*

¹⁰ *Id.* For the law as passed, see 1881 Delaware ch. 548 “Of Offenses Against Public Justice:
 25 An Act providing for the punishment of persons carrying concealed deadly weapons,” 716-717.

¹¹ 1871 Texas, ch. 34, § 2 (“Any person charged under the first section of this act, who may
 26 offer to prove, by way of defense, that he was in danger of an attack on his person or unlawful
 27 interference with his property, shall be required to show that such danger was immediate and
 28 pressing, and was of such a nature as to alarm a person of ordinary courage; and that the weapon
 so carried was borne openly and not concealed beneath the clothing; and if it shall appear that this
 danger had its origin in a difficulty first commenced by the accused, it shall not be considered as a
 legal defense.”).

1 22. Where gun-toters were convicted despite a plea of self-defense, it
2 typically resulted from a failure to demonstrate that they had actually engaged in
3 lawful self-defense—such as occasions where personal conflicts and wounded pride
4 led to violence. Appellate rulings and legislative enactments aimed to preclude men
5 in such circumstances from pleading self-defense. This happened to an Alabama man
6 in 1840 who argued that he needed to conceal a weapon in order to defend himself
7 from an attack; the court disagreed, stating that, “If the emergency is pressing, there
8 can be no necessity for concealing the weapon, and if the threatened violence, will
9 allow of it, the individual may be arrested and constrained to find sureties to keep the
10 peace, or committed to jail.”¹² The nineteenth-century tendency toward not
11 specifically outlawing the open carrying of deadly weapons is more a byproduct of
12 that era’s persistent and torturous acceptance of a violent male honor culture than it
13 is evidence of widespread acceptance of the open-carry of weapons for preemptive
14 armed self-defense.

15 23. In Arkansas and Tennessee, post-Civil War public carry restrictions
16 were part of a back-and-forth between legislatures and appellate courts, illustrating a
17 commitment to restricting public carry that understood open-carry to be primarily
18 related to militia service and secondarily reserved for emergency situations. Both
19 states enacted laws that prohibited the public carrying of pistols with very limited
20 exceptions.¹³ Courts in both states struck down early versions of the laws because
21 they applied to all revolvers, including those being issued to certain classes of soldiers
22 by the United States military.¹⁴ But the respective legislatures of Arkansas and
23 Tennessee quickly changed the rule to exclude “army and navy pistols”—those types
24 or models in use by the US military—when carried openly in the hand. By exempting

25 _____
¹² *State v. Reid*, 1 Ala. 612 (1840).

26 ¹³ See 1869-1870 Tenn. Pub. Acts, 2d. Sess., An Act to Preserve the Peace and Prevent
27 Homicide, ch. 13, § 1; 1874-1875 Acts of Ark., An Act to Prohibit the Carrying of Side-Arms, and
28 Other Deadly Weapons, at p. 155, § 1.

¹⁴ *Andrews v. State*, 50 Tenn. 165 (1871); *Wilson v. State*, 33 Ark. 557 (1878).

1 these models, Arkansas and Tennessee lawmakers made their gun policies comport
2 with the reigning Second Amendment jurisprudence of their day, which held that
3 militia arms were to be regulated differently than deadly weapons.¹⁵ The revised
4 Tennessee law held that “it shall not be lawful for any person to publicly carry a dirk,
5 sword cane, Spanish stiletto, belt or pocket pistol, or revolver, other than an army
6 pistol, or such as are commonly carried and used in the United States army, and in
7 no case shall it be lawful for any person to carry such army pistol publicly or privately
8 about his person in any other manner than openly in his hands.”¹⁶ Arkansas’s
9 replacement statute was similar to that of Tennessee.¹⁷ Tennessee and Arkansas
10 courts did not strike down these revised public carry statutes as they had done
11 previously.¹⁸

12 24. Interpreted within the context of rising levels of gun violence and
13 political instability in the American South in the post-Civil War era, these laws and
14 their tightly restricted open-carry exceptions illustrate a widespread social contempt

15
16 ¹⁵ Unlike today, where laws generally prevent the civilian sale of military-grade weapons
17 while carving out protections for self-defense weapons, Americans of the nineteenth century did
18 just the opposite; case law at that time held that a citizen’s militia obligation conferred upon certain
19 kinds of firearms, especially muskets and rifles, a protected status under the law as “militia arms,”
20 while those smaller weapons which lent themselves to concealability and were more conducive to
interpersonal violence could be prohibited. This view of arms and their place in society changed
in the twentieth century as a result of substantial alterations to the militia system (and the
development of the National Guard) as well as the advent of automatic weapons (capable of firing
repeatedly with a single pull of the trigger) and select-fire weapons (capable of either automatic or
semiautomatic fire) for military use.

21 ¹⁶ 1871 Tenn. Pub. Acts 81, An Act to Preserve the Peace and to Prevent Homicide, ch. 90,
22 § 1; *State v. Wilburn*, 66 Tenn. 57, 61 (1872). It is worth noting that even the exempted army/navy
23 pistols could not be carried concealed, or even visible within a waistband or hip holster; the only
way to carry legally exempted pistols was to hold them in one’s hand. The purpose of this additional
phrase was to curtail as much as possible the carrying of these weapons in public spaces so that a
person would only do so in the event of a real emergency.

24 ¹⁷ 1881 Ark. Acts 191, An Act to Preserve the Public Peace and Prevent Crime, chap. XCVI,
25 § 1-2 (“That any person who shall wear or carry, in any manner whatever, as a weapon, any dirk or
26 bowie knife, or a sword, or a spear in a cane, brass or metal knucks, razor, or any pistol of any kind
27 whatever, except such pistols as are used in the army or navy of the United States, shall be guilty
of a misdemeanor. . . . Any person, excepting such officers or persons on a journey, and on his
premises, as are mentioned in section one of this act, who shall wear or carry any such pistol as if[s]
used in the army or navy of the United States, in any manner except uncovered, and in his hand,
shall be guilty of a misdemeanor.”).

28 ¹⁸ See *State v. Wilburn*, 66 Tenn. 57, 61 (1872); *Haile v. State*, 38 Ark. 564 (1882).

1 for publicly carrying deadly weapons. These statutes represented the best efforts of
2 lawmakers to emulate the kind of comprehensive public carry prohibition that was in
3 force in Texas¹⁹ while also respecting the parameters set forth by their state supreme
4 courts. The amendatory statutes did not simply provide an exemption for army/navy
5 pistols—they specified that even those pistols could not be carried in public unless
6 openly in the hand. Just like today, it was not common at that time to see a person
7 walking along a public street carrying a gun in hand; such behavior would have been
8 understood as an emergency requiring the intervention of local officers of the law.

9 25. Concealed carry laws did not automatically protect open carry as a mode
10 of being preemptively armed in public. In fact, preemptive arming is precisely what
11 nineteenth-century Americans condemned. An 1838 Virginia statute prohibited
12 “habitual” carrying of deadly weapons—its purpose was to penalize those who
13 carried weapons as an everyday matter of course.²⁰ An 1813 Louisiana statute
14 included a lengthy preamble explaining why the legislature was taking this action. It
15 is worth quoting in full:

16 Whereas assassination and attempts to commit the same, have of late
17 been of such frequent occurrence as to become a subject of serious alarm
18 to the peaceable and well disposed inhabitants of this state; and whereas
19 the same is in a great measure to be attributed to the dangerous and
 wicked practice of carrying about in public places concealed and deadly
 weapons, or going to the same [public places] armed in an unnecessary

20 ¹⁹ Texas featured a comprehensive deadly weapon law that prohibited the open or concealed
21 carrying of “any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie knife,
22 or any other kind of knife manufactured or sold for the purposes of offense or defense.” There were
23 a few exceptions, such as for travelers, peace officers, and anyone who “has reasonable grounds
24 for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and
25 pressing.” *General Laws of Texas*, ch. XXXIV, §1 (1871). The original statutes in Arkansas and
Tennessee indicate legislative intent to enact a comprehensive law like this one, but the decisions
from their state courts in *Wilson* and *Andrews*, respectively, prevented them from doing so; in
Texas, on the other hand, cases *English* and *Duke* upheld the constitutionality of the deadly weapon
law without requiring an army/navy exception. *See English v. State of Texas*, 35 Tex. 473 (1872);
State of Texas v. Duke 42 Tex. 455 (1874).

26 ²⁰ 1838 Virginia ch. 101, “An Act to prevent the carrying of concealed weapons,” 76 § 1
27 (“That if any person shall hereafter habitually or generally keep or carry about his person any pistol,
28 dirk, bowie knife, or any other weapon of the like kind, from the use of which the death of any
person might probably ensue, and the same be hidden or concealed from common observation . . .
.”).

1 manner²¹

2 An appellate judge in North Carolina went so far as to say that “there is scarcely a
3 man in the community who does not own and occasionally use a gun of some sort,”
4 but that “No man amongst us carries it about with him, as one of his every day
5 accoutrements—as a part of his dress—and never we trust will the day come when
6 any deadly weapon will be worn or wielded in our peace loving and law-abiding
7 State, as an appendage of manly equipment.”²² Public carry laws, whether they used
8 the terms “concealed” or “open,” were fundamentally about protecting public spaces
9 by keeping deadly weapons away from them.

10 **The “Traveler” Exception to Certain Concealed Carry Laws**

11 26. In addition to exceptions for true emergencies and self-defense
12 described above, some public carry laws included exceptions for “travelers.” The
13 statutes that contained such an exception varied from one state to another, and many
14 left the definition of terms like “travel” and “journey” quite ambiguous. In Texas, for
15 example, even exempted travelers were required to place their weapons in their
16 baggage, which did not include saddlebags.²³

17 27. Far from a blanket exception for people to go armed at all times outside
18 their homes, the travel exception was narrowly defined by state appellate courts. The
19 kind of “travel” which it described as not the everyday movement through public
20 spaces like town squares and commercial districts. Instead, it encompassed a type of
21 travel that separated a person, small group, or family from the protections of the law
22 that went hand-in-hand with organized society and were a fundamental feature of
23 community life—courts, magistrates, constables, and the security of being among

24 _____
25 ²¹ 1813 La. Acts 172, An Act Against Carrying Concealed Weapons, and Going Armed in
Public Places in an Unnecessary Manner § 1.

26 ²² *State v. Huntley*, 25 N.C. 418 (1843).

27 ²³ Brennan Gardner Rivas, “The Deadly Weapon Laws of Texas: Regulating Guns, Knives,
and Knuckles in the Lone Star State, 1836-1930,” PhD diss. (Texas Christian university, 2019),
108-110. John Thomas Shepherd, “Who Is the Arkansas Traveler: Analyzing Arkansas’s Journey
28 Exception to the Offence of Carrying a Weapon,” *Arkansas Law Review* 66, no. 2 (2013): 463-
484.

1 one’s neighbors. To be a traveler was to venture outside one’s community sphere and
2 become vulnerable to dangers such as robbers and predatory animals.

3 28. This notion of “travel” is important and worth reiterating. It was a
4 designation that applied to people who were isolated from their communities, not
5 people who were embedded safely within them. Americans’ representative leaders
6 protected the peace and promoted public safety by pursuing regulatory policies that
7 discouraged or prohibited the presence of weapons in places where people gathered
8 together, interacted, and exchanged goods and services. The sensitive place laws
9 clearly show that nineteenth-century lawmakers were concerned about firearms and
10 other weapons in crowds, and the ways in which they rendered innocent people
11 vulnerable to injury or death. The travel exception to public carry laws was not a
12 contravention of that policy—instead, it was a corollary which allowed for weapon-
13 carrying in isolated and potentially dangerous places in contradistinction to those
14 enjoying the protections of community.

15 29. An appellate case from 1879 (involving a travel exception) held that:
16 “The court decided the case on the ground that defendant, whilst stopping over at
17 Marianna, could not be said to be on a journey, and should, to avoid a breach of the
18 law, have deposited his pistols with his baggage, and not carried them on his person.
19 This is correct, if the appellant was really wearing them, or either of them, as a
20 weapon. The exception in the statute is to enable travelers to protect themselves on
21 the highways, or in transit through populous places—not to allow them the privilege
22 of mixing with the people in ordinary intercourse, about the streets, armed in a
23 manner which, upon a sudden fit of passion, might endanger the lives of others.
24 Travelers do not need weapons, whilst stopping in towns, any more than citizens do.
25 They should lay them aside, unless the delay be slight, and the journey soon
26 resumed.”²⁴ An Alabama appellate court affirmed the decision of a lower court judge
27 who, even though he acquiesced that the defendant had a right to carry a concealed

28 ²⁴ *Carr v. State*, 34 Ark. 448 (1879).

1 weapon while traveling on a dangerous stretch of road, instructed the jury that “if
2 they further believed, from all the evidence in the case, that the defendant was in the
3 daily habit of coming to the city, engaging in his business in the city from morning
4 until evening, mingling with the inhabitants of the city in business and social
5 intercourse, and carried a pistol concealed about his person during this time, not being
6 justified or excused otherwise than for the reason of his having to travel” along the
7 dangerous stretch of roadway, “then he would be guilty, as charged in the
8 indictment.”²⁵ A Tennessee decision rejected the idea that a “journey” meeting the
9 standards of a travel exception “should embrace a mere ramble in one’s own
10 neighborhood across the lines of contiguous counties.”²⁶ The court’s final word was
11 that “The evil intended to be corrected is the carrying of deadly weapons on the
12 streets, in society, in the community, or among the people with whom we are in the
13 habit of associating—a habit which will ultimately convert a good man into an
14 assassin, and a brave man into a coward.”²⁷ These are only a small sample of the
15 travel-related cases that formed the corpus of traveler-exception jurisprudence
16 associated with nineteenth century concealed weapon laws.²⁸

17 30. Judges recognized that terms like “travel” and “journey” needed to be
18 interpreted, and that hard-and-fast rules must remain elusive. According to an
19 Arkansas court, “The jury, or court sitting as such, can best judge of all the
20 circumstances, and determine whether the spirit of the law has been violated. No rule
21 with regard to this can be formulated. The intent governs, and the question of fact is,
22 was the defendant really prosecuting his journey, only stopping for a temporary
23 purpose; or had he stopped to stay awhile, mingling generally with the citizens, either

24 ²⁵ *Eslava v. State*, 49 Ala. 355 (1873).

25 ²⁶ *Smith v. State*, 50 Tenn. 511 (1872).

26 ²⁷ *Smith v. State*, 50 Tenn. 511 (1872).

27 ²⁸ See also *Darby v. State*, 23 Tex. Ct. App. 407 (1880), “He was not a traveler. He resided
28 in Williamson county, and was merely going from his residence to the county site of said county,
a distance of about eighteen miles, intending to return the next day. These facts certainly did not
constitute him a traveler, within the common meaning of that word, and within the spirit of the
statute.” See also Shepherd, “Who Is the Arkansas Traveler,” 466-482.

1 for business or pleasure.”²⁹ A contemporary Tennessee court emphasized legislative
2 intent by saying “It is true, the Legislature has not undertaken to define a journey, or
3 to say whether it shall be a long or short one, but has left the courts to interpret it in
4 the light of good sense, and with regard to the spirit and intent of the statute itself,
5 with the positive injunction in the fourth section of the Act that the courts shall give
6 it a liberal construction so as to carry out its true intent and meaning”—which was to
7 reduce the needless carrying of weapons in public.³⁰

8 31. An illustrative travel-related case arose in Texas in 1889. A man was
9 convicted of violating the state’s public carry law (which prohibited openly borne as
10 well as concealed deadly weapons) by carrying a pistol on his travels to a distant
11 town and keeping it on his person while he visited various establishments there.
12 When he appealed his conviction on the ground that he was a traveler in an unfamiliar
13 city, the appellate court disagreed. He had the right to carry the pistol on the road, in
14 the wagon yard upon his arrival in town, and within the town “for a legitimate
15 purpose, such as to procure a conveyance, or provisions, or to transact other business
16 connected with the prosecution of his journey.” But that protection ceased when his
17 purpose changed from business to leisure—it did not confer upon him a right to “idly
18 stroll through its streets and visit its gambling dens and saloons and public places,
19 armed with a pistol.” To do otherwise would “cause our cities and towns to be
20 infested with armed men, while the citizens of such places would be prohibited from
21 carrying arms to protect themselves from these privileged characters.” The judge’s
22 statement clearly shows that townspeople and locals going about their everyday lives
23 were not understood to fall within the statute’s traveler exemption.

24 32. Public carry laws in force during the late eighteenth and nineteenth
25 centuries, whether they employed language from English common law or took the

26 ²⁹ *Carr v. State*, 34 Ark. 448 (1879).

27 ³⁰ *Smith v. State*, 50 Tenn. 511 (1872), “The evil intended to be corrected is the carrying of
28 deadly weapons on the streets, in society, in the community, or among the people with whom we
are in the habit of associating—a habit which will ultimately convert a good man into an assassin,
and a brave man into a coward.”

1 shape of concealed-carry laws, applied to public spaces in American communities
2 large and small. The exceptions which some concealed weapon laws carved out for
3 travelers remained closely guarded by appellate courts and did not apply to everyday
4 travel.

5 **Regulations of Public Carry Through Penal Code and Criminal Enactments**

6 33. Even though the English common law inherited by the colonies had
7 provided an avenue for disarming public spaces through the Statute of Northampton,
8 nineteenth-century Americans chose to address the problem of weapon-carrying
9 through new criminal enactments. Some of the earlier statutes and ordinances
10 originated in southern and southwestern³¹ areas and spread across much of the
11 country by the Civil War Era. Regulations carried on unabated in the postbellum era.

12 34. An early example of an American state government translating a
13 common law violation of the Statute of Northampton into a state-level statute
14 occurred in Massachusetts in 1795. Justices of the peace were empowered to “cause
15 to be staid and arrested” anyone who disturbed the peace, engaged in assault or affray,
16 or “shall ride or go armed offensively, to the fear or terror of the good citizens of this
17 Commonwealth.”³² Much of the statute’s text repeated phrasing and clauses from
18 within the Statute of Northampton, and prohibited the carrying of arms into public
19 spaces without a justifiable reason. Anyone violating this rule would have been
20 subject to questioning by local officials and “bound” to the peace through a peace
21 bond or surety, which was itself part of the common law inheritance.³³ Decades later,
22 Delaware adopted a nearly identical policy.³⁴

23 ³¹ In the antebellum era, the Old Southwest stretched from Louisiana to Missouri, Kentucky,
24 and Alabama.

25 ³² 1795 Mass. Ch. 2, 436; from *Acts and Laws Passed by the General Court of*
26 *Massachusetts: Begun and held at Boston, in the County of Suffolk, on Wednesday the Twenty-*
eighth Day of May, Anno Domini 1794; and from thence continued by adjournment, to Wednesday,
the Fourteenth of January, 1795. The act was passed on January 29, 1795.

27 ³³ For more on peace bonds and surety, see Paragraph 61.

28 ³⁴ *Revised Statutes of the State of Delaware, to the Year of Our Lord 1852* (Dover: S. Kimmey, 1852), Title XV, ch. 97, 333 § 13. “Any justice of the peace may also cause to be arrested and bind to surety of the peace all affrayers, rioters, breakers and disturbers of the peace, and all who go armed offensively to the terror of the people, or are otherwise disorderly and dangerous.”

1 35. The 1795 Massachusetts law, which addressed going armed within the
2 context of riot, affray, and disturbing the peace, was translated into a penal code
3 edition published in 1836, and in that process the “going armed” portion was isolated
4 into its own section. It read: “If any person shall go armed with a dirk, dagger, sword,
5 pistol, or other offensive and dangerous weapon, without reasonable cause to fear an
6 assault or other injury, or violence to his person, or to his family or property, he may,
7 on complaint of any person having reasonable cause to fear an injury, or breach of
8 the peace, be required to find sureties for keeping the peace, for a term not exceeding
9 six months, with the right of appealing as before provided.”³⁵ The statute clarified
10 the law by showing that “going armed” was a separate offense from disturbing the
11 peace, riot, and affray.

12 36. The early nineteenth century was a time when many states were drafting
13 legal codes—making the law known and accessible to the people, which was part of
14 the democratic spirit of the age. In undertaking that process, numerous states adopted
15 verbatim the penal code version of the Massachusetts public carry law. It was
16 repeated in Wisconsin (1839), Maine (1840), Michigan (1846), Virginia (1847),
17 Minnesota (1851), and Oregon (1853).³⁶ Much like Massachusetts, Maine had a
18 preexisting statute vesting justices of the peace with necessary powers to arrest and
19 penalize affrayers and disturbers of the peace.³⁷ But for Wisconsin, Michigan,

20 ³⁵ *Revised Statutes of the Commonwealth of Massachusetts, Passed November 4, 1835*
21 (Boston: Dutton & Wentworth, 1836), ch. 134, 70 § 16. This section cites “Persons who go armed
22 may be required to find sureties for the peace &c., 1794, 26 § 2,” which appears to be a reference
23 to 1795 Mass. ch. 2, 436; *see also supra*, n. 41.

24 ³⁶ 1838-1839, Wisconsin, *Statutes of Wisconsin*, “An Act to Prevent the Commission of
25 Crimes,” 381 § 16; *Revised Statutes of the State of Maine, Passed October 22, 1840* (Augusta: W.
26 R. Smith, 1841), ch. 169, “Of Proceedings for the Prevention of Crimes,” 709 § 16; *Revised Statutes*
27 *of the State of Michigan, Passed and Approved May 18, 1846* (Detroit: Bagg & Harmon, 1846),
28 Title 31, ch. 162, “Of Proceedings to Prevent the Commission of Crime,” 692 § 16; 1847 Virginia,
1847-1848 Session, Title 3, ch. 14, “Of Proceeding to Prevent the Commission of Crimes,” 129,
§16; *Revised Statutes of the Territory of Minnesota, Passed at the Second Session of the Legislative*
Assembly, Commencing January 1, 1851 (St. Paul: J. M. Goodhue, 1851), ch. 12, “Of Proceedings
to Prevent the Commission of Crimes,” 528 § 18; 1853 Oregon, General Laws, 5th Regular Session,
220 § 17.

³⁷ 1821 Maine ch. 76, “An Act describing the power of Justices of the Peace in Civil and
Criminal Cases,” 285, §1.

1 Minnesota, and Oregon, this was their first public carry law.

2 37. Virginia, like Maine, had previously enacted a public carry law; but
3 unlike Maine, that statute was not identical to the Massachusetts approach adopted
4 in 1836. In 1838, Virginia had enacted a different type of law—one that explicitly
5 prohibited the carrying of concealed weapons and punished such behavior by fine
6 and/or jail time.³⁸ The extent to which this 1838 statute coexisted and overlapped
7 with the 1847 statute remains unknown³⁹, but the example of Virginia highlights the
8 fact that there were different approaches to public carry legislation during the
9 antebellum nineteenth century. The other approach—which was more common in
10 southern states—also grew out of the Statute of Northampton, but tended to prohibit
11 *concealed* weapons and require criminal penalties for violation rather than sureties
12 to keep the peace.

13 38. A good example of the southern, concealed-carry approach to public
14 carry legislation comes from Tennessee. An 1801 public carry law made use of
15 longstanding common law language and phrases providing that anyone who “shall
16 publicly ride or go armed to the terror of the people, or privately carry any dirk, large
17 knife, pistol or any other dangerous weapon, to the fear or terror of any person” would
18 be required to post a bond, go to jail, or “be punished as for a breach of the peace, or
19 riot at common law.”⁴⁰ An updated statute from 1821 read: “Every person so
20 degrading himself by carrying a dirk, sword cane, Spanish stiletto, belt or pocket
21 pistols, either public or private, shall pay a fine of five dollars for every such
22 offence.”⁴¹ The language had been simplified substantially, and the list of prohibited

23 ³⁸ 1838 Virginia ch. 101, “An Act to prevent the carrying of concealed weapons,” 76 § 1.
24 “That if any person shall hereafter habitually or generally keep or carry about his person any pistol,
25 dirk, bowie knife, or any other weapon of the like kind, from the use of which the death of any
26 person might probably ensue, and the same be hidden or concealed from common observation”

25 ³⁹ It is unclear whether the 1847 Virginia penal code section pertaining to going armed
26 effectively repealed the statute put in place in 1838.

26 ⁴⁰ Judge Edward Scott, *Laws of the State of Tennessee: Including Those of North Carolina*
27 *Now in Force in this State: From the Year 1715 to the Year 1820, Inclusive* Page 710, Image 714
(Vol. 1, 1821), *The Making of Modern Law: Primary Sources*.

28 ⁴¹ Robert Looney Caruthers, *A Compilation of the Statutes of Tennessee, of a General and*

1 weapons (a deviation from the traditional Statute of Northampton and common law
2 phrasing) formed the basis for the statute.

3 39. Tennessee was not the only state to adopt this language to regulate
4 public carry during the early nineteenth century. Corresponding weapon restrictions
5 were enacted in Louisiana and Kentucky in 1813, at a time when both states were
6 experiencing dramatic population growth and economic expansion as a result of river
7 transportation.⁴² Like Tennessee, their statutes provided a list of prohibited deadly
8 weapons that could not be concealed on the person and penalized violators with a
9 fine and/or jail time.⁴³ States and territories following this model included: Indiana
10 (1819), Florida (1835), Georgia (1837), Virginia (1838), Alabama (1839), Ohio
11 (1859), and New Mexico (1859).⁴⁴

12 40. In the post-Civil War period, when access to pistols and political
13 instability were fostering a rise in gun violence, a first step in many communities was
14 to enact or strengthen public carry laws. Jurisdictions that did not already have such

15 _____
16 Permanent Nature, from the Commencement of the Government to the Present time: With
17 References to Judicial Decisions, in Notes, to Which is Appended a New Collection of Forms Page
18 100, Image 105 (1836) available at The Making of Modern Law: Primary Sources.

19 ⁴² See 1813 La. Acts 172, An Act Against Carrying Concealed Weapons, and Going Armed
20 in Public Places in an Unnecessary Manner § 1 (“any person who shall be found with any concealed
21 weapon, such as a dirk, dagger, knife, pistol, or any other deadly weapon concealed in his bosom,
22 coat, or in any other place about him that do not appear in full open view . . .”); 813 Ky. Acts 100,
23 An Act to Prevent Persons in this Commonwealth from Wearing Concealed Arms, Except in
24 Certain Cases, ch. 89 § 1 (“any person in this Commonwealth, who shall hereafter wear a pocket
25 pistol, dirk, large knife, or sword in a cane, concealed as a weapon, unless when travelling on a
26 journey, shall be fined in any sum, not less than one hundred dollars . . .”);

27 ⁴³ Kentucky mandated a fine of not less than \$100, half of which to go to the informer.
28 Louisiana provided for a fine of \$20 to \$50, with half to go to the informer; violations occurring
before a court received a find of not less than \$100 and imprisonment up to six months. See 1813
Ky. Acts 100, An Act to Prevent Persons in this Commonwealth from Wearing Concealed Arms,
Except in Certain Cases, ch. 89 § 1; 1813 La. Acts 172, An Act Against Carrying Concealed
Weapons, and Going Armed in Public Places in an Unnecessary Manner § 1.

⁴⁴ 1819 Indiana ch. 23, “An Act to prohibit the wearing of concealed weapons,” 39; 1835
Florida ch. 860, “An Act to prevent any person in this Territory from carrying arms secretly,” 318;
1837 Georgia, “An Act to guard and protect the citizens of this State, against the unwarrantable and
too prevalent use of deadly weapons,” 90; 1838 Virginia ch. 101, “An Act to prevent the carrying
of concealed weapons,” 76; 1838 Alabama ch. 77, “An Act to suppress the evil practice of carrying
weapons secretly,” 67-68; 1859 Ohio “An Act to prohibit the carrying or wearing of concealed
weapons,” 3:56; 1859-1860 New Mexico “An Act prohibiting the carrying of Weapons, concealed
or otherwise,” 94–99 (English and Spanish).

1 laws began enacting them, and those using the older mechanism of sureties to keep
2 the peace often transitioned toward the implementation of criminal statutes
3 mandating fines and/or jail time for violators.⁴⁵ The closing third of the nineteenth
4 century saw a flurry of this activity as states and municipalities tried new penalties,
5 added new weapons to the lists of prohibited weapons, and generally attempted to
6 eliminate small, easily concealable weapons from the public sphere.⁴⁶ By the turn of
7 the twentieth century, no fewer than sixteen more states and territories had enacted
8 public carry laws—in other words, at least 35 of the 50 states and territories
9 (including the District of Columbia) in existence as of 1899 had public carry laws.⁴⁷

10 ⁴⁵ The Repository of Historical Gun Laws, a database maintained by the Duke Center for
11 Firearms Law, reflects that American state and local governments enacted statutes and ordinances
12 specifically relating to “carrying weapons” in large numbers during the period from the close of the
13 Civil War in 1865 through the end of the nineteenth century. See
14 <https://firearmslaw.duke.edu/repository/search-the-repository/>.

15 ⁴⁶ In the second half of the nineteenth century, items like metal knuckles and razor blades
16 became targets for proscription alongside bowie knives, pistols, and sword canes. For example, see
17 1883 Ariz., ch. 36 (“dirk, dirk-knife, bowie-knife, slung-shot, brass-knuckles, or pistol . . .”); 1882
18 W.V., ch. 85 (“revolver or other pistol, dirk, bowie knife, razor, slung shot, billy, metallic or other
19 false knuckles, or any other dangerous or deadly weapon of the like kind or character . . .”); 1871
20 Tex., ch. 34 (“any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife,
21 or any other kind of knife manufactured or sold for the purposes of offense or defense . . .”); 1886
22 Md., ch. 375 (“any pistol, dirk-knife, bowie-knife, slung-shot, billy, sand-club, metal knuckles,
23 razor or any other dangerous or deadly weapon of any kind whatsoever, (penknives excepted) . .
24 . . .”); 1873 Penn., ch. 810 (“any pistol, dirk-knife, slung-shot or deadly weapon . . .”); 1879 N.C., ch.
25 127 (“any pistol, bowie-knife, dirk, dagger, slung-shot, loaded cane, brass, iron or metallic
26 knuckles, or other deadly weapon of like kind . . .”); 1866 N.Y., ch. 716 (“any instrument or weapon
27 of the kind commonly known as slung-shot, billy, sand club or metal knuckles, and any dirk or
28 dagger (not contained as a blade of a pocket knife), or sword cane or air gun . . .”). This is not an
exhaustive list.

20 ⁴⁷ See *supra*, pp. 17–24 and corresponding citations; 1862 Colorado ch. 4, “An Act to
21 Prevent the Carrying of Concealed Deadly Weapons in the Cities and Towns of this Territory,” 56;
22 1863 California ch. 485, “An Act to prohibit the Carrying of Concealed Weapons,” 748-749; 1864
23 Montana ch. 43, “An Act to Prevent the Carrying of Concealed Deadly Weapons in the Cities and
24 Towns of this Territory,” 355; 1864 Dakota Territory *Penal Code* § 455; 1871 Texas ch. 34, “An
25 Act to Regulate the Keeping and Bearing of Deadly Weapons,” 25–27; Harvey B. Hurd, editor,
26 *Revised Statutes of the State of Illinois* (Springfield: Illinois Journal Co., 1874), ch. 38 § 56,
27 “Disturbing the Peace”; 1878 Mississippi ch. 46, “An Act to prevent the carrying of concealed
28 weapons, and for other purposes,” 175–76; Guy A. Brown, compiler, *Compiled Statutes of the State
of Nebraska* (Omaha: Gibson, Miller & Richardson, 1881), ch. 5, “Offenses Against Public Peace
and Justice,” § 25; Washington (State), *Code of Washington* (Olympia: C. B. Bagley, 1881), 181 §
929; 1882 West Virginia ch. 110, 317 § 8; 1883 Missouri 76; 1888 Idaho “An Act Regulating the
Use and Carrying of Deadly Weapons in Idaho Territory,” 23; 1889 Arizona ch. 13, “An Act
Defining and Punishing Certain Offenses Against the Public Peace,” 30–31; 1890 Oklahoma
“Crimes and Punishment,” ch. 25, Art. 38, “Of Crimes Against the Public Health and Safety,” 476
§ 20; “To Punish the Carrying or Selling of Deadly or Dangerous Weapons within the District of

1 Hawaii, which became a territory in 1900, had enforced public carry regulations since
2 1852.⁴⁸ Those states which did not have public carry laws generally had local
3 ordinances on the subject in the larger towns or had other statutes pertaining to
4 carrying weapons with intent to assault, burglarize, etc.⁴⁹

5 **Taxation and Sensitive Places Statutes as Regulations on Public Carry**

6 41. Other methods of gun and weapon regulation than public carry existed
7 in the nineteenth century, including taxation policies and disarmament requirements
8 at certain sensitive places. These laws often coexisted with public carry laws, adding
9 another regulatory layer to Americans' relationships to their weapons and their
10 communities. These policies were designed to protect the public by discouraging
11 people from being armed in public spaces, or established standards for dealers in
12 firearms that could appropriately regulate the trade in and access to deadly weapons
13 within American communities.

14 **A. Taxation**

15 42. One mode of regulating weapons during the antebellum nineteenth
16 century involved taxation.⁵⁰ The taxing power exists to raise revenue, but it has also

17 Columbia, and for other Purposes,” ch. 159, 52 Congress, Public Law 52–159, 27 Stat. 116 (1892),
18 116-117; *Revised Codes of the State of North Dakota* (Bismarck: Tribune Co., 1895), “Penal Code:
19 Public Health and Safety,” 1293 § 7313; Fred F. Barker, *Compilation of the Acts of Congress and
20 Treaties Relating to Alaska: From March 30, 1867 to March 3, 1905* (Washington, D.C.: U.S. Gov.
21 Print. Off., 1906), “Appendix A.,” ch. 6, “Offenses Against the Public Peace,” 139–140 § 118.

22 ⁴⁸ “An Act to Prevent the Carrying of Deadly Weapons,” *Hawaii: Kingdom of
23 Kamehameha, III-V, Regular Sessions* (1852), 19.

24 ⁴⁹ Jersey City, New Jersey had local public carry and registration laws, illustrating the
25 approach of using ordinances in the larger cities of states without a public carry statute. See
26 *Ordinances of Jersey City, Passed by the Board of Aldermen since May 1, 1871* (1874), 41, 86–87.
27 California also pursued what was essentially a local option for license-to-carry programs. See *infra*,
28 pp. 47–48 and corresponding citations. New York used the approach of penalizing being in
possession of certain weapons with intent to commit a crime. See John W. Edmonds, editor,
Statutes at Large of the State of New York (Albany: Weed, Parsons & Company, 1874), ch. 716,
“An Act to prevent the furtive possession and use of slung-shot and other dangerous weapons,”
810–811.

⁵⁰ The Duke Repository of Historical Gun Laws identifies more than one hundred
“taxation/registration” laws across the colonial period to 1930. Further research has uncovered (and
will likely continue to uncover) additional laws, at both the state and local level. See, e.g. Dave
Kopel, “Bowie Knife Statutes,” *The Volokh Conspiracy* (November 20, 2022),
<https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899/> (describing personal taxes
upon weapons not in Repository). But some example regulations from the Repository include:

1 historically been exercised as part of the police power. Sometimes taxes were
2 straightforward attempts to prohibit the carrying of weapons without saying so
3 explicitly. This approach was practiced in Florida during its territorial phase and
4 remained a policy option for much of the nineteenth century.⁵¹ In 1835, the territorial
5 government enacted a public carry law with a steep fine of \$50 to \$500 for violations
6 and an exemption for “carrying arms openly, outside of all their clothes.”⁵²
7 Unsatisfied with the public carry law, leaders established a new series of prohibitive
8 taxes designed to further reduce the presence of deadly weapons in public. This 1838
9 enactment held that anyone who chose “to vend dirks, pocket pistols, sword canes,
10 or bowie knives” had to first pay an annual tax of \$200, “and all persons carrying
11 said weapons openly shall pay...a tax of ten dollars annually.”⁵³ In 2023 dollars, the
12 annual occupation tax would amount to approximately \$6,300, and the annual open
13 carry tax would amount to approximately \$320.⁵⁴ In a sparsely populated, rural
14 environment, these taxes were clearly designed to discourage trade in and public
15 carry of deadly weapons. The architects of the statute saw it as intrinsically connected
16 to the previously enacted concealed carry restriction—as a way of more effectively
17

18 Chas. Ben. Darwin, *Ordinances of the City of Burlington, with Head Notes and an Analytic Index*
19 *Page 149–50, Image 149–150 (1856)* available at *The Making of Modern Law: Primary Sources*
20 *(taxing shooting batteries within the city); 1851 R.I. Pub. Laws 9, An Act In Amendment Of An*
21 *Act Entitled An Act Relating To Theatrical Exhibitions And Places Of Amusement §§ 1, 2 (levying*
22 *an annual tax of no more than \$200 on anyone owning rifle galleries or pistol galleries in the city);*
John W.A. Sanford, The Code of the City of Montgomery, Prepared in Pursuance of an Order of
the City Council of Montgomery Page 7–9, Image 12 (1861) available at *The Making of Modern*
Law: Primary Sources (levying an annual tax of unspecified value upon pistol galleries within the
city).

23 ⁵¹ In some ways, possession taxes came close to being carry taxes or even proto-licensing
24 policies. Taxation as a form of public carry regulation was considered in Texas in 1866 as well as
25 in Tennessee in 1893. See *infra*, n. 124; “Tennessee State News,” *Bolivar Bulletin* (Bolivar,
26 Tennessee) February 10, 1893, 1, <https://chroniclingamerica.loc.gov/lccn/sn89058007/1893-02-10/ed-1/seq-1/>.

27 ⁵² John P. Duval, *Compilation of the Public Acts of the Legislative Council of the Territory*
28 *of Florida, Passed Prior to 1840 Page 423, Image 425 (1839)* available at *The Making of Modern*
Law: Primary Sources. See supra, nn. 53, 57.

⁵³ 1838 Fla., ch. 24.

⁵⁴ The amounts reach \$319.14 and \$6,382.73. See: <https://www.in2013dollars.com/us/inflation/1838?amount=200>.

1 reducing the number of weapons carried in public spaces.⁵⁵

2 43. Some southern states also placed annual taxes upon the owners of
3 deadly weapons. Real property exceeding certain thresholds would be taxed,
4 “intangible” property like investments were taxed, and moveable property (especially
5 luxury goods or items associated with vices) could be taxed at standard rates as well.⁵⁶
6 Bowie knives, dirks, and pistols sometimes made their way into the lists of taxable
7 items.⁵⁷ A North Carolina revenue measure from 1850 provides an example of
8 moveable property taxes in the antebellum South. The law spanned nine pages and
9 included nineteen sections spelling out which forms of property could be taxed, at
10 what rates, how they were to be paid, the manner in which tax information should be
11 reported, and the penalties for failure to comply with the law.⁵⁸ Section 5 provided
12 for ad valorem taxes upon “plate, jewelry, vehicles, &c.,” a category that included
13 items like buggies, pianofortes, watches, billiard tables, and playing cards alongside
14 pistols and bowie knives.⁵⁹ The items on the list were decidedly *not* necessities, and
15 they included accoutrements associated with gambling, drinking, sumptuous living,
16 and the reckless carrying of weapons—in other words, items associated with
17 extravagance, vice, and irresponsibility.⁶⁰ The rate of tax upon pistols and knives was
18 relatively high: \$1 on all pistols (“except such as shall be used exclusively for
19

20 ⁵⁵ The title of the 1838 tax was “An Act in addition to An Act, (approved January 30, 1835,) entitled An Act to prevent any person in this Territory from carrying arms secretly.” *See supra*, n. 68.

21 ⁵⁶ Brian Sawers, “The Poll Tax before Jim Crow,” *American Journal of Legal History* 57, no. 2 (June 2017), 175–78.

22 ⁵⁷ For example, see 1850 NC, ch. 121; 1856 N.C., ch. 34; 1866 N.C. ch. 21; Anderson Hutchinson, *Code of Mississippi: Being an Analytical Compilation of the Public and General Statutes of the Territory and State, with Tabular References to the Local and Private Acts, from 1798 to 1848*, Page 182, Image 182 (1848) available at *The Making of Modern Law: Primary Sources*. This is not an exhaustive list. Mississippi repealed its tax upon “Bowie-knives, Sword-canes and Dirk-knives” during the first year of fighting in the Civil War. 1861 Miss. Ch. 125.

23 ⁵⁸ 1850 North Carolina, ch. 121.

24 ⁵⁹ *See id.* § 5.

25 ⁶⁰ Law and policy scholars writing about taxation have historically understood the tax power as being invoked sometimes for the raising of revenue and at other times for the discouragement of problematic activities or behaviors. *See supra*, n. 65.

1 mustering”) and bowie knives, and \$0.50 on all dirks and sword canes.⁶¹ One dollar
2 was the same rate of taxation as that for buggies and carriages valued at \$100-200.
3 The relatively high tax rate on knives and pistols seems to have prompted the addition
4 of a proviso that limited its scope to “only such pistols, bowie knives, dirks, and
5 sword canes, as are used, worn or carried about the person of the owner.”⁶² In other
6 words, a person wanting to avoid the tax upon these deadly weapons need only leave
7 them at home rather than carry them habitually. This North Carolina tax was not
8 necessarily prohibitive, but it certainly incentivized public disarmament through
9 potential tax savings. In this way, the 1850 North Carolina possession tax functioned
10 much like the 1835 Florida open carry tax in its purpose of discouraging the public
11 carry of deadly weapons.

12 44. Occupation taxes and sales taxes were another taxation method
13 employed by postbellum lawmakers. For instance, an occupation tax in Alabama
14 applied to “dealers in pistols, or pistol cartridges, or bowie-knives, or dirk-knives,
15 whether principal stock in trade or not.” The dealer had to pay an annual licensing
16 fee of \$300 in order to legally conduct business, which amounts to nearly \$10,000
17 today.⁶³ In 1894, Georgia enacted a new occupation tax law that applied to “dealers
18 in pistols and other weapons.” A dealer in “pistols, toy pistols shooting cartridges,
19 pistol or rifle cartridges, dirks, bowie-knives, or metal knucks” had to pay twenty-
20 five dollars per place of business—which would be nearly \$900 today.⁶⁴

21 ⁶¹ There was an exception for these weapons that were “kept in shops and stores for sale.”
22 *See supra*, n. 75.

23 ⁶² *Id.*

24 ⁶³ *See* 1892 Alabama ch. 95, 183; and Robert C. Brickwell, et al, *Code of Alabama, Adopted*
25 *by Act of the General Assembly Approved February 28, 1887* (Nashville: Marshall & Bruce, 1887),
26 ch. 9, Art. I § 629. The \$300 licensing fee was in effect some time prior to 1887, and an 1892
27 amendment closed a loophole for dealers in “pistol cartridges.” The subsequent Article specifies
28 that all licenses expire annually; *see* ch. 9, Art. II § 634.

29 ⁶⁴ Acts of the General Assembly of the State of Georgia (1894) available online from the
30 Digital Library of Georgia; *see*
31 https://dlg.usg.edu/record/dlg_zlgl_75343012/fulltext.text and https://dlg.usg.edu/collection/dlg_zlgl?range%5Byear_facet%5D%5Bbegin%5D=1880&range%5Byear_facet%5D%5Bend%5D=1899&sort=year+desc. Also, there were likely many more occupation taxes, though they have not

1 45. In the early twentieth century, members of the Texas legislature put in
2 place a 50% tax on the gross receipts from the sale of pistols. All dealers had to report
3 quarterly the number sold along with payment, which functioned as an occupation
4 tax for them to remain in business.⁶⁵ The intention of the measure was to make pistols
5 prohibitively expensive. Dealers and buyers found loopholes, which the lawmakers
6 did not attempt to close. But a trade organization representing gun dealers opposed
7 the law and challenged it in state court. A Texas appellate court upheld the stringent
8 sales tax, describing the business of selling pistols as one “hurtful to the welfare of
9 society” and among that class of occupations “detrimental to the health, morals, or
10 good order of society.” As a result, the court reasoned that the legislature “would
11 have the right, not only to levy an excessive tax, which would be prohibitory thereof,
12 but could go further and absolutely prohibit any one from engaging therein.”⁶⁶

13 **B. Sensitive Places**

14 46. Statutes disarming certain sensitive places date to the colonial era and
15 were already longstanding by the 1870s, but the escalating gun violence prompted an
16 overt expansion of that policy to meet the needs of the day. Where historical laws
17 had protected polling places and court buildings (which were the major occasions for
18 public gatherings in rural early America—not just sites of government activity),
19 updated laws added theaters, open-air presentations, and even private parties to the
20 assemblies protected through disarmament. In 1869, Tennessee lawmakers
21 prohibited the carrying of deadly weapons “concealed or otherwise” at elections or
22 “any fair, race course, or other public assembly of the people.”⁶⁷ Similarly in 1870,

23 _____
24 been comprehensively indexed as of yet. Twenty-five dollars in 1894 would be \$874.53 in 2023
dollars. See <https://www.in2013dollars.com/us/inflation/1894?amount=25>.

25 ⁶⁵ 1907 Texas ch. 18, “An Act providing for the levy and collection of an occupation tax . .
.[.]” 485 § 12.

26 ⁶⁶ *Caswell & Smith v. State*, 148 S.W. 1159 (Tex. App. 1912).

27 ⁶⁷ Ch. 22, 1869 Tenn. Pub. Acts 23[22] (36th Assembly, 1st Sess.), “An Act to Amend the
28 Criminal Laws of the State,” § 2 (Ex. M). The section read in full: “That it shall not be lawful for
any qualified voter or other person attending any election in this State, or for any person attending
any fair, race course, or other public assembly of the people, to carry about his person, concealed

1 Georgia lawmakers prohibited the carrying of deadly weapons “to any court of
2 justice, or any election ground or precinct, or any place of public worship, or any
3 other public gathering in this State, except militia muster-grounds.”⁶⁸ A law from
4 Texas prohibited all deadly weapons, including “fire-arms, wither known as a six
5 shooter, gun or pistol of any kind” at a host of events ranging from churches to polling
6 places “or other social gathering composed of ladies and gentlemen.”⁶⁹ Laws in effect
7 in Missouri in 1879 and Oklahoma Territory in 1890 were nearly identical to it.⁷⁰
8 Vermont and Mississippi both prohibited weapons inside schools, with the
9 Mississippi legislature prohibiting students at colleges from possessing deadly
10 weapons on campuses or within two miles of them (effectively disarming college
11 students within the limits of college towns).⁷¹ Other laws prohibited the carrying of
12 weapons within the general vicinity of polling places, churches, and parks.⁷²

13 or otherwise, any pistol, dirk, Bowie-knife, Arkansas toothpick, or weapon in form, shape, or size
14 resembling a Bowie knife or Arkansas tooth-pick, or other deadly or dangerous weapon.” The
15 following section (§ 3) stated: “That all persons convicted under the second section of this act shall
16 be punished by fine of not less than fifty dollars, and by imprisonment, or both, at the discretion of
17 the court.”

18 ⁶⁸ Act No. 285, 1870 Ga. Laws 421 (Ex. N). The list of prohibited weapons included “any
19 dirk bowie-knife, pistol or revolver, or any kind of deadly weapon.” There was also no implicit or
20 explicit exception for open carry. Violators convicted received a fine (\$20–50), imprisonment (10–
21 20 days), or both.

22 ⁶⁹ 1870 Tex. Gen. Laws 63, ch. 46 § 1.

23 ⁷⁰ *Revised Statutes of the State of Missouri* (1879), ch. 24 § 1274; 1890 Okla. Stat. 495–96.

24 ⁷¹ *Annotated Code of the General Statute Laws of the State of Mississippi* (1892), “Crimes
25 and Misdemeanors,” § 1030. “A student at any university, college, or school, who shall carry, bring,
26 receive, own, or have on the campus, college or school grounds, or within two miles thereof, any
27 weapon the carrying of which concealed is prohibited, or a teacher instructor, or professor who
28 shall knowingly suffer or permit any such weapon to be carried, or so brought, received, owned, or
had by a student or pupil, shall be guilty of a misdemeanor, and, on conviction, be fined not
exceeding three hundred dollars or imprisoned in the county jail not exceeding three months, or
both.” *Laws of Vermont*, Special Session (1891), No. 85 § 2. “A person who shall carry or have in
his possession while a member of and in attendance upon any school, any firearms, dirk knife,
bowie knife, dagger or other dangerous or deadly weapon shall, upon conviction thereof, be fined
not exceeding twenty dollars.” It is worth noting that disarmament laws and policies had been in
effect at both public and private colleges long before this time. For example, *see* The Minutes of
the Senatus Academicus of the State of Georgia, 1799–1842, at 86 (1810); University of Virginia
Board of Visitors Minutes, 6–7 (October 4–5, 1824); Acts of the General Assembly and Ordinances
of the Trustees, for the Organization and Government of the University of North Carolina, Laws
for the Government of the University, at 15 Chapter V (1838). This is not an exhaustive list.

⁷² 1870 La. Acts 159–60, “An Act to Regulate the Conduct and to Maintain the Freedom of
Party Election,” § 73 (no carry concealed or unconcealed within a half mile of polling places on
election day or registration places on days of voter registration); George Washington Paschal, *A*

1 **History of Public Carry Licensing**

2 47. As structural forces like industrialization and urbanization propelled the
3 growth of more sophisticated governmental administration in the United States, gun
4 policies evolved in ways that increased official oversight of weapon sales and
5 carrying. The sales registries enumerated above placed special requirements on
6 dealers, but the intention behind them was to empower police and other officials to
7 solve crimes by providing them with information.⁷³ In a similar way, licensing either
8 for purchase of a pistol or for public carry of one grew out of American traditions of
9 regulating deadly weapons.

10 48. One of the earliest proponents of licensing as a way of regulating the
11 carrying of pistols was California. The state had enacted a public carry law that
12 prohibited concealed deadly weapons, but residents grew frustrated that it did not
13 seem to be effective. In 1866, members of the state legislature divided over what to
14 do about the problem.⁷⁴ One camp proposed issuing licenses to people who needed a
15 pistol for personal protection. The state did not adopt this proposal and instead
16 repealed the public carry law. In the aftermath of that decision, California municipal
17 governments began passing ordinances that provided for licensing in order to carry a

18
19 *Digest of the Laws of Texas*, 3rd ed. (1873) II: 1317–1318 (no carry concealed or unconcealed
20 within a half mile of polling places on election day or registration places on days of voter
21 registration); John Prentiss Poe, *The Maryland Code : Public Local Laws, Adopted by the General
22 Assembly of Maryland March 14, 1888* (Vol. 2, 1888), 1457 (no carry by any person in Kent County
23 on days of an election); 1886 Md. Laws 315, An Act to Prevent the Carrying of Guns, Pistols, Dirk-
24 knives, Razors, Billies or Bludgeons by any Person in Calvert County, on the Days of Election in
25 said County, ch. 189 § 1 (no carry by any person in Calvert County within 300 yards of polls on
26 election day); 1877 Va. Acts 305, Offenses Against The Peace § 21 (no weapons in church during
27 services, or anywhere beyond one’s on premises on Sundays); Oscar F. Greene, *Revised
28 Ordinances of the City of Boulder* (1899), 157 (no one save city police officers shall carry weapons
into public parks).

⁷³ The examples cited above (*supra*, n. 151, n. 152) included requirements that registries be open for the review of police and others.

⁷⁴ Theodore Henry Hittell, *The General Laws of the State of California, from 1850 to 1864, Inclusive* (1868), “An Act to prohibit the carrying of concealed weapons,” 261 § 1–2. On frustration among the public, see “Concealed Weapons,” *Morning Union* (Grass Valley, California), February 20, 1869 (“The object was to prevent indiscriminate shooting among a class about whose welfare there need not have been any extraordinary solicitude; but the result has been to place the law-abiding portion of the community at the mercy of night-prowlers, footpods, and garroters.”).

1 pistol in public.⁷⁵ The policy proved popular, and by the turn of the twentieth century
2 a majority of California residents lived in municipalities that had implemented a
3 permitting process for the public carry of concealed weapons.⁷⁶ Municipalities
4 elsewhere during the nineteenth century implemented licensing policies: Jersey City,
5 New Jersey did so in 1873 and the District of Columbia in 1892.⁷⁷

6 49. Nineteenth-century licensing laws tended to be discretionary in the
7 sense that public officials exercised judgment in determining who might obtain a
8 license. The procedures involved varied tremendously from one jurisdiction to
9 another. For instance, Sacramento’s 1876 law required a written permit from the
10 Police Commissioners, and specified that those commissioners “may grant written
11 permission to any peaceable person, whose profession or occupation may require him
12 to be out at late hours of the night... .”⁷⁸ Applicants had to pass a two-part test: first,
13 be “peaceable”—an attribute open to interpretation and likely a matter of personal
14 history, demeanor, and reputation; and second, be required by employment to be out
15 late at night. In other words, not all “peaceable” people were eligible for a license at
16 all, such as a clerk whose employer did not require him to work at night; and not all
17 nighttime workers could be considered “peaceable.” In fact, a large portion of people

18
19 ⁷⁵ For example, see Ordinance No. 84: Prohibiting the Carrying of Concealed Deadly
20 Weapons, Apr. 24, 1876, reprinted in R. M. Clarken, editor, *Charter and Ordinances of the City of*
21 *Sacramento* (1896), 173; Prohibiting the Carrying of Concealed Deadly Weapons, Sep. 17, 1880,
22 reprinted in *General Orders of the Board of Supervisors Providing Regulations for the Government*
23 *of the City and County of San Francisco* (1884), 8; “Concealed Weapons,” *Napa Daily Register*
24 (Napa, California), November 10, 1880, 2. This is not an exhaustive list. See also Patrick J. Charles,
25 “The Fugazi Second Amendment: Bruen’s Text, History, and Tradition Problem and How to Fix
26 It,” *Cleveland State Law Review* 71, no. 3 (2023), 660 (“Although it is impossible to state with
27 historical precision when and where the first armed carriage licensing law was enacted, based on
28 the historical evidence available, it appears that California was at the forefront.”).

⁷⁶ Saul Cornell, “The Right to Regulate Arms in the Era of the Fourteenth Amendment,”
UC Davis Law Review Online 55 (September 2021), 84.

⁷⁷ *Ordinances of Jersey City, Passed by the Board of Aldermen since May 1, 1871* (1874),
“An Ordinance in Relation to the Carrying of Dangerous Weapons,” § 3 (*supra*, n. 116); *supra*, n.
115 § 2.

⁷⁸ Ordinance No. 84, Prohibiting the Carrying of Concealed Weapons, April 24, 1876,
reprinted in R. M. Clarken, ed., *Charter and Ordinances of the City of Sacramento* (1896), 173.
Quoted in Brief of Amicus Curiae Patrick J. Charles, Appendix 1, p. 2-3, *New York State Rifle and*
Pistol Ass’n. v. Bruen, 597 U.S. 1 (2022).

1 whose occupations kept them out late at night were the very ones who appeared to
2 threaten the physical safety of the “peaceable” people seeking concealed-carry
3 permits in the first place.

4 50. Several cities in New York, including New York City and Brooklyn,
5 which were among the most populous cities in the country in the late-nineteenth
6 century, also required some showing of good character from the permit applicant. A
7 person over twenty-one (21) years “who has occasion to carry a pistol for his
8 protection” could apply to local police, who, “if satisfied that the applicant is a proper
9 and law-abiding person,” could recommend the applicant to yet higher police
10 authorities for a permit “allowing him [the applicant] to carry a pistol of any
11 description.”⁷⁹ Assessing whether a person was “proper and law-abiding” was a
12 matter of official determination, seemingly based upon an applicant’s criminal
13 history in addition to his/her reputation for or appearance of propriety.

14 51. Other jurisdictions had different rules, like Lincoln, Nebraska, whose
15 law prohibited concealed carry except for officers of the law, “persons whose
16 business or occupation may seem to require the carrying of weapons for their
17 protection,” and licensees. There was some discretion for people to assess their
18 personal safety and carry weapons *based upon their business or occupation*, not their
19 individual preferences. Other than being good for a term of one year and requiring a
20 fee of \$0.50, the procedure for obtaining a license was completely open-ended. The
21 law held that “The Mayor may grant to so many and such persons as he may think
22 proper, licenses to carry concealed weapons, and may revoke any and all such
23 licenses at his pleasure.”⁸⁰ Wide discretion for officials was common among

24 ⁷⁹ Pistols—Carrying Of: Ordinance to Regulate the Carrying of Pistols, October 25, 1880,
25 reprinted in *Brooklyn Daily Eagle* (Brooklyn, New York), October 26, 1880, 1; Article XXVII:
26 Carrying of Pistols, reprinted in Elliott F. Shepard et al, eds., *Ordinances of the Mayor, Aldermen
27 and Commonalty of the City of New York, in Force January 1, 1881* (1881), 214-216. Brief of
28 Amicus Curiae Patrick J. Charles, Appendix 1, p. 21-24, *New York State Rifle and Pistol Ass’n. v. Bruen*, 597 U.S. 1 (2022).

⁸⁰ Article XVI: Concealed Weapons, An Ordinance Regulating the Carrying of Concealed
Weapons in the City of Lincoln, August 26, 1895, reprinted in *Revised Ordinances of Lincoln*

1 licensing laws. Consider Coffeyville, Kansas, for example, whose 1890 deadly
2 weapon law prohibited open- and concealed-carry “without first having obtained
3 permission from the Mayor” without identifying any specific permitting procedure
4 or requirements.⁸¹

5 **Nineteenth Century Distinctions Between Locales in Weapons Regulations**

6 52. In American history, it has been common for people to draw distinctions
7 about the relative dangers of deadly weapons in urban versus rural locales. As
8 previously discussed, public carry laws often featured modified rules for long-
9 distance travelers venturing beyond the safety of their local communities. When
10 exposed to the dangers of the highway bushwhacker or the prowling coyote that went
11 along with nineteenth-century horseback travel, laws generally allowed the carrying
12 of weapons—including those statutorily restricted as deadly weapons.⁸² But as
13 discussed above, these travel exceptions were closely guarded by appellate courts,
14 who typically required the travel to last overnight, cross county lines (which was a
15 much more significant marker of distance in then than it is now), or otherwise take a
16 person beyond his “circle of neighbors.”⁸³ Another requirement was often that a

17 *Nebraska* (1895), 209-210. Quoted in Brief of Amicus Curiae Patrick J. Charles, Appendix 1, p.
18 40-42, *New York Rifle and Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022).

19 ⁸¹ Ordinance No. 201: To Prohibit the Carrying of Firearms or Deadly Weapons, and
20 Providing Penalties Therefore, February 5, 1890, reprinted in *Coffeyville Weekly Journal*
21 (*Coffeyville, Kansas*), February 7, 1890, 2. Quoted in Brief of Amicus Curiae Patrick J. Charles,
22 Appendix 1, p. 16-17, *New York State Rifle and Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022).

23 ⁸² 1840 Ala., ch. 7, “Of Miscellaneous Offenses,” 148-149 (“Every one who shall hereafter
24 carry concealed about his person, a bowie knife...or any other deadly weapon, pistol or any species
25 of fire arms, or air gun, unless such person be...setting out on a journey...”); 1878 Mississippi ch.
26 46, “An Act to prevent the carrying of concealed weapons, and for other purposes,” 175–76 (“That
27 any person not...traveling (not being a tramp) or setting out on a journey...who carries concealed,
28 in whole or in part, any bowie knife, pistol, brass knuckles, slung shot or other deadly weapon...”);
1871 Texas ch. 34, “An Act to Regulate the Keeping and Bearing of Deadly Weapons,” 25–27, §
1 (“Provided, that this section shall not be so construed as...to prohibit persons traveling in the
State from keeping or carrying arms with their baggage.”); 1831, Indiana – Revised Laws, 15th
Session, Chapter 26, “An Act relative to Crime and Punishment, 180-199 at 192, §58 (“That every
person, not being a traveller, who shall wear or carry any dirk, pistol, sword in a cane, or other
dangerous weapon concealed...”); 1871Tenn., ch. 90, “An Act to preserve the peace and prevent
homicide,” 81-82, § 3 (“That the provisions of the first section of this Act shall not apply to...any
person who is on a journey out of his county or State.”).

⁸³ *Carr v. State*, 34 Ark. 448 (1879); *Eslava v. State*, 49 Ala. 355 (1873); *Smith v. State*, 50
Tenn. 511 (1872); *Darby v. State*, 23 Tex. Ct. App. 407 (1880). See also, John Thomas Shepherd,

1 traveler check his weapons upon arriving to a town or to depart town as soon as his
2 business was finished without visiting shops or restaurants.

3 53. There are examples of cities and towns, many of them in California,
4 enacting local public carry ordinances in jurisdictions that did not have statewide
5 laws. Between 1870 and 1917, California did not have a statewide public carry law.
6 Instead, municipalities themselves—ranging in size from Los Angeles and San
7 Francisco to Lompoc and St. Helena—issued licenses to applicants who could show
8 that they were particularly vulnerable to attack and therefore in need of a weapon for
9 self-defense.⁸⁴ In the immediate aftermath of the Civil War, several towns of varying
10 size within Texas enacted ordinances against the carrying of weapons.⁸⁵ At that time,
11 the state did not have a public carry law; rather than try to stop the cities from
12 pursuing policies that promoted safety, the legislature provided protection to their
13 public carry laws. For instance, Galveston’s public carry law went into effect in
14 1865⁸⁶, and the following year state lawmakers issued a new charter to the City of
15 Galveston, granting its leadership the power “[t]o regulate the carrying of weapons,
16 and prevent the carrying of the same concealed.”⁸⁷ It was not until 1870-1871 that
17 Texas pursued a statewide gun-safety policy by enacting a sensitive places law along
18 with a public carry law. Kansas’s deadly weapon policy specifically authorized towns
19 to regulate the carrying of weapons “concealed or otherwise.”⁸⁸

21 _____
22 “Who Is the Arkansas Traveler: Analyzing Arkansas’s Journey Exception to the Offense of
23 Carrying a Weapon,” *Arkansas Law Review* 66, no. 2 (2013): 463-484.

24 ⁸⁴ See Saul Cornell, “The Right to Regulate Arms in the Era of the Fourteenth Amendment:
25 The Emergence of Good Cause Permit Schemes in Post-Civil War America,” *US Davis Law Review*
26 *Online* 55 (September 2021), 65-90 at 84-85 (see Table 3: Municipalities with Permit Schemes in
27 Post-Civil War California).

28 ⁸⁵ “Proceedings of the City Council,” *Flake’s Bulletin* (Galveston, Texas), December 28,
1865; “Ordinances Passed,” *Goliad Intelligencer* (Goliad, Texas) March 17, 1866; “Ordinance
Concerning Deadly Weapons,” *Texas Countryman* (Hempstead, Texas) August 10, 1867.

⁸⁶ *Ibid.*

⁸⁷ 1866 Texas ch. 173, “An Act to Reincorporate the City of Galveston,” Title 4: Of the
City Council—Its General Powers and Duties, § 27, 13th, 320, quoted in H. P. N. Gammel, ed., *The*
Laws of Texas, 1822-1897, vol. 5 (Austin: Gammel Book Company, 1898), 1540.

⁸⁸ See *Salina v. Blaksley*, 72 Kan. 230 (1905); 1881 Kan. Sess. Laws 92, c. 37, § 24.

1 54. And in the American West more broadly, different rules often applied
2 in organized towns than in the expansive countryside beyond their borders. Colorado,
3 Idaho, Montana, Arizona, New Mexico, and Wyoming explicitly prohibited the
4 carrying of concealed weapons in towns and settlements.⁸⁹ Dodge City, Kansas and
5 some of the other cattle towns at western railheads famously prohibited the carrying
6 of guns within city and town limits.⁹⁰ While it may be tempting to interpret these
7 laws as allowing an “anything goes” attitude toward deadly weapons outside of towns
8 and cities, such a conclusion would be a mistake. People traveling in isolated areas
9 may have carried a bowie knife or pistol on their belt for protection, and such
10 behavior would be in line with the longstanding travel exceptions that had been in
11 force in much of the country for decades. But more importantly, a person traveling
12 long distances and subject to attack from bushwhackers or wild animals would be
13 much more likely to turn to a rifle for self-preservation than a pistol. Breech-loading
14 rifles (as opposed to muzzle-loaders) were becoming the national standard in the
15 post-Civil War period. Single-shot breech-loaders could be reloaded much more
16 quickly than muzzle-loaders, and repeat-fire rifles were increasing in number and
17 popularity. Lever-action rifles like the Winchester could often hold upwards of five
18 rounds (and in the late 1860s and early 1870s, more than ten rounds) in the tubular
19 magazine affixed below the gun’s barrel. Rifles could shoot farther and more
20 accurately than a pistol, and generally carried a higher caliber. Though Winchester
21 lever-action rifles not commonly possessed in the US during Reconstruction,
22 Americans venturing into the rural West during the late-nineteenth century as

23
24 ⁸⁹ 1852 New Mexico, “An Act Prohibiting the carrying of a certain class of Arms, within
25 the Settlements and in Balls,” 67-70 (in English and Spanish); 1862 Colorado ch. 4, “An Act to
26 Prevent the Carrying of Concealed Deadly Weapons in the Cities and Towns of this Territory,” 56;
27 1864 Montana ch. 43, “An Act to Prevent the Carrying of Concealed Deadly Weapons in the Cities
28 and Towns of this Territory,” 355; 1888 Idaho “An Act Regulating the Use and Carrying of Deadly
Weapons in Idaho Territory,” 23; 1889 Arizona ch. 13, “An Act Defining and Punishing Certain
Offenses Against the Public Peace,” 30–31.

⁹⁰ For the famous photo and a brief explanation of Dodge City and other western ordinances,
see Matt Jancer, “Gun Control Is as Old as the Old West,” *Smithsonian Magazine*, February 5,
2018, <https://www.smithsonianmag.com/history/gun-control-old-west-180968013/>.

1 immigrants or hunters would certainly have turned to a rifle for protection, and their
2 exemption for carrying deadly weapons in uninhabited or sparsely inhabited zones
3 was essentially a recapitulation of the exemption for travelers that had taken root in
4 some Old Southwest states (Texas, Arkansas, Missouri, etc.).

5 55. When considering how nineteenth-century Americans viewed the
6 locality distinctions and their consequences for gun policy, sensitive places laws are
7 particularly helpful. They identified as protected those spaces of gathering and
8 assembly that define life in an organized, incorporated community—meeting halls,
9 entertainment venues, educational facilities, city parks, and social parties. These laws
10 often prohibited *all firearms* in addition to deadly weapons, and effectively turned
11 any gathering space into a de facto disarmed zone; they show us that nineteenth-
12 century Americans believed that gatherings—the quintessential feature of town or
13 city life—and guns simply did not go together.

14 **Dangerousness and Weapons in the Nineteenth Century**

15 56. In the nineteenth century United States, a person could be considered
16 “dangerous” based upon various factors. These included one’s status as either a law-
17 abiding person or a member of the criminal classes. It also embraced one’s reputation
18 within the community, which was based at least in part on known or observed
19 behaviors, like going armed on a daily basis.⁹¹

22 ⁹¹ Because the eighteenth- and nineteenth-century United States was a racially hierarchical
23 society, skin color served as another salient factor in determining a person’s perceived
24 dangerousness in the eyes of local officials. Laws targeting Black Americans, slave and free alike,
25 are repugnant to us today even while they demonstrate that race and status were part of the calculus
26 in assessing dangerousness. On racist laws in early American history, see Kate Masur, *Until Justice
27 Be Done: America’s First Civil Rights Movement, from the Revolution to Reconstruction* (New
28 York: W. W. Norton & Company, 2021). On free-Black firearm licensing laws in the antebellum
nineteenth century, see Antwain K. Hunter, “‘In the Exercise of a Sound Discretion, Who, of This
Class of Persons, Shall Have a Right to the License...’: Family, Race, and Firearms in Antebellum
North Carolina,” *Journal of Family History* 44, No. 4 (October 2019), 392-412; and Antwain K.
Hunter, “‘A Nuisance Requiring Correction’: Firearm Laws, Black Mobility, and White Property
in Antebellum Eastern North Carolina,” *North Carolina Historical Review* 93, no. 4 (October
2016), 386-404.

1 **A. Status in Society**

2 57. Growing from older notions of persons “not of good fame,” American
3 law labeled certain people “disorderly.” Madams whose brothels were raided by
4 police were charged with operating a disorderly house contrary to law. Vagrants were
5 also “disorderly” people who seemingly did not fit into the community by reason of
6 their refusal or inability to work. People who were understood to be vagrants,
7 nuisances, or disorderly were not the “proper” or “law-abiding” citizens referred to
8 by late-nineteenth-century firearm licensing laws.⁹² To be labeled a disorderly
9 person, vagrant, or nuisance carried significant consequences.

10 58. Unlike today, when we conceptualize law as penalizing certain actions
11 that violate the mutual trust required to live in our society, medieval and early modern
12 law operated on the basis of punishing people for *being* a problem within the
13 community. To be punished for vagrancy, a person did not simply behave like a
14 vagrant—he or she *was* a vagrant, detached from a household and devoid of a proper
15 role, and that status was punishable by law. Similarly, some people (like
16 eavesdroppers) and some inanimate objects (like disorderly houses) were
17 nuisances.⁹³ In the words of a scholar of the police power in Anglo-American law,
18 “*Being* a nuisance was a state of being, a status. The eavesdropper was a nuisance
19 because he *was* an eavesdropper. The offense was not eavesdropping, but being
20

21
22 ⁹² Regulations providing for concealed-carry permits at times described the kinds of people
23 who were eligible (at other times that determination was solely within the discretion of the mayor,
24 judge, or other official who reviewed such requests). A phrase that was used sometimes was a
25 “proper and law-abiding person.” For example, see Carrying of Pistols, N.Y.C., *Ordinances* ch. 8,
art. 27, § 265 (1881) (“Any person...who has occasion to carry a pistol for his protection, may
apply to the officer...and such officer, *if satisfied that the applicant is a proper and law-abiding
person*, shall give said person a recommendation... .” [emphasis added]).

26 ⁹³ On vagrancy and disorderly persons in Anglo-American law, see Markus Dirk Dubber,
27 *The Police Power: Patriarchy and the Foundations of American Government* (New York:
28 Columbia University Press, 2005), 47-62. See also William J. Novak, *The People’s Welfare: Law
& Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press,
1996), 167-168, 155-156.

1 someone who eavesdrops.”⁹⁴ Beyond merely damaging their reputations within the
2 community, people labeled nuisances, vagrants, and other disorderly persons risked
3 corporal punishment and loss of their liberty. The most egregious offenders were
4 deemed “rogues and vagabonds” or “incorrigible rogues.” These dangerous people
5 faced limitations far more severe than restricted access to weapons.⁹⁵ In fact, the mere
6 possession of weapons by a known “rogue” or “vagabond” was likely to be
7 interpreted as an intention to commit a crime.⁹⁶

8 59. Disorderly and dangerous people were controlled through police
9 powers, and the power of police was about *prevention* of disorder rather than
10 *punishment* of wrongs already committed. As a scholar on the subject explains: “The
11 whole point of the police was, after all, the prevention of threats, not their frantic
12 limitation. Police regulations sought to prevent fires, rather than extinguish them. So
13 they called for fire proof buildings, minimum distances between buildings, and so
14 on. The idea was to prevent the exigency. And so the possibility of an exigency
15 became the justification for police power actions, rather than the exigency itself.”⁹⁷
16 Labeling idle, non-conforming and other dangerous persons as “vagabonds,”
17 “rogues,” or a part of the “criminal classes”—and restricting their freedoms on the
18 basis of that status—was a critical role of law in American society until the relatively
19 recent past.⁹⁸ Possession offenses, including concerns over who possesses a gun in
20 public places, are derivatives of this part of the Anglo-American legal tradition that
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22 ⁹⁴ Dubber, *The Police Power*, 96. See also pp. 136: “Vagrancy, however, lacked not only a
23 *mens rea*. More important, it lacked an *actus reus*. The offense consisted of being a vagrant, i.e., a
24 status, rather than an act, not becoming a vagrant, or acting like a vagrant. Thus people were not
‘convicted’ of vagrancy as the might be of, say, robbery, they were ‘deemed’ and ‘declared’ a
vagrant instead.”

25 ⁹⁵ Dubber, *The Police Power*, 53-54.

26 ⁹⁶ On the importance of local reputation in policing, and especially in policing “notorious”
offenders, see Novak, *The People’s Welfare*, 168-170.

27 ⁹⁷ Dubber, *The Police Power*, 118.

28 ⁹⁸ On the difference between current and historical views of criminal law, and the post-
Revolutionary era as one of heightened police regulation, see Novak, *The People’s Welfare*, 149-
152.

1 seeks to *prevent* threats to the public peace rather than wait for violence to occur.⁹⁹

2 60. Although a person’s reputation remains a valuable commodity today, it
3 was even more so during the nineteenth century—a time when most Americans lived
4 in small communities and relied on their good name for social if not financial credit.
5 In small, insular communities and tight-knit urban neighborhoods, an unblinking eye
6 of neighborly observation tracked people’s visible, public activities. Collective
7 evaluation of visible, observed, and even rumored behavior effectively forged a
8 reputation that affected one’s standing within the community. To be in possession of
9 a good reputation and its socio-economic benefits, a person needed to properly fulfill
10 their role within what was a hierarchical society. To step outside one’s proper place
11 or behave in a manner unbecoming one’s position compromised that person’s standing
12 within the community and damaged his/her reputation.¹⁰⁰

13 61. A person’s reputation could carry significant legal consequences. In
14 early America, local magistrates and officials held tremendous power. They not only
15 heard complaints and acted in a judicial capacity, but had the discretionary authority
16 to initiate prosecution of offenses at common law. Vagrancy was among these, as
17 were riot, affray, and disturbances of the peace like inappropriate weapon carrying.¹⁰¹
18 The surety process, part of America’s common law heritage, was at times a part of
19 these prosecutions, and some states specifically chose to regulate weapon-carrying
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22 ⁹⁹ On possession offenses as “inchoate inchoate offenses” that are “an attempt to commit an attempt to commit a crime,” see Dubber, *The Police Power*, 172.

23 ¹⁰⁰ On reputation and social standing in the antebellum nineteenth century, described as
24 “individuals’ credit,” see Laura F. Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009), 111-131; Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (New York: Oxford University Press, 1982). For a broader look at the significance of reputation and behavior in the early modern Anglo-American legal tradition, see Barbara J. Shapiro, *Beyond Reasonable Doubt and Probable Cause: Historical Perspectives on the Anglo-American Law of Evidence* (Berkeley: University of California Press, 1991). See also Michael Tadman, “The Reputation of the Slave Trader in Southern History and the Social Memory of the South,” *American Nineteenth Century History* 8, no. 3 (2007), 259-263.

25 ¹⁰¹ On common law criminal offenses, see, Novak, *The People’s Welfare*, 149-155.
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1 by way of surety.¹⁰² In this process, people with sufficient wealth or assets put their
2 own money on the line to promise good behavior or court appearance by the person
3 being complained of.¹⁰³ To have a good reputation undoubtedly facilitated the
4 collection of such support while being known as a scoundrel, drunk, or otherwise
5 unreliable person obstructed it. Surety represented a deep wellspring of preventive
6 police power that could be invoked not only upon a legitimate complaint but based
7 upon the discretion of a local magistrate—not a mechanism for tentatively allowing
8 behavior that *might* pose a danger later on.¹⁰⁴ In early America, where organized
9 police forces did not exist, surety provided an avenue for members of the community
10 to protect the peace by policing themselves. Those who behaved in a way that broke
11 the peace or threatened violence were answerable to the law and accountable to their
12 neighbors.¹⁰⁵

13 62. Delineating which people pose a special threat to organized society is a
14 longstanding, fundamental purpose of law, and there is such a tradition within the
15 Anglo-American legal heritage. In that tradition, people labeled dangerous and
16 disorderly, such as rogues and vagabonds, faced substantial limitations to their rights
17 that far exceeded restrictions upon the public carrying of weapons. Becoming such a

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19 ¹⁰² For examples, see Wisconsin, *Statutes* (1841), 381 §16; Maine, *Revised Statutes* (1841),
20 ch. 169, §16; Michigan, *Revised Statutes* (1846), ch. 162, §16; 1847 Virginia, Title 3, ch. 14, 129,
§16; Minnesota, *Revised Statutes* (1851), ch. 112, §18; Oregon, *Statutes* (1853), ch. 26, §17.

21 ¹⁰³ On sureties and weapon-carrying in the Anglo-American legal tradition, see Patrick J.
22 Charles, “The Faces of the Second Amendment Outside the Home, Take Two: How We Got Here
23 and Why It Matters,” *Cleveland State Law Review* 64, no. 3 (2016), 389, 403; Saul Cornell,
“History, Text, Tradition, and the Future of Second Amendment Jurisprudence: Limits on Armed
24 Travel Under Anglo-American Law, 1688-1868,” *Law and Contemporary Problems* 83 (2020), 90-
25 92.

26 ¹⁰⁴ Dubber, *The Police Power*, 54.

27 ¹⁰⁵ See Saul Cornell, “Right to Carry Firearms outside of the Home: Separating Historical
28 Myths from Historical Realities,” *Fordham Urban Law Journal* 39, no. 5 (October 2012), 1719-
1723; Edwards, *The People and Their Peace*, 73-74, 96. Edwards’s passage on peace bonds is
worth quoting at length: “Peace bonds threw enforcement back on the community, summoning
family, friends, and neighbors to police the troublemakers. Bonds required one or more other people
to put up the amount, making them liable if the accused broke the peace again. That economic
obligation represented the signers’ promise to keep the offender in line. Peace bonds put everyone
else in the community on notice as well, investing them with the responsibility of policing the peace
until the end of the probation period.”

1 person—or taking on such a label—was the product of known behavior, past
2 offenses, and reputation. The act of carrying weapons was in and of itself an
3 indication of dangerousness.¹⁰⁶ An openly seen gun, and especially a pistol visible in
4 someone’s hand, was a sign of emergency; a weapon concealed within the clothes of
5 someone on the street was understood to be an indication of malintent and a lack of
6 concern for the safety of others.¹⁰⁷

7 63. Laws enacted in the nineteenth century, rather than identifying which
8 people could possess weapons as against those who could not, instead aimed at
9 minimizing the presence of the weapons themselves. Concealed-carry prohibitions
10 did not include caveats for peaceable people—only for factors like being a traveler,
11 a law officer, or a person in an emergency. How members of a community might
12 interpret someone’s visible, open carrying of a deadly weapon was contingent upon
13 that person’s reputation. This challenge to concealed-carry laws—their lack of
14 exception for well-meaning, “proper and law-abiding” people—inspired the
15 discretionary licensing laws that emerged in the latter half of the nineteenth century.
16 A person’s criminal record, known status as a criminal, and reputation for violence
17 within the community contributed to his/her ability to obtain a license for carrying
18 concealed weapons.

19 CONCLUSIONS

20 64. This declaration has assembled evidence showing that there is a long
21 history of regulating the carrying and sale of weapons in the United States. Various
22 regulatory policies—primarily public carry laws but also tax policies and sensitive
23 place restrictions—worked together to reduce the number of deadly weapons
24 circulating in public spaces.

25 ¹⁰⁶ *Stockdale v. State*, 32 Ga. 225 (1861) (“What the Legislature did intend, was to compel
26 persons who carried those weapons to so wear them about their persons, that others, who might
27 come into contact with them, might see that they were armed, and dangerous persons, who were to
28 be avoided in consequence.”).

¹⁰⁷ On the unusualness of openly carried firearms in urban locales, see Mark Anthony Frassetto, “The Myth of Open Carry,” *U.C. Davis Law Review* 55 (June 2022), 2538-2539. On historical negative views of concealed-carry, see Charles, *Armed in America*, 145-146.

1 65. The tradition of regulating the public carrying of weapons has its roots
2 in the medieval Statute of Northampton and evolved over the course of the nineteenth
3 century to take the shape of criminal statutes restricting concealed and/or open carry,
4 as well as laws and ordinances laying out the terms by which applicants could be
5 issued a concealed-carry permit. These regulatory developments were in large part a
6 response to the rise of modern concerns in American society, like dramatic
7 population growth, urbanization, and the bureaucratization of state and local
8 government. They were also, importantly, a response to rising levels of violence and
9 homicide in American communities which coincided with technological innovations
10 that rendered deadly weapons more widely available and more lethal than they had
11 been in the past.

12 66. One common theme among nineteenth-century weapon regulations was
13 variability based on local concerns. In some areas, laws restricted only concealed-
14 carry while in others open carry was also prohibited or tightly restricted. Some states
15 retained the common-law-inspired approach to policing that relied upon sureties to
16 keep the peace while others were quick adopters of criminal statutes for unlawfully
17 carrying arms. Though numerous municipalities adopted discretionary licensing laws
18 in the nineteenth century, not all did. In this same vein, it was not uncommon or
19 perceived to be out of constitutional bounds for organized cities and towns to operate
20 under different rules than unincorporated, rural areas.

21 67. Finally, this declaration has presented information about how a person's
22 dangerousness would have been assessed in the nineteenth century, explaining that a
23 criminal history or reputation for irresponsibility likely precluded the acquisition of
24 a concealed-carry permit under discretionary licensing laws.

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1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct.

3 Executed on February 19, 2024, at Fort Worth, Texas.

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Brennan Rivas

Dr. Brennan Gardner Rivas

EXHIBIT 1

Brennan Gardner Rivas
Curriculum Vitae · Oct 2023

Employment

Lloyd Lewis Fellow in American History, The Newberry Library, 2021-2022
Bill & Rita Clements Fellow for the Study of Southwestern America, Southern Methodist University, Clements Center for Southwest Studies, 2020-2021
Lecturer in American History (full-time), Texas Christian University, Department of History, 2019-2020

Education

Ph.D., History, Texas Christian University, 2019
Thesis: “The Deadly Weapon Laws of Texas: Regulating Guns, Knives, & Knuckles in the Lone Star State, 1836-1930”
Advisor: Gregg Cantrell
M.A., History, Texas Christian University, 2013
Thesis: “Texas Antitrust Law: Formulation and Enforcement, 1889-1903”
B.A. with Honors, History, Oklahoma State University, 2010

Publications

Refereed Journal Articles

“An Unequal Right to Bear Arms: State Weapons Laws and White Supremacy in Texas, 1836-1900,” *Southwestern Historical Quarterly* 121 (Jan 2018): 284-303.

Law Articles

“Strange Bedfellows: Racism and Gun Rights in American History and Current Scholarship” in Joseph Blocher and Jake Charles, eds., *New Histories of Gun Rights and Regulation: Essays on the Place of Guns in American Law and Society* (New York: Oxford University Press, 2023)

“Enforcement of Public Carry Restrictions: Texas as a Case Study,” *U.C. Davis Law Review* (May 2022)

“The Problem with Assumptions: Reassessing the Historical Gun Policies of Arkansas and Tennessee,” *Second Thoughts*, Duke Center for Firearms Law (Jan 2022)

Short Pieces

“Reflections on the American Gun Control Culture,” *The Panorama: Expansive Views from the Journal of the Early Republic*, October 17, 2023.

“Charles F. Cooley,” in *Wanted in America: Posters Collected by the Fort Worth Police Department, 1898-1903*, edited by LeAnna Schooley and Tom Kellam. Fort Worth: TCU Press, 2019.

Review of David R. Berman, *George Hunt: Arizona’s Crusading Seven-Term Governor*, in *Southwestern Historical Quarterly* 114, no. 3 (January 2016): 327-329.

Public History

- “In the Past, Americans Confronted Gun Violence by Taking Action,” *Washington Post: Made by History Blog* (Jun 2022)
- ~ Op-ed showcasing open-mindedness of 19th century Americans about experimenting with new gun control measures
- “The Origin of Public Carry Laws in Texas,” *Texas Gun Sense Blog* (Feb 2021)
- “Texas Gun Laws,” Online Primary Source Collection, hosted by Omeka
- ~ Online collection featuring primary sources from my research; feature exhibit titled “Crafting a Public Carry Law”
- “The Deadly Weapon Laws of Texas,” Preserving Our Past: Community History Workshop, Center for Texas Studies at TCU (Nov 2020)
- ~ Public lecture featuring special insights for genealogical researchers
- “The Deadly Weapon Laws of Texas,” Graduate/Undergraduate Public History Seminar, Tarleton State University (Sept 2020)
- ~ Research presentation focusing on interpretation of county court records
- “When Texas Was the National Leader in Gun Control: How the Land of Gunslinger Mythology Regulated Weapons to Reduce Violence,” *Washington Post: Made by History Blog* (Sept 2019)
- ~ Op-ed highlighting long history of weapon regulation in Texas

Fellowships and Awards

- Firearm Issues Research Grant, 2023-2024
- ~ Awarded by the Harvard Injury Control Research Center, from grant funding from the Robert Wood Johnson Foundation, for research related to firearm issues
- Lloyd Lewis Fellowship in American History, 2021-2022
- ~ Awarded by the Newberry Library to scholars using its collection to research topics in American history
- Bill & Rita Clements Fellowship for the Study of Southwestern America, 2020-2021
- ~ Awarded by the SMU Clements Center for Southwest Studies to two scholars of Texas, the Southwest, or the U.S.-Mexico borderlands who are developing first books
- The Benjamin W. Schmidt Memorial Scholarship, 2018-2019
- ~ Awarded by the TCU Department of History to a PhD candidate who shows exceptional professional promise; highest departmental prize for graduate students
- Texas Christian University Department of History, Shinko and Thomas McDonald Research Prize in Texas History, 2019, 2017
- ~ Awarded by the TCU Department of History to a graduate student with the best research on antebellum Texas history

Works in Progress

The Revolver Must Go: The Rise and Fall of a Gun Control Movement in Texas

Aim: Scholarly monograph exploring the rise of a gun control movement in nineteenth-century Texas and the regulatory strategies which it embraced. Widespread acceptance of strict, ambitious gun control laws in the “Wild West” belies current assumptions about Texas and challenges the reigning interpretation of the Second Amendment as a guarantor of expansive gun rights.

Status: Editing manuscript

“Going Armed: The Law and Culture of Carrying Deadly Weapons in the Nineteenth Century”
Aim: Scholarly article uncovering the ways in which nineteenth-century gun-toters carried their deadly weapons, and why they generally did so concealed.

Status: Writing in progress

University Teaching Experience

Instructor of Record

Lecturer in American History, Texas Christian University 2019-2020
“American History to 1877: Social Movements & the Politics of Slavery” (HIST 10603)
“American History since 1877: The Quest for Equality” (HIST 10613)
“History of Texas: A Transnational Look at the American Southwest” (HIST 40743)

Graduate Student Instructor

Teaching Assistant, Texas Christian University 2017-2018
American History to 1877 (HIST 10603)
American History since 1877 (HIST 10613)

Teaching Interests

American History, Legal History, Southwestern Borderlands, Civil War Era, American West, Gilded Age & Progressive Era, Women’s History

Conference Presentations & Invited Talks

Panelist, “Use and Abuse of History in Second Amendment Litigation,” and “Going Armed: Nineteenth Century Views on Open Carry,” Current Perspectives on the History of Guns and Society, Wesleyan University, Middletown, Connecticut, October 2023
“Masculinity, Honor-Violence, and Gun Reform in the Early U.S.,” Race, Gender, and Firearms in the Early Republic, Society for Historians of the Early American Republic Annual Meeting, Philadelphia, Pennsylvania, July 2023
“Second Amendment Panel—Issues in Cases Post-*Bruen*,” Strategic Litigation Convening: Anti-Democracy Efforts and Political Violence Post-*Bruen*, Institute for Constitutional Advocacy and Protection, Georgetown Law, Washington, D. C., June 2023
“A Case for More Case Studies,” Originalism, the Supreme Court, Gun Laws, and History, Late-Breaking Roundtable, American Historical Association Annual Meeting, Philadelphia, Pennsylvania, January 2023
“Military Disarmament Orders and the Role of Reconstruction Historiography after *Bruen*,” Current Perspectives on the History of Guns and Society Symposium, Wesleyan University, Middletown, Connecticut, October 2022
“Reassessing Assumptions about Historical Arkansas and Tennessee Handgun Regulations,” Race and Guns Roundtable, Duke Center for Firearms Law, Durham, North Carolina, November 2021
“Enforcement of Public Carry Restrictions: Texas as a Case Study,” The Second Amendment at the Supreme Court: 700 Years of History and the Modern Effects of Guns in Public, Davis, California, October 2021
“Race & Guns,” Newberry Library Colloquium, Chicago, Illinois, October 2021
“Unlawful Carrying: Enforcing the Pistol Law in Texas, 1870-1920,” Texas State Historical Association Annual Meeting, Corpus Christi, Texas, February 2019

“Regulating Deadly Weapons in Nineteenth-Century Texas,” Invited Lecturer, Los Bexareños Hispanic Genealogical and Historical Conference, San Antonio, Texas, September 2018
“Impregnable Citadels of Capital: American Monopolies in the British Radical Press,” Southern Conference on British Studies Annual Meeting, St. Pete Beach, Florida, November 2016
“Dating Violence in Texas: Why the State Family Code Obstructs Accurate Reporting about Sexual Assault,” TCU Women & Gender Studies Research Symposium, 2015

Service

Invited Guest, “How to Make the Most of Your Time in Graduate School,” Dept. of History Orientation Day, 2020

~ Advise incoming graduate students on strategies for success in the PhD program, emphasizing importance of intellectual development

Panelist, “Everything You Wanted to Know about TCU but Were Too Afraid to Ask,” Dept. of History Orientation Day, 2016

~ Provide honest and confidential information to prospective graduate students

Graduate Student Mentor, 2015

~ Informal departmental program designed to ease the transition for incoming graduate students

Second Amendment Subject Matter Expert

Duncan et al v. Bonta, California, Case No. 17-1017-BEN-JLB, S.D. Cal.

Miller et al v. Bonta, California, Case No. 3:19-cv-01537-BEN-JLB, S.D. Cal.

Angelo et al v. District of Columbia et al, Washington, D.C., Civ. Act. No. 1:22-cv-01878-RDM, D. D.C.

Hanson et al v. District of Columbia et al, Washington, D.C., Civ. Act. No. 1:22-cv-02256-RC, D. D.C.

Christian et al v. Nigrelli et al, New York, No. 22-cv-00695 (JLS), W.D. N.Y.

Frey et al v. Nigrelli et al, New York, Case No. 21 Civ. 5334 (NSR), S.D. N.Y.

Brumback et al v. Ferguson et al, Washington, No. 1:22-cv-03093-MKD, E.D. Wash.

Sullivan et al v. Ferguson et al, Washington, Case No. 3:22-cv-5403, W.D. Wash.

Siegel v. Platkin, New Jersey, No. 22-CV-7463 (RMB) (AMD), D. N.J.

NAGR v. Campbell, Massachusetts, No. 1:22-cv-11431-FDS, D. Mass.

Oregon Firearms Federation, Inc. v. Kotek, Oregon, No. 2:22-cv-01815-IM, D. Ore.

NSSF v. Jennings, Delaware, No. 22-cv-01499-RGA, D. Del.

Chavez v. Bonta, California, No. 3:19-cv-01226-L-AHG, S.D. Cal. (f/k/a *Jones v. Bonta*)

Nguyen v. Bonta, California, No. 3:20-cv-02470-WQH-BGS, S.D. Cal.

Baird v. Bonta, California, No. 2:19-cv-00617-KJM-AC, E.D. Cal.

Nichols v. Bonta, California, No. 3:11-cv-09916-SJO-SS, C.D. Cal.

Wiese v. Bonta, California, No. 2:17-cv-00903-WBS-KJN, E.D. Cal.

Rocky Mountain Gun Owners v. Polis, Colorado, No. 23-cv-01077-JLK, D. Col.

Wolford v. Lopez, Hawaii, No. 1:23-cv-00265-LEK-WRP, D. Haw.

Novotny v. Moore, Maryland, No. 1:23-cv-01295-GRL, D. Mary.

Kipke v. Moore, Maryland, No. 1:23-cv-01293-GRL, D. Mary.

Ohio v. Columbus, Ohio, No. 2022-cv-00657, Ct. Com. Pleas, Fairfield Cty, Ohio

Professional Memberships

Society for Historians of the Gilded Age and Progressive Era
Texas State Historical Association
Southern Historical Association
American Historical Association