

No. 24-542

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

KIM RHODE, ET AL.,
Plaintiffs and Appellees,

v.

ROB BONTA, IN HIS OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF THE STATE OF CALIFORNIA,
Defendant and Appellant.

**On Appeal from the United States District Court
for the Southern District of California**
No. 3:18-cv-00802-BEN-JLB
The Honorable Roger T. Benitez, Judge

**APPELLANT'S EXCERPTS OF RECORD
VOLUME 3 OF 4**

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May 24, 2024

EXHIBIT E

WEAPONS FORFEIT/CONFISCATION LAWS

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CARRY/POSSESSION

ALABAMA

Harry Toulmin, A Digest of the Laws of the State of Alabama : Containing the Statutes and Resolutions in Force at the End of the General Assembly in January, 1823. To which is Added an Appendix; Containing the Declaration of Independence; the Constitution of the United States; the Act authorizing the People of Alabama to form a Constitution and State Government; and the Constitution of the State of Alabama Page 627, Image 655 (1823) available at The Making of Modern Law: Primary Sources. 1805

Negroes and Mulattoes, Bond and Free – 1805, Chapter I, An Act respecting Slaves. – Passed March 6, 1805: Sec. 4. And be it further enacted, that no slave shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, except the tools given him to work with, or that he is ordered by his master, mistress, or overseer, to carry the said articles from one place to another, but all and every gun , weapon, or ammunition, found in the possession or custody of any slave, may be seized by any person, and upon due proof made thereof, before any justice of the peace of the county or corporation where such seizure shall be made, shall, by his order, be forfeited to the seizer, for his own use; and moreover, every such offender shall have and receive, by order of such justice, any number of lashes, not exceeding thirty-nine, on his bare back for every such offense : Provided nevertheless, That any justice of the peace may grant, in his proper county, permission in writing to any slave, on application of his master or overseer, to carry and use a gun and ammunition within the limits of his said master's or owner's plantation, for a term not exceeding one year, and revocable at any time within such term, at the discretion of the said justice, and to prevent the inconveniences arising from the meeting of slaves.

ARIZONA

Act of Mar. 18, 1889, 1889 Ariz. Sess. Laws 16–17

Sec. 1. If any person within any settlement, town, village or city within the Territory shall carry on or about his person, saddle, or in his saddlebags, any pistol, dirk, dagger, slung shot, sword cane, spear, brass knuckles, bowie knife, or any

other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and in addition thereto, shall forfeit to the County in which he is convicted, the weapon or weapons so carried.

Sec. 2. The preceding article shall not apply to a person in actual service as a militiaman, nor as a peace officer or policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack upon legal process.

Sec. 3. If any person shall go into any church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into a ball room, social party or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this Territory are collected to vote at any election, or to any other place where people may be assembled to minister or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass knuckles, bowie knife, or any other kind of a knife manufactured and sol for the purposes of offense or defense, he shall be punished by a fine not less than fifty nor more than five hundred dollars, and shall forfeit to the County the weapon or weapons so found on his person.

Sec. 4. The preceding article shall not apply to peace officers, or other persons authorized or permitted by law to carry arms at the places therein designated. . . .

Sec. 6. Persons traveling may be permitted to carry arms within settlements or towns of the Territory for one-half hour after arriving in such settlements or town, and while going out of such towns or settlements; and Sheriffs and Constables of the various Counties of this Territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective offices.

Laws regulating weapons in certain places, Title 11, §§ 381, 387, 388, & 391 in The Revised Statutes of Arizona Territory (1901).

“Sec. 381. Any person who shall, purposely or carelessly, discharge any gun, pistol or other firearm in any saloon, dance house, store or other public house or business house in this territory, thereby endangering the life or person of another, or thereby disturbing any of the inmates thereof, or who shall thereby injure, destroy or damage any property therein, or who shall discharge the same in any city, village or town of this territory, except in necessary self-defense, shall be

fined in any sum not exceeding three hundred dollars, or be imprisoned in the county jail for a period not exceeding six months, or shall be punished by both such fine and imprisonment.”

“Sec. 385. If any person within any settlement, town, village or city within this territory shall carry on or about his person, saddle, or in saddlebags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, bowie-knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and, in addition thereto, shall forfeit to the county in which he is convicted the weapon or weapons so carried.

“Sec. 387. If any person shall go into church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into a ball room, social party or social gathering, or to any election precinct, on the day or days of any election, where any portion of the people of this territory are collected to vote at any election, or to any other place where people may be assembled to minister or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, bowie knife or any other kind of a knife manufactured and sold for the purposes of offense or defense, he shall be punished by a fine not less than fifty nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.

Sec. 388. The preceding section shall not apply to peace officers or other persons authorized or permitted by law to carry arms at the places therein designated.”

“Sec. 391. It shall be the duty of the keeper of each and every hotel, boarding house and drinking saloon, to keep posted up in a conspicuous place in his bar room, or reception room, if there be no bar in the house, a plain notice to travelers to divest themselves of their weapons, in accordance with section 382 of this act,¹ and the sheriffs of the various counties shall notify the keepers of hotels, boarding houses and drinking saloons, in their respective counties, of their duties under this law, and if after such notification any keeper of a hotel, boarding house or drinking saloon shall fail to keep notices posted, as required by this act, he shall, on conviction thereof before a justice of the peace, be fined in the sum of five dollars, to go to the county treasury.”

1901, AZ, Title 11, §§ 381, 387, 388, & 391 of the AZ Penal Code

The Revised Statutes of Arizona Territory: Containing Also the Laws Passed by the Twenty-First Legislative Assembly, the Constitution of the United States, the Organic Law of Arizona and the Amendments of Congress Relating Thereto

(Columbia, MO: Press of E. W. Stephens, 1901), 1249-1254. Penal Code, Part One of Crimes and Punishments: Title 11—Of Crimes Against the Public Peace, §§ 381, 387, 388, & 391.

1. Sec. 382 is posted elsewhere in the repository, but for ease of reference, it reads as follows: “It shall be unlawful for any person (except a peace officer in actual service and discharge of his duty), to have or carry concealed on or about his person, any pistol or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, or other knuckles of metal, bowie-knife or any kind of knife or weapon, except a pocketknife, not manufactured and used for the purpose of offense and defense.”

ARKANSAS

Slaves, in Laws of the Arkansas Territory 521 (J. Steele & J. M’Campbell, Eds., 1835). Race and Slavery Based | Arkansas | 1835

§ 3. No slave or mulatto whatsoever, shall keep or carry a gun, powder, shot, club or other weapon whatsoever, offensive or defensive; but all and every gun weapon and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person and upon due proof made before any justice of the peace of the district [county] where such seizure shall be, shall by his order be forfeited to the seizer, for his own use, and moreover, every such offender shall have and receive by order of such justice any number of lashes not exceeding thirty nine on his or her bare back well laid on for every such offense.

Act of Mar. 26, 1931, No. 225, §§ 1-6, Ark. Acts 705-06 (to prohibit the possession, transportation or sale of machine guns, and inflicting penalty for violation thereof).

“SECTION 1. It shall be unlawful for any person or persons in any manner to transport from one place to another in this State, or for any railroad company, or express company, or other common carrier, or any officer, agent; or employee of any of them, or any other person acting in their behalf knowingly to ship or to transport from one place to another in this State in any manner or by any means whatsoever, except as hereinafter provided, any firearm of the type commonly known as a machine gun.

SECTION 2. It shall be unlawful for any person to store, keep, possess, or have in possession, or permit another to store, keep, possess, or have in possession, except as hereinafter provided, any firearm of the type commonly known as a machine-gun.

SECTION 3. It shall be unlawful for any person to sell, or give away, or be interested directly or indirectly, in the sale or giving away, of any firearm of the type commonly known as a machine-gun.

SECTION 4. Provided, this Act shall not apply to the military authorities of the State or nation, and provided further, that any peace officer of the State, counties or political subdivision thereof, may possess machine-guns when required in the performance of their duties. After April 1, 1931, every person permitted by this Act to possess a machine-gun, shall file in the office of the Secretary of State, on a blank to be supplied by the Secretary of State, an application to be properly sworn to, which shall include his name and address, and the serial number of the machine-gun which he desires to possess. Thereupon, the Secretary of State shall file such application, in his office, registering such officer in a book or index to be kept for that purpose, and assign to him a number, and issue to him a card, which he shall keep with him while he has such machine-gun in his possession. Such registration shall be made on the date application is received and filed with the Secretary of State, and shall expire on December 31, of the year in which said license is issued.

SECTION 5. Any person violating any part of this law shall upon conviction be fined in any sum not more than \$1,000.00, and not less than \$100.00, and the machine-gun or guns found in his possession shall be confiscated and the title thereof shall pass to the political subdivision of the State making the capture.

SECTION 6. All laws and parts of laws in conflict herewith are hereby repealed, and whereas criminals are using machine-guns for illegal purposes, this Act being necessary for the immediate preservation of the public peace, health, and safety, an emergency is hereby declared, and it shall be in force and effect from and after its passage.”

Uniform Machine Gun Act, Act No. 80, §§ 1-14, 1935 Ark. Acts 171-75.

“ACT 80.

‘AN ACT Relating to Machine Guns, and to Make Uniform the Law With Reference Thereto.’

Be It Enacted by the General Assembly of the State of Arkansas;

SECTION 1. ‘Machine Gun’ applies to and includes a weapon of any description by whatever name known, loaded or unloaded, from which more than five shots or bullets may be rapidly, or automatically, or semi-automatically discharged from a magazine, by a single function of the firing device. ‘Crime of Violence’ applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering, and larceny. ‘Person’ applies to and includes firm, partnership, association or corporation.

SECTION 2. Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of (not less than twenty years).

SECTION 3. Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of (not less than ten years).

SECTION 4. Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose;

(a) when the machine gun is on premises not owned or rented, for bona fide permanent residence or business occupancy, by the person in whose possession the machine gun may be found; or

(b) when in the possession of, or used by, an unnaturalized foreign-born person, or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions; or

(c) when the machine gun is of the kind described in Section 8 and has not been registered as in said section required; or

(d) when empty or loaded pistol shells of 30 (.30 in. or 7.63 mm.) or larger caliber which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

SECTION 5. The presence of a machine gun in any room, boat, or vehicle shall be evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

SECTION 6. Nothing contained in this act shall prohibit or interfere with the manufacture for, and sale of, machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose;

the possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake;

the possession of a machine gun other than one adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber, for a purpose manifestly not aggressive or offensive.

SECTION 7. Every manufacturer shall keep a register of all machine guns manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt, of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given, or delivered, or from whom it was received; and the purpose for which it was acquired by the person to whom the machine gun was sold, loaned, given or delivered, or from whom received. Upon demand every

manufacturer shall permit any marshal, sheriff or police officer to inspect his entire stock of machine guns, parts, and supplies therefor, and shall produce the register, herein required, for inspection. A violation of any provision of this section shall be punishable by a fine of (not less thanhundred dollars).[1]

SECTION 8. Every machine gun now in this State adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber shall be registered in the office of the (Secretary of state), on the effective date of this act, and annually thereafter. If acquired hereafter it shall be registered within 24 hours after its acquisition. Blanks for registration shall be prepared by the (secretary of state), and furnished upon application. To comply with this section the application as filed must show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which the gun was acquired. The registration data shall not be subject to inspection by the public. Any person failing to register any gun as required by this section, shall be presumed to possess the same for offensive or aggressive purpose.

SECTION 9. Warrant to search any house or place and seize any machine gun adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber possessed in violation of this act, may issue in the same manner and under the same restrictions as provided by law for stolen property, and any court of record upon application of the (district attorney), shall have jurisdiction and power to order any machine gun, thus or otherwise legally seized, to be confiscated and either destroyed or delivered to a peace officer of the State or a political subdivision thereof.

SECTION 10. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 11. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 12. This act may be cited as the Uniform Machine Gun Act.

SECTION 13. All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

SECTION 14. WHEREAS, under the present law of the state of Arkansas the officers of the state are powerless to effectively combat crime, therefore, it being necessary for the preservation of the public peace, health and safety, an emergency is hereby declared, and this act shall take effect and be in force from and after its passage and approval.”

Acts Concurrent Resolutions, Memorials and Proposed Constitutional Amendments of the Fiftieth General Assembly of the State of Arkansas Passed at the Regular Session Held at the Capitol in the City of Little Rock, Arkansas,

Convening on the 14th Day of January, 1935, and Adjourning on the 14th Day of March, 1935 Little Rock: AR: Democrat Printing & Litho. Co., 1935), 171-175. Act 80—An Act Relating to Machine Guns, and to Make Uniform the Law With Reference Thereto, §§ 1-14. Approved February 26, 1935.

CALIFORNIA

1917 Cal. Sess. Laws 221-225, An act relating to and regulating the carrying, possession, sale or other disposition of firearms capable of being concealed upon the person; prohibiting the possession, carrying, manufacturing and sale of certain other dangerous weapons and the giving, transferring and disposition thereof to other persons within this state; providing for the registering of the sales of firearms; prohibiting the carrying or possession of concealed weapons in municipal corporations; providing for the destruction of certain dangerous weapons as nuisances and making it a felony to use or attempt to use certain dangerous weapons against another, §§ 3-4.

SEC. 3. Every person who carries in any city, city and county, town or municipal corporation of this state any pistol, revolver, or other firearm concealed upon his person, without having a license to carry such firearm as hereinafter provided in section six of this act, shall be guilty of a misdemeanor, and if he has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony.

SEC 4. The unlawful possessing or carrying of any of the instruments, weapons, or firearms enumerated in section one to section three inclusive of this act, by any person other than those authorized and empowered to carry or possess the same as hereinafter provided, is a nuisance, and such instruments, weapons or firearms are hereby declared to be nuisances, and when any of said articles shall be taken from the possession of any person the same shall be surrendered to the magistrate before whom said person shall be taken, except that in any city, city and county, town or other municipal corporation the same shall be surrendered to the head of the police force, or police department thereof. The officers to whom the same may be so surrendered, except upon certificate of a judge of a court of record, or of the district attorney of any county that the preservation thereof is necessary or proper to the ends of justice, shall proceed at such time or times as he deems proper, and at least once in each year to destroy or cause to be destroyed such instruments, weapons, or other firearms in such manner and to such extent that the same shall be and become wholly and entirely ineffective and useless for the purpose for which it was manufactured.

DISTRICT OF COLUMBIA

An Ordinance Prohibiting the Carrying of Firearms, Ordinances of the Corporation of Georgetown (1859).

“Be it ordained by the Board of Aldermen and Board of Common Council of the Corporation of Georgetown, That from and after the 1st of April, 1859, it shall not be lawful for any person or persons to have about their persons any concealed deadly or dangerous weapons, such as daggers, pistols, bowie-knives, dirk-knives, colt, slung-shots, or brass or other metallic knuckles, within the limits of this Corporation ; and any person or persons who shall be duly convicted of so carrying or having on their persons any such weapons, shall forfeit and pay upon such convictions not less than five dollars nor more than twenty dollars, which fine shall be prosecuted and recovered in the same manner as other fines and forfeitures according to this Corporation are sued for and recovered: Provided, That the police officers and military, when on duty, shall be exempt from such fines and forfeitures. And be it further enacted, That all such weapons named above shall be taken away from the persons on whom they may be found, and deposited with the Mayor.”

1859, DC, An Ordinance Prohibiting the Carrying of Firearms, Ordinances of the Corporation of Georgetown
Ordinances of the Corporation of Georgetown, from January, 1859, to January, 1860, with a Table of Contents (Washington, D.C.: Thomas McGill, 1860), 22-23.
An Ordinance Prohibiting the Carrying of Firearms, &c. Approved 2 April, 1859.

Washington D.C. 27 Stat. 116 (1892)

CHAP. 159.—An Act to punish the carrying or selling of deadly or dangerous weapons within the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any person or persons within the District of Columbia, to have concealed about their person any deadly or dangerous weapons, such as daggers, air-guns, pistols, bowie-knives, dirk knives or dirks, blackjacks, razors, razor blades, sword canes, slung shot, brass or other metal knuckles.

SEC. 2. That it shall not be lawful for any person or persons within the District of Columbia to carry openly any such weapons as hereinbefore described with intent to unlawfully use the same, and any person or persons violating either of these sections shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for the first offense, forfeit and pay a fine or penalty of not less than fifty dollars nor more than five hundred dollars, of which one half shall be paid to any one giving information leading to such conviction, or be imprisoned in the jail of the District of Columbia not exceeding six months, or both such fine and

imprisonment, in the discretion of the court: Provided, That the officers, non-commissioned officers, and privates of the United States Army, Navy, or Marine Corps, or of any regularly organized Militia Company, police officers, officers guarding prisoners, officials of the United States or the District of Columbia engaged in the execution of the laws for the protection of persons or property, when any of such persons are on duty, shall not be liable for carrying necessary arms for use in performance of their duty: Provided, further, that nothing contained in the first or second sections of this act shall be so construed as to prevent any person from keeping or carrying about his place of business, dwelling house, or premises any such dangerous or deadly weapons, or from carrying the same from place of purchase to his dwelling house or place of business or from his dwelling house or place of business to any place where repairing is done, to have the same repaired, and back again: Provided further, That nothing contained in the first or second sections of this act shall be so construed as to apply. to any person who shall have been granted a written permit to carry such weapon or weapons by any judge of the police court of the District of Columbia, and authority is hereby given to any such judge to grant such permit for a period of not more than one month at any one time, upon satisfactory proof to him of the necessity for the granting thereof; and further, upon the filing with such judge of a bond, with sureties to be approved by said judge, by the applicant for such permit, conditioned to the United States in such penal sum as said judge shall require for the keeping of the peace, save in the case of necessary self defense by such applicant during the continuance of said permit, which bond shall be put in suit by the United States for its benefit upon any breach of such condition.

SEC. 3. That for the second violation of the provisions of either of the preceding sections the person or persons offending shall be proceeded against by indictment in the supreme court of the District of Columbia, and upon conviction thereof shall be imprisoned in the penitentiary for not more than three years.

SEC. 4. That all such weapons as hereinbefore described which may be taken from any person offending against any of the provisions shall, upon conviction of such person, be disposed of as may be ordered by the judge trying the case, and the record shall show any and all such orders relating thereto as a part of the judgment in the case.

SEC. 5. That any person or persons who shall, within the District of Columbia, sell, barter, hire, lend or give to any minor under the age of twenty-one years any such weapon as hereinbefore described shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, pay a fine or penalty of not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the jail of the District of Columbia not more than three months. No person shall engage in or conduct the business of selling, bartering, hiring, lending, or giving any weapon or

weapons of the kind hereinbefore named without having previously obtained from the Commissioners of the District of Columbia a special license authorizing the conduct of such business by such person, and the said Commissioners are hereby authorized to grant such license, without fee therefor, upon the filing with them by the applicant therefor of a bond with sureties, to be by them approved, conditioned in such penal sum as they shall fix to the United States for the compliance by said applicant with all the provisions of this section; and upon any breach or breaches of said condition said bond shall be put in suit by said United States for its benefit, and said Commissioners may revoke said license. Any person engaging in said business without having previously obtained said special license shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars, of which one half shall be paid to the informer, if any, whose information shall lead to the conviction of the person paying said fine. All persons whose business it is to sell barter, hire, lend or give any such weapon or weapons shall be and they hereby, are, required to keep a written register of the name and residence of every purchaser, barterer, hirer, borrower, or donee of any such weapon or weapons, which register shall be subject to the inspection of the major and superintendent of Metropolitan Police of the District of Columbia, and further to make a weekly report, under oath to said major and superintendent of all such sales, barterings, hirings, lendings or gifts. And one half of every fine imposed under this section shall be paid to the informer, if any, whose information shall have led to the conviction of the person paying said fine. Any police officer failing to arrest any person guilty in his sight or presence and knowledge, of any violation of any section of this act shall be fined not less than fifty nor more than five hundred dollars.

SEC 6. That all acts or parts of acts inconsistent with the provisions of this act be, and the same hereby are, repealed.

FLORIDA

An Act to prevent Indians from roaming at large through the Territory, in
Compilation of the Public Acts of the Legislative Council of the Territory of
Florida, Passed Prior to 1840, at 46 (John P. Duval ed., 1839). 1827

Sec. 1. Be it enacted . . . If any male Indian, of the years of discretion, venture to roam or ramble beyond the boundary lines of the reservations which have been assigned to the tribe or nation to which said Indian belongs, it shall and may be lawful for any person or persons to apprehend, seize, and take said Indian, and carry him before some justice of the peace, who is hereby authorized, empowered, and required, to direct . . . not exceeding thirty-nine stripes . . . moreover, to cause the gun of said Indian (if he has one) to be taken from him, and deposited with the

colonel of the county, or captain of the district, in which said Indian may be taken, subject to the order of the super-intendent of Indian affairs. Sec. 2. And be it further enacted, That no general license to roam, or remain out of said limits, for the purpose of hunting, shall be received by said justice as an excuse of any Indian, when found without his assigned limits.

Leslie A. Thompson, A Manual or Digest of the Statute Law of the State of Florida, of a General and Public Character, in Force at the End of the Second Session of the General Assembly of the State, on the Sixth Day of January, 1847 Page 547, Image 582 (1847) available at The Making of Modern Law: Primary Sources.

For the Prevention of Indians Roaming at Large Throughout the State, § 1. From and after the passage of this act, if any male Indian of the years of discretion, venture to roam or ramble beyond the boundary lines of the reservations, which have been assigned to the tribe or nation to which said Indian belongs, it shall and may be lawful for any person or persons to apprehend, seize, and take said Indian, and carry him before some Justice of the Peace, who is hereby authorized, empowered, and required, to direct (if said Indian have not a written permission from the agent to do some specific act) not exceeding thirty-nine stripes, at the discretion of the Justice, to be laid on the bare back of said Indian; moreover, to cause the gun of said Indian (if he has one) to be taken from him, and deposited with the colonel of the county, or captain of the district, in which said Indian may be taken, subject to the order of the superintendent of Indian Affairs.

An Act Prescribing Additional Penalties for the Commission of Offences against the State, and for Other Purposes, Ch. 1460, No. 3, §§ 12-15, 1865 Fla. Laws 23, 25-27.

“Sec 12. Be it further enacted. That it shall not be lawful for any negro, mulatto, or other person of color, to own, use or keep in his possession or under his control, any Bowie-knife, dirk, sword, fire-arms or ammunition of any kind, unless he first obtain a license to do so from the Judge of Probate of the county in which he may be a resident for the time being: and the said Judge of Probate is hereby authorized to issue such license, upon the recommendation of two respectable citizens of the county, certifying to the peaceful and orderly character of the applicant; and any negro, mulatto, or other person of color, so offending, shall be deemed to be guilty of a misdemeanor, and upon conviction, shall forfeit to the use of the informer all such fire-arms and ammunition, and in addition thereto, shall be sentenced to stand in the pillory for one hour, or be whipped, not exceeding thirty-nine stripes, or both, at the discretion of the jury,

Sec. 13. Be it further enacted, That it shall be the duty of the Judge of Probate to keep an accurate register of all licenses so issued as aforesaid, and at each regular

meeting of the Board of County Commissioners, to lay the same before them for their supervision, who shall have power to revoke any licenses which, in their opinion, may have been granted to improper persons.

Sec. 15. Be it further enacted, That if any person shall form any military organization in this State, not authorized by law, or shall participate or aid or abet in the formation of such organization, he shall be deemed to be guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding one thousand dollars, and imprisoned for a term not exceeding six months; or shall be made to stand in the pillory for one hour, and be whipped, not exceeding thirty-nine stripes, at the discretion of the jury: Provided, That if the person so convicted shall, upon the trial, be proved to have accepted an office in such organization, the penalties herein provided may be increased three-fold, at the discretion of the jury.” Acts and Resolutions Adopted by the General Assembly of Florida at Its Fourteenth Session, Begun and Held at the Capitol, in the City of Tallahassee, on Monday, December 18, 1865 (Tallahassee, FL: Dyke & Sparhawk, 1866), 25-27. Chapter 1,460 [No. 3.]—An Act Prescribing Additional Penalties for the Commission of Offences against the State, and for Other Purposes, §§ 12-15. Passed the House of Representatives January 4, 1866. Passed the Senate January 8, 1866. Approved by the Governor January 15, 1866.

GEORGIA

A Digest of the Laws of the State of Georgia. From Its First Establishment as a British Province down to the Year 1798, Inclusive, and the Principal Acts of 1799: In Which is Comprehended the Declaration of Independence; the State Constitutions of 1777 and 1789, with the Alterations and Amendments in 1794. Also the Constitution of 1798 Page 153-154, Image 160-161 (1800) available at The Making of Modern Law: Primary Sources. 1768

Laws of Georgia, An Act to amend and Continue “An Act for the Establishing and Regulating Patrols, and for Preventing any Person from Purchasing Provisions or any Other Commodities from, or Selling Such to any Slave, Unless Such Slave Shall Produce a Ticket from His or Her Owner, Manager or Employer . . . Be it enacted, That immediately from and after passing of this act, it shall not be lawful for any slave, unless in the presence of some white person, to carry or make use of fire arms, or any offensive weapon whatsoever, unless such slave shall have a ticket or license in writing from his master, mistress, or overseer, to hunt and kill game, cattle, or mischievous birds or beasts of prey, and that such license be renewed every week, or unless there be some white person of the age of sixteen years or upwards in the company of such slave when he is hunting or shooting, or that such slave be actually carrying his master’s arms to or from his master’s

plantation by a special ticket for that purpose, or unless such slave be found in the day-time, actually keeping off birds within the plantation to which such slave belongs, loading the same gun at night, within the plantation to which such slave belongs, loading the same gun at night, within the dwelling house of his master, mistress or white overseer: Provided always, That no slave shall have liberty to carry any gun, cutlass, pistol, or other offensive weapon, abroad at any time between Saturday evening after sunset and Monday morning before sun rise, notwithstanding a license or ticket for so doing. II. And be it further enacted, That in case any or either of the patrols, established or to be established within this province, by virtues of the said act, on searching and examining any negro house for offensive weapons, fire arms and ammunition, shall find any such, or in case any person shall find any slave using or carrying fire arms or other offensive weapons, contrary to the intent and meaning of this act, such patrol, or person or persons, may lawfully seize and take away such offensive weapons, fire arms, and ammunition, but before the property thereof shall be vested in the person or persons who shall seize the same, such person or persons shall, within three days next after such seizure, go before a justice of the peace, and shall make oath of the manner of taking thereof, and if such justice of the peace, after such oath made, or upon due examination, shall be satisfied that the said fire arms, offensive weapon, or ammunition, shall have been seized according to the directions, and agreeable to the true intent and meaning of this act, the said justice shall, by certificate under his hand and seal, declare them forfeited, that the property is lawfully vested in the person or persons who seized the same.

ILLINOIS

Revised Ordinances of the City of Danville [Illinois] Page 66, Image 133 (1883) available at The Making of Modern Law: Primary Sources.

Ordinances of the City of Danville. Concealed Weapons. § 22.

Whoever shall carry concealed upon or about his person any pistol, revolver, derringer, bowie-knife, dirk, slung-shot, metallic knuckles, or a razor, as a weapon, or any other deadly weapon of like character, capable or being concealed upon the person, or whoever shall in a threatening or boisterous manner, flourish or display the same, shall be fined not less than one dollar, nor more than one hundred dollars; and in addition to the said penalty shall, upon the order of the magistrate before whom such conviction is had, forfeits the weapon so carried to the city.

Ch. 26—Concealed Weapons, §§ 1-8, in, Revised Ordinances of the Village of Hinsdale, Illinois (1912).

“Unlawful to Carry.] Sec. 1. It shall be unlawful for any person within the limits of the village of Hinsdale to carry or wear under his clothes or concealed about his person any pistol, colt or slung shot, cross knuckles, or knuckles of lead, brass or other metal, or bowie knife, dirk, dagger, or other dangerous or deadly weapon.

Confiscation of Weapons.] Sec. 2. Any such weapon or weapons duly adjudged by any police magistrate or justice of the peace to have been worn or carried by any person, in violation of the preceding section, shall be forfeited or confiscated to the village of Hinsdale, and shall be so adjudged, as a part of the judgment for each violation, by the magistrate before whom the trial of any person for a violation of this chapter shall be had.

Arrest for Carrying.] Sec. 3. Any policeman of the village of Hinsdale may, within the limits of said village, without a warrant, arrest any person or persons whom he may find in the act of carrying or wearing concealed about his or their persons any weapon specified in section one of this chapter, until a summons or warrant can be procured on complaint [sic] made, under oath or affirmation, for the trial of such person or persons.

Penalty.] Sec. 4. Any person or persons convicted of violating any of the provisions of this chapter shall be subject to a fine of not less than five dollars nor more than two hundred dollars.

To Whom Not Applicable.] Sec. 5. The prohibitions of this chapter shall not apply to the officers or members of the police force of said village when on duty, nor to any officer of any court whose duty it may be to serve warrants or to make arrests; nor to persons whose business or occupation may seem to require the carrying of weapons for their protection, and who shall have obtained from the president a license so to do, as hereinafter provided.

President to Grant License.] Sec. 6. The president may grant to so many and such persons as he may think proper licenses to carry concealed weapons, and may revoke any and all of such licenses at his pleasure.

Fee for License.] Sec. 7. Applications for such licenses shall be made to the village clerk, and when granted the applicant therefor shall pay to the village collector, for the use of the village, the sum of two dollars.

What License Shall State.] Sec. 8. Every such license shall state the name, age, occupation and residence of the person to whom it is granted.”

1912, Hinsdale, IL, Ch. 26—Concealed Weapons, §§ 1-8

Lawrence P. Conover, ed., Revised Ordinances of the Village of Hinsdale, Illinois 1912: Printed and Published by Authority of the President and Board of Trustees of the Village of Hinsdale, Pursuant to Ordinance, Passed and Approved, February 5, 1912, Issued in Book Form, February 15, 1912 (Hinsdale, IL: Merrill Printing Company, 1912), 168-169. Chapter 26—Concealed Weapons, §§ 1-8. Undated.

INDIANA

1804 Ind. Acts 108, A Law Entitled a Law Respecting Slaves, § 4.

And be it further enacted, That no slave or mulatto whatsoever shall keep or carry any gun, powder, shot, club or other weapon whatsoever, offensive or defensive, but all and every gun weapon and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person and upon due proof thereof made before any justice of the peace of the district where such seizure shall be, shall by his order be forfeited to the seizor, for his use and moreover every such offender shall have and receive by order of such justice any number of loashes not exceeding thirty nine on his or her bare back, well laid for every such offense.

1905 Ind. Acts 687–88, Weapon—Carrying Dangerous § 449.

Every person, not being a traveler, who shall wear or carry any dirk, pistol, bowie-knife, dagger, sword in cane or any other dangerous or deadly weapon concealed, or who shall carry or wear any such weapon openly, with the intent or avowed purpose of injuring his fellowman, shall, on conviction, be fined not exceeding five hundred dollars. Any such weapon which upon arrest upon this charge shall be found upon the person of such arrested person shall be taken by the officer making such arrest, and unless such officer be the sheriff, such weapon shall be deposited with such sheriff, and in every instance such weapon shall be held by the sheriff subject to the final order of the court thereupon. In case the arrested person be found guilty of violating this statute by wearing or carrying such concealed weapon there shall be entered as part of the judgment of conviction of said crime an order to the sheriff directing the destruction of such weapon by the justice, mayor, city judge or judge of the criminal or circuit court before whom or in whose court such cause is pending, and the sheriff shall execute the same in the manner and at the time fixed by such order. Any person three times convicted within any period of two years of committing any of the offenses defined in this section shall upon such third conviction be imprisoned in the state prison not more than one year.

1925 Ind. Acts 495, 495-98

Pistols and Revolvers Defined.

SECTION 1. Be it enacted by the general assembly of the State of Indiana, That the term “pistol or revolver,” as used in this act, shall be construed as meaning any firearm with a barrel less than twelve inches in length.

Crime-Committing When Armed With Pistol or Revolver.

SEc. 2. If any person shall, within the State of Indiana, commit or attempt to commit a crime, when armed with a pistol or revolver, and having no permit to

carry the same, he shall, in addition to the punishment provided for the crime, be guilty of a felony and shall be punished by imprisonment for not less than one year and not more than five years.

Subsequent Offenses.

SEc. 3. The judge shall have the power to sentence any person who may be convicted for a second or third, or other subsequent offense under section 2 of this act, to double or triple the penalty imposed thereby.

Felony-Conviction For-Prohibited From Possessing Pistol.

SEC. 4. No person who has been convicted of a felony committed against the person or property of another shall own or have in his possession or under his control, within the State of Indiana, a pistol or revolver. A violation of this section shall constitute a felony and be punishable by imprisonment for not less than one year, and not more than five years.

Pistol or Revolver-Possession Without Permit.

SEc. 5. No person shall carry, within the State of Indiana, a pistol or revolver concealed in any vehicle or upon his person, except in his dwelling house or place of business, without a permit therefor as hereinafter provided. Violations of this section shall constitute a misdemeanor and be punished by a fine of one hundred dollars (\$100.00), to which may be added imprisonment for not more than one year, and upon conviction the pistol or revolver shall be confiscated and destroyed by the sheriff on order of the court.

Persons Exempt From Act.

SEc. 6. The provisions of the preceding section shall not apply to marshals, sheriffs, deputy sheriffs, policemen or any other duly appointed peace officers, nor to the pistols or revolvers of any bank, trust company, or common carriers, or to the officers or employes of any bank, trust company, or common carriers, while such officers or employes are guarding money or valuables within the line of their duties as such employes, nor to the regular and ordinary transportation of pistols or revolvers as merchandise, nor to members of the army, navy, or marine corps or the mail service of the United States, or the national guard, when on duty, or organizations by law authorized to purchase or receive such weapons from the United States, or the State of Indiana, nor to duly authorized military or civil organizations when parading, nor to the members thereof when at .or going to or from their customary places of assembly.

IOWA

Ordinances of the Borough of Vincennes, with the Act of Incorporation and Supplement Thereto Prefixed Page 54-55, Image 54-55 (1820) available at The Making of Modern Law: Primary Sources. 1819

[An Ordinance to Prevent Nuisances, Etc.] § 7. Be it further ordained by the authority aforesaid, That any negro or mulatto, shall be punished with thirty-nine stripes on the bare back, if found with deadly weapons, other than the legal implements of his, or her business, when engaged therein; and it is hereby made the duty of the town constable, and permitted to any other citizen, to disarm and imprison such negro or mulatto, as may be found with a belt or butcher-knife, dirk, sword, or pistol, and make complaint to any magistrate within this Borough, to award the aforesaid punishment.

Chas. Ben. Darwin, Ordinances of the City of Burlington, with Head Notes and an Analytic Index Page 72-73, Image 72-73 (1856) available at The Making of Modern Law: Primary Sources. 1847

Burlington City Ordinances, An Ordinance to Regulate the Storage and Sale of Gunpowder in the City of Burlington, § 1. Be it ordained by the city Council of the city of Burlington, That it shall not be lawful for any merchant, trader, or other person, to retail or deliver gun-powder in said city in the night time, under a fine of five dollars. §2. It shall not be lawful for any such person to keep for sale or other purposes in said city, in his place of business, more than twenty-five pounds of gun-powder at any one time, and then only in a safe canister. § 3. It shall not be lawful for any person whatsoever to store away gun-powder for safe keeping, in any quantity whatever, in any ware-house, dwelling house, cellar, or other building or place, within the limits of said city, unless such house or place shall have first been designated by the city Council of said city and by them approbated as a suitable place for that purpose, and then only so long as the same shall from time to time be deemed suitable by the said city Council. § 4. If any person shall violate any of the provisions of the third section of this ordinance he shall forfeit for the use of the corporation all the gun-powder which the person so violating the same may have on hand, and on conviction thereof, shall also pay a fine of one hundred dollars, and the city Marshal shall seize and remove such powder to a secure place and dispose of it by sale, and pay the proceeds, reserving costs and charges, into the city treasury.

KENTUCKY

1798 Ky. Acts 106. No negro, mulatto, or Indian whatsoever shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive but all and every gun, weapon and ammunition found in the possession or custody of any negro, mulatto or Indian may be seized by any person and upon due proof thereof made before any justice of the peace of the county where such seizure shall be shall by his order, be forfeited to the seizer for his own use, and moreover every

such offender shall have and receive by order of such justice any number of lashes not exceeding thirty nine on his or her back, well laid for every such offense.

LOUISIANA

An Act prescribing the rules and conduct to be observed with respect to Negroes and other Slaves of this territory, in A General Digest of the Acts of the Legislature of Louisiana, Passed from the Year 1804 to 1827, Inclusive, And in Force at this Last Period, With An Appendix and General Index, Black Code (Approved June 7, 1806) (L. Moreau Lislet, Printed by Benjamin Levy, 1828).

“SECTION 19. No slave shall, by day or by night, carry any visible or hidden arms, not even with a permission for so doing, and in case any person or persons shall find any slave or slaves, using or carrying such fire arms, or any offensive weapons of any other kind, contrary to the true meaning of this act, he, she or they, lawfully, may seize and carry away such fire arms, or other offensive weapons; but before the person or persons, who shall so seize such fire arms can possess the same of right, he, she or they shall go, within forty-eight hours after the said seizure, before the next justice of the peace, and shall declare, upon oath, the manner in which he, she or they have seized the said arms; and if the justice of the peace, upon the oath of such person or persons, or upon any other examination or proof, be satisfied that the said fire arms or other offensive weapons have been seized, pursuant to the true intent and meaning of this act, the said justice of the peace shall de- clare, by a certificate under his hand and seal, that the said arms are forfeited, and that they have lawfully become the property of the person or persons who has or have seized the same: Provided,that no certificate of the above de- scription shall be delivered by any justice of the peace, until the owner or owners of the said fire arms or other offensive weapons, which shall have been seized as aforesaid, or the overseer or overseers who shall have the said slave or slaves in charge, upon whom the said fire arms or other offensive weapons shall have been seized, as aforesaid, be duly sum- moned to show cause, (if he, she or they have any,) why the said arms should not be forfeited, or until forty-eight hours shall have elapsed after the citation and oath made before the said justice of the peace: Provided, that the said slave or slaves do not actually carry the arms of his master to.....or from his plantation to.....with a special permission for that purpose.”

MAINE

1909 Me. Laws 141, An Act to prohibit the use of Firearms fitted with any device to deaden the sound of explosion, ch. 129, § 1

It shall be unlawful for any person to sell, offer for sale, use or have in his possession, any gun, pistol or other firearm, fitted or contrived with any device for deadening the sound of explosion. Whoever violates any of the provisions of this act shall forfeit such firearm or firearms and the device or silencer, and shall further be subject to a fine not exceeding one hundred dollars, or to imprisonment not exceeding sixty days, or to both fine and imprisonment. . .

MARYLAND

1806 Md. Laws 44, An Act To Restrain The Evil Practices Arising From Negroes Keeping Dogs, And To Prohibit Them From Carrying Guns Or Offensive Weapons, ch. 81

...it shall not be lawful for any negro or mulatto within this state to keep any dog, bitch or gun , except he be a free negro or mulatto, and in that case he may be permitted to keep one dog, provided such free negro or mulatto shall obtain a license from a justice of the peace for that purpose, and that the said license shall be in force for one year, and no longer, and if any dog or bitch owned by any negro, not possessed of such license, shall be seen going at large, it shall be lawful for any person to kill the same, and in case of any suit instituted therefor, the person or persons killing the said dog or bitch may plead the general issue, and give this act in evidence. II. ...it shall not be lawful for any free negro or mulatto to go at large with any gun, or other offensive weapon; and in case any free negro or mulatto shall be seen going at large carrying a gun, or other offensive weapon, he shall be liable to be carried before any magistrate, in virtue of a warrant to be issued by any justice of the peace, directed to a constable of the county, and on conviction of having violated the provisions of this section of the act, such offender shall thereupon forfeit, to the use of the informant, such gun, or other offensive weapon, which shall thus have been found in his or her possession, and be subject to the payment of the costs which shall have accrued in such prosecution; provided, that nothing in this act shall extend to prevent any free negro or mulatto from carrying a gun, or other offensive weapon, who shall, at the time of his carrying the same, have a certificate from a justice of the peace, that he is an orderly and peacable person, which certificate shall be in force for one year from the date thereof and no longer.

The Baltimore City Code: Comprising the Statutes and Ordinances Relating to the City of Baltimore, at 171 – Art. XVI, Section 27 (1869)

27. If the said board of police shall have reason to believe that in the neighborhood of any election polls in the said city or elsewhere, within any election precinct of the same, there is any depot or collection of fire arms or other weapons or

ammunition intended to be used for the purpose of intimidating or injuring voters, or interfering with the freedom or peace of any election then pending or approaching, it shall be the duty of said board to apply to the Criminal Court, or some justice of the peace of said city, for a warrant, on proper oath, to search the premises, and the said court or justice shall issue the same without delay, and shall cause the said arms, weapons and ammunition, if found, to be seized and delivered to said board, to be detained until the day after the returns of said election shall have been made, and until the same shall be disposed of by law.

John Prentiss Poe, The Maryland Code. Public Local Laws, Adopted by the General Assembly of Maryland March 14, 1888. Including also the Public Local Acts of the Session of 1888 Incorporated Therein Page 522-523, Image 531-532 (Vol. 1, 1888) available at The Making of Modern Law: Primary Sources. 1884 City of Baltimore, § 742. Whenever any person shall be arrested in the city of Baltimore, charged with any crime or misdemeanor, or for being drunk or disorderly, or for any breach of the peace, and shall be taken before any of the police justices of the peace of the said city, and any such person shall be found to have concealed about his person any pistol, dirk knife, bowie-knife, sling-shot, billy, brass, iron or any other metal knuckles, razor, or any other deadly weapon whatsoever, such person shall be subject to a fine of not less than five dollars nor more than twenty-five dollars in the discretion of the police justice of the peace before whom such person may be taken, and the confiscation of the weapon so found, which said fine shall be collected as other fines are now collected; provided, however, that the provisions of this section shall not apply to those persons who, as conservators of the peace are entitled or required to carry a pistol or other weapon as a part of their official equipment.

MASSACHUSETTS

1 Records of the Governor and Company of the Massachusetts Bay in New England 211-12 (Nathaniel B. Shurtleff ed., 1853). 1637.

Whereas the opinions & revelations of Mr. Wheeleright & Mrs. Hutchinson have seduced & led into dangerous errors many of the people heare in Newe England, insomuch as there is just cause of suspition that they, as others in Germany, in former times, may, upon some revelation, make some suddaine irruption vpon those that differ from them in judgment, for prevention whereof it is ordered, that all those whose names are vnderwritten shall (vpon warning given or left at their dwelling houses) before the 30th day of this month of November, deliver in at Mr. Canes house, at Boston, all such guns, pistols, swords, powder, shot, & match as they shalbee owners of, or have in their custody, vpon paine of ten pound for ev'y

default to bee made therof ; which armes are to bee kept by Mr. Cane till this Court shall take further order therein. Also, it is ordered, vpon like penulty of x', that no man who is to render his armes by this order shall buy or borrow any guns, swords, pistols, powder, shot, or match, vntill this Court shall take further order therein. . . . The like order is taken for other townes, changing the names of those who shall deliver their armes, & keepe them. . . . It was ordered, that if any that are to bee disarmed acknowledg their sium in subscribing the seditious libell, or do not justify it, but acknowledg it evill to two magistrates, they shalbee thereby freed from delivering in their armes according to the former order./
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1719 Mass. Acts 348, An Act In Further Addition To An Act For Erecting A Powder House In Boston, ch. III, § 1

... That, from and after the publication of this Act, no gunpowder shall be kept on board any ship, or other vessel, lying to or grounded at any wharf within the port of Boston. And if any gunpowder shall be found on board such ship or vessel lying aground, as aforesaid, such powder shall be liable to confiscation, and under the same penalty, as if it were found lying in any house or warehouse. And be it further enacted by the authority aforesaid, that no powder be carried through any town upon trucks, under the penalty of ten shillings per barrel for every barrel of powder so conveyed, and so proportionally for smaller cask.

1746 Mass. Acts 208, An Act to Prevent the Firing of Guns Charged with Shot or Ball in the Town of Boston, chap. 11, §§ 1 to 3

§ 1. That no person or persons, from and after the publication of this act, shall presume to discharge or fire off any cannon laden with shot, from any wharf or vessel . . . (within certain areas) § 2. That no person shall . . . discharge any gun or pistol, charged with shot or ball, in the town of Boston, or in any part of the Harbor . . . And for the more effectual conviction of any person or persons so offending, it shall be lawful for any person to seize and take into custody any gun so fired off, and deliver the same . . . § 3 this law shall not be construed or understood as to prevent soldiers in their common training days from discharging arms. (reenacted frequently)

Act of Mar. 14, 1776, ch. VII, 1775-1776 Mass. Act at 31–32, 35.

Chap. VII An Act for the executing in the Colony of the Massachusetts Bay, in New England, one Resolve of the American Congress, dated March 14, 1776, recommending the disarming of such persons as are notoriously disaffected to the cause of America, or who refuse to associate to defend by arms the United American Colonies, against the hostile attempts of the British fleets and armies, and

for the restraining and punishing persons who are inimical to the rights and liberties of the said United Colonies, and for directing the Proceedings therein. Whereas on the fourteenth of March One Thousand Seven Hundred and Seventy-five, a certain resolve was made and passed by the American Congress, of the following tenor, viz. “Resolved, That it be recommended to the several Assemblies, Conventions and Councils, or Committees of Safety of the United Colonies, immediately to cause all persons to be disarmed within their respective Colonies, who are notoriously disaffected to the cause of America, or who have not associated and refuse to associate to defend by arms these United Colonies, against the hostile attempts of the British Fleets and Armies; and to apply the arms taken from such persons in each respective Colony, in the first place, to the arming of the Continental Troops raised in said Colony; in the next, to the arming such troops as are raised by the Colony for its own defense, and the residue to be applied to the arming [sic] the associators; that their arms when taken, be appraised by indifferent persons, and such as are applied to the arming Continental Troops, be paid for by Congress; and the residue by the respective Assemblies, Conventions or Councils, or Committees of Safety.” Be it therefore enacted by the Council, and House of Representatives in General Court assembled, and by the Authority of the same, that every male person above sixteen years of age, resident in any town or place in this colony, who shall neglect or refuse to subscribe a printed or written declaration of the form and tenor herein after prescribed, upon being required thereto by the Committee of Correspondence, Inspection and Safety for the town or place in which he dwells, or any of them, shall be disarmed and have taken from him in manner hereafter directed, all such arms, ammunities and warlike implements, as by the strictest search can be found in his possession or belonging to him; which declaration shall be in the form and words following, viz . . . Provided, nevertheless, and be it further enacted, that nothing in this shall be Act shall be construed to extend to the disarming, disqualifying or any way punishing any of the denomination of christians called Quakers, for not fighting the aforesaid declaration, in case upon being required to sign the following Declaration, and having the same tendered to him, shall not refuse or neglect to subscribe it.

1783 Mass. Acts 37, An Act in Addition to the Several Acts Already Made for the Prudent Storage of Gun Powder within the Town of Boston, § 2;
Thomas Wetmore, Commissioner, The Charter and Ordinances of the City of Boston: Together with the Acts of the Legislature Relating to the City Page 142-143, Image 142 (1834) available at The Making of Modern Law: Primary Sources. 1783

An Act in Addition to the Several Acts Already Made for the Prudent Storage of Gun Powder within the Town of Boston. Whereas the depositing of loaded arms in

the houses of the town of Boston, is dangerous to the lives of those who are disposed to exert themselves when a fire happens to break out in said town. § 1. Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, That if any person shall take into any dwelling house, stable, barn, out house, ware house, store, shop or other building within the town of Boston, any cannon, swivel, mortar, howitzer, cohorn, or fire arm, loaded with or having gunpowder in the same, or shall receive into any dwelling house, stable, barn, out house, store, ware house, shop, or other building within said town, any bomb, grenade, or other iron shell, charged with, or having gun powder in the same, such person shall forfeit and pay the sum of ten pounds, to be recovered at the suit of the firewards [duties of Firewards transferred to Engineers,] of the said towns, in an action of debt before any court proper to try the same; one moiety thereof, to the use of said Firewards, and the other moiety to the support of the poor of said town of Boston. § 2. Be it further enacted, That all cannons, swivels, mortars, howitzers, cohorns, fire arms, bombs, grenades, and iron shells of any kind, that shall be found in any dwelling house, out house, stable, barn, store, warehouse, shop or other building, charged with or having in them any gunpowder, shall be liable to be seized by either of the Firewards of said town; and upon complaint made by the said Firewards to the Court of Common Pleas, of such cannon, swivels, mortars, or howitzers, being so found, the Court shall proceed to try the merits of such complaint by a jury; and if the jury shall find such complaint supported, such cannon, swivel, mortar or howitzer, shall be adjudged forfeit, and sold at public auction; one half of the proceeds thereof shall be disposed of to the Firewards, and the other half to the use of the poor of the town of Boston. And when any fire arms, or any bomb, grenade, or other shell, shall be found in any house, out house, barn, stable, store, ware house, shop or other building, so charged, or having gun powder in the same, the same shall be liable to be seized in manner aforesaid; and on complaint thereof, made and supported before a Justice of the Peace, shall be sold and disposed of, as is above provided for cannon.

Act of Feb. 16, 1787, ch. VI, 1787 Mass. Acts 555.

Chapt. IV. An Act, describing the disqualifications to which persons shall be subjected, who have been, or may be guilty of treason, or giving aid or support to the present rebellion, and whom a pardon may be extended. Where the General Court, at their present sessions, have “resolved that the Governour be authorized and empowered in the name of the general court, to promise a pardon, under such disqualifications as should thereafter be provided, to such private soldiers and others, who might have acted in the capacity of non-commissioned officers, as had been, or were in arms against the Commonwealth, with such exceptions as he, or the general officer, commanding the troops, might judge necessary: provided they

should deliver their arms and take and subscribe the oath of allegiance to this Commonwealth, within such time as might be limited by his Excellency, for that purpose:” And whereas it is fit and expedient, that the conditions and disqualifications upon which the pardon and indemnity to the offenders aforesaid, should be offered and given, should as soon as possible be established and made known: Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That no pardon or indemnity, shall be promised as aforesaid by the Governour, by virtue of any act or resolve of the General Court, that has been or shall be passed, to any person or persons, who have acted in the capacity of non-commissioned officers, or privates, or persons of any other description, who, since the first day of August, seventeen hundred and eighty-six, have been, now are, or hereafter may be in arms against the authority and Government of this Commonwealth, or who have given or may hereafter give them counsel, aid, comfort or support, voluntarily, with intent to encourage the opposition to the government, unless they shall on or before such time as the Governour shall limit for that purpose, deliver their arms to, and take and subscribe the oath of allegiance, before some Justice of the Peace, within some county of this Commonwealth; and no pardon or indemnity shall be offered or given by the Governour to any offenders aforesaid, who are not citizens of this state. And be it further enacted by the authority aforesaid, That to whomsoever of the offenders aforesaid, the Governour shall think fit, by virtue of any act or resolve of the General Court, to promise a pardon and indemnity, for the offences aforesaid, it shall be under the following restrictions, conditions and disqualifications, that is to say, That they shall keep the peace for the terms of three years, from the time of passing this act, and that during that term of time, they shall not serve as jurors, be eligible to any town office, or any other office under the Government of this Commonwealth . . .

1801 Mass. Acts 507, An Act to Provide for the Storing and Safe Keeping of Gun Powder in the Town of Boston, and to Prevent Damage from the Same, ch. XX §1... That all Gun Powder imported and landed at the port of Boston, shall be brought to and lodged in the Powder House or Magazine in said town, and not elsewhere, on pain of confiscation of all Powder put or kept in any other house or place...

1919 Mass. Acts 139, An Act Relative to the Issuance of Search Warrants for the Seizure of Firearms, Weapons and Ammunition Kept for Unlawful Purposes, ch. 179, §§ 1-2

§ 1. A court or justice authorized to issue warrants in criminal cases may, upon complaint under oath that the complainant believes that an unreasonable number of

rifles, shot guns, pistols, revolvers or other dangerous weapons, or that an unnecessary quantity of ammunition, is kept or concealed for any unlawful purpose in a particular house or place, if satisfied that there is a reasonable cause for such belief, issue a warrant to search such property. § 2. If the court or justice finds that such property is kept for an unlawful purpose, it shall be forfeited and disposed of as the court or justice may by order direct.

MINNESOTA

Concealed Weapons-License, Article 18, §§ 1-9, The Municipal Code of Saint Paul (1884). 1882

“Sec 1. It shall be unlawful for any person, within the limits of the city of St. Paul, to carry or wear under his clothes, or concealed about his person, any pistol or pistols, dirk, dagger, sword, slungshot, cross-knuckles, or knuckles of lead, brass or other metal, bowie-knife, dirk-knife or razor, or any other dangerous or deadly weapon.

Sec. 2. Any such weapon or weapons, duly adjudged by the municipal court of said city to have been worn or carried by any person, in violation of the first section of this ordinance, shall be forfeited or confiscated to the said city of St. Paul, and shall be so adjudged.

Sec. 3. Any policeman of the city of St. Paul, may, within the limits of said city, without a warrant, arrest any person or persons, whom such policeman may find in the act of carrying or wearing under their clothes, or concealed about their person, any pistol or pistols, dirk, dagger, sword, slungshot, cross-knuckles, or knuckles of lead, brass or other metal, bowie-knife, dirk-knife or razor, or any other dangerous or deadly weapon, and detain him, her or them in the city jail, until a warrant can be procured, or complaint made for the trial of such person or persons, as provided by the charter of the city of St. Paul, for other offenses under said charter, and for the trial of such person or persons, and for the seizure and confiscation of such of the weapons above referred to, as such person or persons may be found in the act of carrying or wearing under their clothes, or concealed about their persons.

Sec. 4. Upon complaint made under oath or affirmation, to the municipal court of the city of St. Paul, that any person has been guilty of violating any of the provisions of section one of this ordinance, a warrant shall issue for the arrest of the offender or offenders, returnable as other warrants are returnable; upon the return of such warrant, the municipal court shall proceed to the hearing and determination of the matter, and if it shall be adjudged that such person or persons has or have incurred any of the penalties fixed by this ordinance, such court shall so adjudge, and order that the weapon or weapons concerning the carrying or wearing

of which such penalty shall have been incurred, shall be confiscated to the city of St. Paul.

And further, every such person or persons so offending, on conviction, shall be required to find sureties for keeping the peace for a term not exceeding six months.

Sec. 5. Any person or person violating any of the provisions of section one of this ordinance shall pay a fine of not less than \$5 nor more than \$100, or be imprisoned for a term not exceeding ninety days or both, in the discretion of the municipal judge, before whom such conviction shall be had.

Sec. 6. The prohibition of this ordinance shall not apply to the officers and members of the police force of said city, when on duty, nor to any officer of any court whose duty may be to secure warrants or to make arrests, nor to persons whose business or occupation may seem to require the carrying of weapons for protection, and who shall have obtained from the Mayor of said city a license so to do as hereinafter provided.

Sec. 7. The Mayor of the city of St. Paul may grant to so many, and to such persons as he may think proper, licenses to carry concealed weapons; and may revoke any and all of such licenses at his pleasure.

Sec. 8. Application for such licenses shall be made to the mayor of said city, in writing, and when granted, the person applying therefor, shall pay into the city treasury the sum of two dollars, and thereupon a license shall be issued by the city clerk, and signed by the mayor.

Sec. 9: Every such license shall state the name, age, occupation and residence of the person to whom it is granted, and shall expire on the thirty-first day of December of each and every year.”

1884, MN, Concealed Weapons-License, Article 18, §§ 1-9, The Municipal Code of Saint Paul

W. P. Murray, The Municipal Code of Saint Paul: Comprising the Laws of the State of Minnesota Relating to the City of Saint Paul, and the Ordinances of the Common Council: Revised to December 1, 1884 (St. Paul, MN: Daily Globe, 1884), 289-290. Article 18, Concealed Weapons-License, §§ 1-9. Passed January 17, 1882.

Ordinance No. 22: An Ordinance Relating to the Promotion of the Public Peace, Feb. 7, 1888, reprinted in Charter and Ordinances of the City of New Ulm, Minnesota 110–11 (Jos. A. Eckstein ed., 1888).

Sec. 2. It shall be unlawful for any person, within the limits of this city to carry or wear under his clothes or concealed about his person, any pistol, dirk, sling-shot, or knuckle of brass or other metal, or any other dangerous or deadly weapon. Any such weapon duly adjudged by any justice court of said city to have been worn or carried by any person in violation of this section, shall be adjudged and declared

forfeited or confiscated to the city of New Ulm: and every such person so offending, on conviction, may in addition to the penalty hereinafter described, be required to furnish surities for keeping the peace for a term not exceeding six months.

Sec. 3. The prohibition in the preceding section shall not apply to police, peace, and other officers of courts, whose duty may be to secure warrants or make arrests, nor to persons whose business or occupation may require the carrying of weapons for protection. Nothing in the ordinances of this city shall be construed to prohibit within the city limits any firing of a gun, pistol or other firearm when done in the lawful defense of person, property or family, or in the necessary enforcement of the laws.

MISSISSIPPI

1867 Miss. Laws 327-28, An Act To Tax Guns And Pistols in The County Of Washington, ch. 249, § 1.

[A] tax of not less than five dollars or more than fifteen dollars shall be levied and assessed annually by the board of Police of Washington county upon every gun and pistol which may be in the possession of any person in said county, which tax shall be payable at any time on demand, by the Sheriff, and if not so paid, it shall be the duty of the Sheriff to forthwith distrain and seize such gun or pistol, and sell the same for cash at the door of the Court House, after giving ten days notice by advertisement, posted in front of said Court House, and out of the proceeds of such sale, there shall be paid the amount of such tax and the cost of sale, and if any surplus remains, it shall be paid to the owner of such gun or pistol. The amount of the tax so assessed and collected, shall be paid to the county Treasurer, and shall constitute a part of the bridge fund of said county.

MISSOURI

Organic Laws:-Laws of Missouri Territory, (Alphabetically Arranged):-Spanish Regulations for the Allotment of Lands:- Laws of the United States, for Adjusting Titles to Lands, &c. to Which are Added, a Variety of Forms, Useful to Magistrates Page 374, Image 386 (1818) available at The Making of Modern Law: Primary Sources. 1818.

Slaves, § 3. No slave or mulatto whatsoever, shall keep or carry a gun, powder, shot, club or other weapon whatsoever, offensive or defensive; but all and every gun weapon and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person and upon due proof made before any justice of the peace of the district [county] where such seizure shall be, shall by his order

be forfeited to the seizor, for his own use, and moreover, every such offender shall have and receive by order of such justice any number of lashes not exceeding thirty nine on his or her bare back well laid on for every such offence. § 4. Every free negro or mulatto, being a housekeeper may be permitted to keep one gun, powder and shot; and all negroes or mulattoes bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder shot and weapons, offensive and defensive, by license from a justice of the peace of the district [county] wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes or of the owners of such as are slaves.

MONTANA

Chapter 22—Concealed Weapons, §§ 526-534 in Codified Ordinances of the City of Anaconda (1905).

“Sec. 526. Carrying Concealed Weapons an Offense.—It shall be unlawful for any person within the limits of the City of Anaconda to carry or wear under his clothes or concealed about his person, any pistol, revolver, slung-shot, cross-knuckles, knuckles of lead, brass or other metal, bowie knife, dirk knife or dirk, razor or dagger, or any other dangerous or deadly weapon.

Sec. 527. Such Weapons Confiscate to City.—Any such weapon or weapons, duly adjudged by the Police Magistrate or Justice of the Peace acting as Police Magistrate to have been worn or carried by any person, in violation of the foregoing section of this chapter, shall be forfeited or confiscated to the said City of Anaconda and shall be so adjudged.

Sec. 528. Police to Arrest Person Carrying Concealed Weapon.—It shall be the duty of the policemen of the City of Anaconda to arrest without a warrant any person or persons whom any policeman may find in the act of carrying or wearing under their clothes or concealed about their persons any pistol, revolver, slung-shot, cross- knuckles, knuckles of lead, brass or other metal, bowie knife, dirk knife, dirk or dagger, razor, or other dangerous or deadly weapon, and detain him in the city jail until a complaint can be made against him and a warrant secured, and bring him before the Police Magistrate for the trial of such person or persons, and for the seizure and confiscation of such of the weapons above referred to as such person or persons may be found in the act of carrying or wearing under their clothes, or concealed about their persons.

Sec. 529. Trial.—The Police Magistrate, or Justice of the Peace acting as Police Magistrate, before whom the complaint is made, as provided in the foregoing section, shall proceed to the hearing and determination of the matter, and if it shall be adjudged that such person or persons has or have incurred any of the penalties fixed by this chapter, such magistrate or justice of the peace shall so adjudge, and

order that the weapon or weapons, concerning the carrying or wearing of which said penalty shall have been incurred, shall be confiscated to the City of Anaconda.

Sec. 530. Penalty.—Any person or persons violating any of the provisions of Section 526 of this Chapter shall pay a fine of not less than ten dollars nor more than three hundred dollars.

Sec. 531. Exceptions; License to Carry.—The prohibitions of this Chapter shall not apply to the police force of the City of Anaconda when on duty, sheriffs and sheriffs' officers and officers of the State and of the United States, whose several duties may be of a character requiring them to have arms in the performance of their duty, nor to persons whose business or occupation may seem to require the carrying of weapons for their protection, and who shall have obtained from the Mayor a license so to do as hereinafter provided.

Sec. 532. Mayor May Grant License.—The Mayor may grant to so many and such persons as he may think proper licenses to carry concealed weapons, and may revoke any and all such licenses at his pleasure.

Sec. 533. Application for License.—Applications for such licenses shall be made to the Mayor, and when granted, the person applying therefor shall pay to the City Treasurer the sum of two dollars, and thereupon a license shall be issued by the City Clerk and signed by the Mayor. Every such license shall state the name, age, occupation and residence of the person to whom it is granted, and shall expire on the thirtieth day of April next following.

Sec. 534. Penally for Violation.—Any person who shall violate any of the provisions of this Chapter, where no other penalty is prescribed, shall upon conviction be fined in a sum not less than one hundred dollars for each and every offense.”

1905, Anaconda, MT, Ch. 22, §§ 526-534, Codified Ordinances of the City of Anaconda

T. O'Leary, ed., Codified Ordinances of the City of Anaconda: With the Declaration of Independence, Constitution of the United States, Constitution of the State of Montana, Laws Relating to Municipal Corporations, Laws for the Government of Cities (Anaconda, MT: City Council, 1906), 390-392. Chapter 22—Concealed Weapons, §§ 526-534. Passed October 2, 1905.

NEBRASKA

Compiled Ordinances of the City of Fairfield, Clay County, Nebraska Page 34, Image 34 (1899) available at The Making of Modern Law: Primary Sources. Carrying Weapons | Nebraska | 1899

Ordinance No. 20, An Ordinance to Prohibit the Carrying of Concealed Weapons and Fixing a Penalty for the violations of the same. Be it ordained by the Mayor and Council of the City of Fairfield, Nebraska: § 1.

It shall be unlawful for any person to carry upon his person any concealed pistol, revolver, dirk, bowie knife, billy, sling shot, metal knuckles, or other dangerous or deadly weapons of any kind, excepting only officers of the law in the discharge or their duties; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to the penalty hereinafter provided. § 2. Any such weapon or weapons, duly adjudged by the Police Judge of said city to have been worn or carried by any person in violation of the first section of this ordinance, shall be forfeited or confiscated to the City of Fairfield and shall be so adjudged.

NEW HAMPSHIRE

New Hampshire Public Carry Prohibition (1708)

And every justice of the peace within this province, may cause to be stayed and arrested, all affrayers, rioters, disturbers or breakers of the peace, or any other who shall go armed offensively, or put his Majesty's subjects in fear, by menaces or threatening speeches : And upon view of such justice, confession of the offender, or legal proof of any such offence, the justice may commit the offender to prison, until he or she find such sureties for the peace and good behaviour, as is required, according to the aggravations of the offence ; and cause the arms or weapons so used by the offender, to be taken away, which shall be forfeited and sold for his Majesty's use. And may also punish the breach of the peace in any person, who shall smite, or strike another, by fine to the King, not exceeding twenty shillings; and require bond with sureties for the peace, till the next court of general sessions of the peace, or may bind the offender over to answer for said offence at said court, as the nature and circumstances of the offence may require.

1786 N.H. Laws 383-84, An Act to Prevent the Keeping of Large Quantities of Gun-Powder in Private Houses in Portsmouth, and for Appointing a Keeper of the Magazine Belonging to Said Town.

That if any person or persons, shall keep in any dwelling-house, store or other buildings, on land, within the limits of said Portsmouth, except the magazine aforesaid, more than ten pounds of gun-powder at any one time, which ten pounds shall be kept in a tin canister properly secured for that purpose, such person or persons shall forfeit the powder so kept, to the firewards of said Portsmouth to be laid out by them in purchasing such utensils as they may judge proper for the extinguishing of the fire; and the said firewards are hereby directed and

empowered to seize, and cause the same to be condemned in any Court of Law or Record proper to hear and try the same, to be disposed of for the purchase aforesaid. And the offender shall also forfeit and pay a fine for the use of the poor of said Portsmouth, equal to the value of the powder so kept in any store, dwelling-house, or building; which fine, shall be sued for and recovered by the overseers of the poor of said Portsmouth, for the use of said poor, in any Court of Law proper to try the same.

1793 N.H. Laws 464-65, An Act to Prevent the Keeping of Large Quantities of Gun-Powder in Private Houses in Portsmouth, and for Appointing a Keeper of the Magazine Belonging to Said Town.

That if any person or persons, shall keep in any dwelling-house, store or other building on land, within the limits of said Portsmouth, except the magazine aforesaid, more than ten pounds of gun-powder at any one time, which ten pounds shall be kept in a tin canister, properly secured for the purpose, such person or persons shall forfeit the powder so kept to the firewards of said Portsmouth to be laid out by them in purchasing such utensils as they may judge proper for the extinguishing of the fire; and the said firewards are hereby directed and empowered to seize, and cause the same to be condemned in any court of record proper to hear and try the same, to be disposed of for the purchase aforesaid. And the offender shall also forfeit and pay a fine for the use of the poor of said Portsmouth, equal to the value of the powder so kept in any store, dwelling-house, or building; which fine, shall be sued for and recovered by the overseers of the poor of said Portsmouth, for the use of said poor, in any court of law proper to try the same.

Asa Fowler, The General Statutes of the State of New-Hampshire; to Which are Prefixed the Constitutions of the United States and of the State. With a Glossary and Digested Index Page 206, Image 227 (1867) available at The Making of Modern Law: Primary Sources. 1854

Safe-Keeping of Gunpowder, § 1. The board of firewards, if any, or the selectmen of any town, may establish rules and regulations from time to time relative to the times and places at which gunpowder may be brought to or carried from such town, by land or water, and the time when and the manner in which the same may be transported through the same. § 2. Any two firewards, police officers, or selectmen may search any building in the compact part of any town, and any vessel lying in any port, in which they have cause to suspect that gunpowder in a greater quantity than twenty-five pounds is kept or stored; and in case a greater quantity shall be found, shall seize the same as forfeited. § 3. Any person who shall keep or knowingly suffer any quantity of gunpowder greater than twenty-five pounds to be

kept or stored in any such building or vessel, or aid or assist in keeping or storing the same, or shall know that the same is so stored or kept, and shall not forthwith inform one of the firewards, police officers, or selectmen thereof, shall forfeit a sum not more than five dollars nor less than one dollar, for every day the same shall be so stored or kept.

1923 N.H. Laws 138

SECTION 1. Pistol or revolver, as used in this act shall be construed as meaning any firearm with a barrel less than twelve inches in length.

SECT. 2. If any person shall commit or attempt to commit a crime when armed with a pistol or revolver, and having no permit to carry the same, he shall in addition to the punishment provided for the crime, be punished by imprisonment for not more than five years.

SECT. 3. No unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another shall own or have in his possession or under his control a pistol or revolver, except as hereinafter provided. Violations of this section shall be punished by imprisonment for not more than two years and upon conviction the pistol or revolver shall be confiscated and destroyed.

SECT. 4. No person shall carry a pistol or revolver concealed in any vehicle or upon his person, except in his dwelling house or place of business, without a license therefor as hereinafter provided. Violations of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment not exceeding one year or by both fine and imprisonment.

SECT. 5. The provisions of the preceding sections shall not apply to marshals, sheriffs, policemen, or other duly appointed peace and other law enforcement officers, nor to the regular and ordinary transportation of pistols or revolvers as merchandise, nor to members of the army, navy, or marine corps of the United States, nor to the national guard when on duty, nor to organizations by law authorized to purchase or receive such weapons, nor to duly authorized military or civil organizations when parading, or the members thereof when at or going to or from their customary places of assembly.

NEW YORK

1656 N.Y. Laws 235, Ordinance Of The Director And Council Of New Netherland Renewing The Ordinances For The Formation Of Villages, And Against Admitting Armed Indians Into Cities, Villages And Houses

. . . further, in order to prevent such dangers of isolated murders and assassinations, the Director General and Council, with the advice of the Burgomasters of this city,

cannot for the present devise any better or other expedient than already stated, and besides that, to interdict and forbid the admission of any Indians with a gun or other weapon, either in this city or in the Flatland, into the Villages and Hamlets, or into any Houses or any places, on pain of forfeiting such arms, which may and also shall be taken from them . . .

NORTH CAROLINA

Francois Xavier Martin, A Collection of Statutes of the Parliament of England in Force in the State of North Carolina, 60-61 (Newbern 1792)

Item, it is enacted, that no man great nor small, of what condition soever he be, except the King's servants in his presence, and his Ministers in executing of the King's precepts, of of their office, and such as be in their company assisting them, and also upon a cry made for arms to keep the peace, and the same in such places where such acts happen, be so hardy to come before the King's justices, or other of the King's Ministers doing their office with force and arms, nor bring no force in affray of peace, nor to go nor ride armed by night nor by day, in fairs, markets nor in the presence of the King's Justices, or other ministers, nor it [sic, likely "in"] no part elsewhere, upon pain to forfeit their armour to the King, and their bodies to prison at the King's pleasure. And that the King's Justices in their presence, Sheriffs and other ministers in their bailiwicks, Lords of Franchises, and their bailiffs in the same, and Mayors and Bailiffs of cities and boroughs, within the same cities and boroughs, and boroughholders, constables and wardens of the peace within their wards shall have power to execute this etc. [in original] And that the Justices assigned, at thier coming down into the country , shall have power to enquire how such officers and lords have exercised their offices in this case, and to punish them whom they find that have not done that which pertain to their office.

NORTH DAKOTA

1923 N.D. Laws 380, Pistols and Revolvers, ch. 266, § 6.

Sec. 6. Carrying Pistol Concealed. No person shall carry a pistol or revolver concealed in any vehicle or in any package, satchel, grip, suit case or carry in any way or upon his person, except in his dwelling house or place of business, without a license therefor as hereinafter provided. Violations of this section shall be punished by imprisonment for not less than one year, and upon conviction the pistol or revolver shall be confiscated or destroyed.

OHIO

1788-1801 Ohio Laws 20, A Law Respecting Crimes and Punishments . . . , ch. 6.
1788

Burglary . . . If the person or persons so breaking and entering any dwelling house, shop, store or vessel as aforesaid, shall commit, or attempt to commit any personal abuse, force, or violence, or shall be so armed with any dangerous weapon or weapons as clearly to indicate a violent intention, he, she or they so offending, upon conviction thereof, shall moreover, forfeit all his, her or their estate, real and personal, to this territory, out of which the party injured shall be recompensed as aforesaid, and the offender shall also be committed to any gaol [jail] in the territory for a term not exceeding forty years.

OREGON

1925 Or. Laws 468, 469-471

Section 5. Except as otherwise provided in this act, it shall be unlawful for any person within this state to carry concealed upon his person or within any vehicle which is under his control or direction any pistol, revolver or other firearm capable of being concealed upon the person without having a license to carry such firearm, as hereinafter provided in section 8 hereof. Any person who violates the provisions of this section shall be guilty of a misdemeanor, and if he has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony. This section shall not be construed to prohibit any citizen of the United States, over the age of eighteen years, who resides or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by section 2 hereof, from owning, possessing or keeping within his place of residence or place of business any pistol, revolver or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess or keep any such firearm at his place of residence or place of business shall be required of any such citizen. Firearms carried openly in belt holsters shall not be deemed to be concealed within the meaning of this section.

Section 6. Nothing in the preceding section shall be construed to apply to or affect sheriffs, constables, marshals, policemen, whether active or honorably retired, or other duly appointed peace officers, nor to any person summoned by any such officers to assist in making arrests or preserving the peace while said person so summoned is actually engaged in assisting such officer; nor to the possession or transportation by any merchant of unloaded firearms as merchandise; nor to members of the army, navy or marine corps of the United States, or the national guard, when on duty, nor to organizations which are by law authorized to purchase or receive such weapons from the United States, or from this state; nor to duly authorized military or civil organizations while parading, nor to the members

thereof when going to and from the places of meeting of their respective organizations; nor to members of any club or organization now existing, or hereafter organized, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in this act upon such target ranges, or while going to and from such ranges; nor to licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

Section 7. The unlawful concealed carrying upon the person or within the vehicle of the carrier of any pistol, revolver or other firearm capable of being concealed upon the person, is a nuisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are hereby declared to be nuisances, and shall be surrendered to the magistrate before whom said person shall be taken, except that in any city, county, town or other municipal corporation the same shall be surrendered to the head of the police force or police department thereof. The officers to whom the same may be so surrendered, except upon the certificate of a judge or a court of record, or of the district attorney of the county, that the preservation thereof is necessary or proper to the ends of justice, shall annually, between the first and tenth days of July, in each year, destroy or cause to be destroyed such weapons to such extent that the same shall become and be wholly and entirely ineffective and useless for the purpose for which it was [they were] manufactured; provided, however, that in the event any such weapon has been stolen and is thereafter recovered from the thief or his transferee the same shall not be destroyed but shall be restored to the lawful owner thereof, so [as] soon as its use as evidence has been served, upon his identification of the weapon and proof of ownership thereof; provided, that upon the certificate of a judge or of the district attorney that the ends of justice will be subserved thereby such weapon shall be preserved until the necessity for its use ceases.

Section 8. It shall be lawful for the sheriff of a county, and the board of police commissioners, chief of police, city marshal, town marshal, or other head of the police department of any city, county, town, or other municipal corporation of this state, upon proof before said board, chief, marshal or other police head, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, to issue to such person a license to carry concealed a pistol, revolver or other firearm for a period of one year from the date of such license. All applications for such licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant, his age, height, weight, color of eyes and hair, and reason for desiring a license to carry such weapon. Any license issued upon such application shall set forth the foregoing data and shall, in addition, contain a description of the weapon

authorized to be carried, giving the name of the manufacturer, the serial number and the caliber thereof. When such licenses are issued by a sheriff a record thereof shall be kept in the office of the county clerk; when issued by police authority such record shall be maintained in the office of the authority by whom issued. Such applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the attorney general.

1933 Or. Laws 489, An Act to Amend Sections 72-201, 72-202, 72-207, Oregon Code 1930, ch. 315, §§ 3-4.

§ 3. Except as otherwise provided in this act, it shall be unlawful for any person within this state to possess or have in his possession any machine gun . . . § 4. The unlawful concealed carrying upon the person or within the vehicle of the carrier of any machine gun, pistol, revolver or other firearm capable of being concealed upon the person is a nuisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are hereby declared to be nuisances, and shall be surrendered to the magistrate before whom said person shall be taken . . .

PENNSYLVANIA

1776 Pa. Laws 11, An Ordinance Respecting The Arms Of Non-Associators, § 1 The colonel or next officer in command of every battalion of militia in this state is hereby authorized, empowered and required to collect, receive and take all the arms in his district or township nearest to such officer which are in the hands of non-associators in the most expeditious and effectual manner in his power, and shall give to the owners receipts for such arms, . . .

1778 Pa. Laws 123, An act for the further security of the government, ch. LXI, §§ 1-3, 5, 10

Section I. Whereas the welfare and happiness of the good people of this commonwealth, do, next under God, entirely depend upon the maintaining and supporting the independence and sovereignty of the state, as declared by congress Sect. 2. Be it therefore enacted . . . That all male white inhabitants of this state above the age of eighteen years, who have not hiterhto taken the oath or affirmation mentioned and appointed to be taken in the act of assembly . . . shall, on or before the first day of June next, take and subscribe the same in manner and form as by the said act is directed; and that every such person neglecting to take the said oath or affirmation, shall, during the time of such neglect, be liable to all the disabilities, incapacities and penalties to which to which they are subjected by the said act; and also shall be disabled, from and after the said day, to sue or use any action, bill, plaint or information, in course of law, or to prosecute any suit in

equity or otherwise howsoever, or to be gaurdian of the person or estate of any child, or executor or administrator of any person, or capabale of any legacy or deed of gift, or to make any will or testament, and moreover shall be liable and compelled to pay double the taxes, which another person of equal estate, who has taken such oath or affirmation, shall be rated or assessed at . . . Sect. 3. And be it further enacted, that all trustees, provosts, rectors, professors, masters and tutors of any college or academy, and all schoolmasters and ushers; merchants and traders; and every person who shall act as serjeant at law, counsellor at law, barrister, advocate, attorney, solicitor, proctor, clerk or notary, by practicing in any manner as such in any court or courts whatsoever; apothecary or druggist, and very person practicing physic or surgery in any manner for fee or reward; who shall at any time after the first day of June next, be admitted into or enter upon any of the beforementioned preferments, offices or places, or shall come into any such capacity, or shall take upon him or them any such practice, employment, or business as aforesaid, without having first taken and subscribed the beforementioned oath or affirmation, he or they shall be ipso facto adjudged incapable an disabled in law, to all intents and purposes whatsoever, to have, occupy or enjoy the said preferment or preferments, office or offices, employment or employments, or any part of them, or any matter or thing aforesaid, or any profit or advantage appertaining to them, or any of them; and every such office or place of trust shall be void, and is hereby adjudged void . . . Sect. 5. And be it further enacted, That every such person who shall refuse or neglect to take the oath or affirmation before mentioned on or before the said first day of June next, and shall refuse or neglect to deliver up his arms to the lieutenant, or one of the sublieutenants, of the city or county where he inhabits, on or before the tenth day of June next, or who shall, from and after the same day last mentioned, carry any arms about his person or keep any arms or ammuniton in his house or elsewhere, shall forfeit the said arms and ammuniton to the state . . . Sect. 10 And be it further enacted, That the act, intituled “an Act obliging the male white inhabitants of this state to give assurances of allegiance to the same, and for other purposes therein mentioned,” enacted the thirteenth day of June last, and the supplement thereto, enacted the twelfth day of Octobor last, and every clause, matter and thing therein contained, except for such parts thereof as are by this act altered, amended or supplied, shall be and remain in full force and effect; any thing herein contained to the contrary notwithstanding.

1779 Pa. Laws 193, An Act. . . for Disarming Persons Who Shall not Have Given Attestations of Allegiance and Fidelity to this State, §§ 4-5.

§ 4. And whereas it is very improper and dangerous that persons disaffected to the liberty and independence of this state shall possess or have in their own keeping, or

elsewhere, any firearms, or other weapons used in war, or any gun powder. § 5. ... That from and after the passing of this act, the lieutenant or any sub lieutenant of the militia of any county or place within this state, shall be, and is hereby empowered to disarm any person or persons who shall not have taken any oath or affirmation of allegiance to this or any other state and against whom information on oath shall be given before any justice of the peace, that such person is suspected to be disaffected to the independence of this state, and shall take from every such person any cannon, mortar, or other piece of ordinance, or any blunderbuss, wall piece, musket, fusee, carbine or pistols, or other fire arms, or any hand gun; and any sword, cutlass, bayonet, pike or other warlike weapon, out of any building, house or place belonging to such person.

Laws of the Commonwealth of Pennsylvania, from the Fourteenth Day of October, One Thousand Seven Hundred, to the Twentieth Day of March, One Thousand Eight Hundred and Ten Page 240-244, Image 284-288 (1810) available at The Making of Modern Law: Primary Sources. 1795

An Act providing for the inspection of Gun-powder. Whereas gun-powder imported from abroad and manufactured within this state, hath frequently been found to vary much in its strength, and sometimes of inferior qualities, and its defects not discovered until brought into actual use: and whereas the modes heretofore used to prove the force thereof have been found uncertain and variable: and whereas Joseph Leacock, of the city of Philadelphia, hath invented an engine, called a pendulum powder proof, with a graduated arch and catch-pall, by which it is conceived that the force of gun-powder may be proved by experiment and the article reduced to certain and uniform standards of strength, whereby the manufacture may be advanced towards ultimate perfection , and the purchaser and consumer protected against fraud and imposition: § 1. Be it enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first day of October next, all gun-powder manufactured within this state, with intent to sell the same within the city or county of Philadelphia, shall be put in good and tight kegs or casks of twenty-five, fifty, or one hundred pounds neat weight , each made of well seasoned timber, bound together with at least twelve loops, and having a hole bored in each head with the diameter of one fourth part of an inch, well stopped with corks and having the tare weight (weight of the actual keg or cask) of each cask marked thereon, and that all such gun-powder, and all other gun-powder, wheresoever manufactured imported into the port of Philadelphia, or brought into the city or county of Philadelphia for sale, shall be deposited, forthwith on such importation or bringing by land or by water, in the public magazine in in the said city, and delivered to the care of the keeper the

same, who shall give his receipt for the same, deliverable to the order of him or them who shall deposit the same. § 2. And be it further enacted by the authority aforesaid, That David Rittenhouse, Francis Gurney, and Thomas Procter be, and they are hereby, appointed commissioners, to procure at least two pendulum powder proofs, upon the construction invented by the said Joseph Leacock, as nearly uniform in length and radius and weight of pendulum, and in length of caliber and weight of the pistol, as they can procure the same, and therewith make experiments of the respective strength or force of the several species of gun-powder imported from abroad and manufactured within this state, sufficient in number to ascertain the quality and force of three different degrees of strength in explosion, and marking the number of degrees on the graduated arch of the said engine, to which equal quantities of weight of the said three species of gunpowder, rammed with equal force into the pistol, shall elevate the said pendulum; and the power which shall be barely capable of raising the said pendulum to the lowest rate of elevation, shall be the standard for the state of Pennsylvania for gun-powder of the first or lowest proof; and the powder which shall be capable of raising the said pendulum to the highest rate of elevation, shall be the standard of gunpowder for the state of Pennsylvania of the third or highest proof; and the middle or second proof standard of gun-powder shall be ascertained by the number of degrees on the said graduated arch, to which the same quantity by weight in equal moieties of the first and third proof powder shall be capable of raising the said pendulum; and the said standard being so fixed and ascertained, the said commissioners shall make report thereof in writing, by indentures under their hands and seals, one part thereof, together with one of the said two pendulum powder proofs, as accurate a draft and description thereof as can be made shall be returned to the Governor, to be file and remain the office of the Secretary of the commonwealth; and one other part shall be returned to the Master of Rolls, to be recorded in his office, and filed among the laws of the state; and the other part, together with the other pendulum powder proofs, shall be delivered to the first Inspector of gun-powder to be appointed in pursuance of this act, and by him, and his successors in office, to his and their successors, as often as another officer shall be appointed. . . § 6. And by it further enacted by the authority aforesaid, That it shall be the duty of the inspector of gunpowder so to be appointed, for the time being, to attend at the aid public magazine, and his office so to be built, as often as shall be necessary, to inspect and examine all gunpowder there to be deposited, to draw samples from each cask of powder which shall be so as aforesaid bored, and to open or otherwise get samples of casks of powder not bored as aforesaid, and removing such samples to his office, there to prove the same b the pendulum proof aforesaid, and note the standard quality of each cask, to provide himself with cedar plugs stamped on the outer end with the letters S.P. and the figures number one, number two, and

number three, so designate the first, second and third proofs of standard gunpowder of the state of Pennsylvania, and another stamped with letters S.P. to designate condemned gun-powder, and therewith carefully to plug up the holes opened or made for the purpose with such marked plugs, as the proof quality of the powder in each cask respectively contained, and occasionally to weight the said casks; and if upon weighing the same suspicion shall arise that he casks are false tared, or do not contain the quantity herein above mentioned for each cask, to empty the same, and weigh the cask and powder separately, to ascertain the deficiency, if any, in the neath weight, and to fill the same to its due weight out of the other cask belonging to the same person, marking the weight taken on the ullage casks , and keeping an exact account in the books thereof, and of the names of the owners and persons bringing and depositing the same. . . §10. And be it further enacted by the authority aforesaid That if any person, from and after the first day of October next, importing or bringing into the port or city, or county of Philadelphia, any quantity of gun-powder exceeding twenty-five pounds, with intent to sell the same, shall neglect to deposit the same for inspection in the magazine aforesaid, or shall sell the same before it be inspected and marked as aforesaid, or shall sell any gun-powder that shall be condemned as aforesaid as and for merchantable gun-powder every person so offending shall forfeit all such gunpowder as aforesaid. § 11. And be it further enacted by the authority aforesaid, That the inspector shall be entitled to demand and receive of and from the owner and possessor of all gun-powder deposited in the said magazine, and by him or his Deputy examine, proved and plugged, as aforesaid, the following sums or rates, whether the same be approved or condemned, paid or secured before the same shall be removed from the magazine; if the Inspector shall so require; for every cask of powder, manufactured in this state, or any of the United States, bored, and stopped with corks by the manufacturer, containing twenty-five pounds neat weight, seven cents; for every like cask containing fifty pounds, eight cents; for every like cask containing one hundred pounds, nine cents; and fore very cask of foreign powder, or powder manufactured in the United States, not bored and stopped with corks as aforesaid, double the said price or rates; and for every cask which shall find deficient one per cent. In weight and shall fill up, fifty cents. § 12. And be it further enacted by the authority aforesaid, that if any dispute should arise between the owner, possessor or consignee of any such powder and the Inspector, touching the proof or condemnation thereof, or the goodness of the materials and manner in which the casks are made, upon application by the owner, possessor or consignee of such powder to one of the Magistrates of the city or county of Philadelphia, where the dispute shall arise, the said Magistrate shall issue this warrant to three indifferent judicious persons to be triers thereof, one of them to be named by the said owner, possessor or consignee, of by the said Inspector, and the

third of the said Magistrate shall thereupon give his judgment agreeably to the report of the said triers, or any two of them; and in case the said Magistrate shall on such reports adjudge the powder not to be merchantable, he shall award the owner, possessor or consignee thereof, to pay all costs; but in the case the said powder shall be found merchantable, the Inspector shall be adjudged to pay all costs, which may have accrued, and shall thereupon cause the powder to be marked as the standard to be directed by the said triers.

RHODE ISLAND

The Charter and Ordinances of the City of Providence, Together with the Acts of the General Assembly Relating to the City Page 89-96, Image 89-96 (1854)
Available at The Making of Modern Law: Primary Sources. 1821

An Act Regulating the Storage, Safe Keeping and Transportation of Gunpowder in the Town of Providence, (1821) § 2. And be it further enacted, That it shall not be lawful for any person or persons to sell any gunpowder which may at the time be within the town of Providence in any quantity, by wholesale or retail, without first having obtained from the town council of said town a license to sell gunpowder; and every such license shall be written or printed, and signed by the president of said council or their clerk, on a paper upon which shall be written or printed a copy of this act; and every such license shall be in force for one year from the date thereof, unless annulled by said council, and no longer; but such license may, prior to the expiration of that time, be renewed, by endorsement thereon, for a further term of one year, and so from year to year: provided, always, that the said town council may annul any such license, if in their opinion the person or persons licensed have forfeited the right of using the same by any violation of the law relative thereto; and every person who shall receive a license as aforesaid shall pay therefor the sum of five dollars, and on having the same renewed shall pay therefor the sum of one dollar, which shall be paid to the clerk of said council, for their use, for the purpose of defraying the expense of carrying this act into execution. § 3.

And be it further enacted, That any person or persons who shall keep, have, possess or transport any gunpowder within the town of Providence, contrary to the provisions of this act, or who shall sell any gunpowder therein, without having a license therefor, then in force, shall forfeit and pay a fine of not less than twenty dollars, and not exceeding five hundred dollars, for each and every offence; and if any gunpowder kept contrary to the provisions of this act shall explode in any shop, store, dwelling-house, ware-house or other building, or in any place in said town, the occupant, tenant or owner of which has not a license in force to keep and sell gunpowder therein, or which gunpowder shall have been kept in a manner contrary to the terms and conditions of such license, such occupant tenant or owner

shall forfeit and pay a fine of not less than twenty dollars nor more than five hundred dollars. . . § 6. And be it further enacted, That the said firewards, or any of them, may enter the store or place of any person or persons licensed to sell gunpowder, to examine and ascertain whether the laws relating thereto are strictly observed; and also whenever there may be an alarm or fire; and in such last case may cause the powder there deposited to be removed to a place of safety, or to be destroyed by wetting or otherwise, as the exigency of the case may require; and it shall be lawful for any one or more of the firewards aforesaid to enter any dwelling house, store, building or other place in said town to search for gunpowder which they may have reason to suspect to be concealed or unlawfully kept therein; first having obtained from some justice of the peace of said town a search warrant therefor; which warrant any one of the justices of said town is hereby respectively authorized to issue, upon the complaint of such fireward or firewards, supported by his or their oath or affirmation. . . And be it further enacted, That all persons who wish have a license to keep and sell gunpowder within the town shall make application to the town council in writing, stating the place of business and whether they wish to sell by wholesale or retail, or both; and to each person or firm who may be approbated, a certificate of license shall be granted, on payment of the fee established by law. § 14. And be it further enacted, That every person or firm who may be licensed to sell gunpowder by retail, shall be allowed to keep in the place or building designated in the license, twenty-five pounds of gunpowder, and no more, at one time, which shall always be kept in tin or copper canisters, capable of containing no more than twelve and a half pounds each with a small aperture at the top, and a tin or copper cover thereto. § 15. And be it further enacted, That every person or firm who may be licensed to sell gunpowder by wholesale, shall provide and keep a tine or copper chest, with two handles and a tight cover, furnished with a hinge, and secured with a padlock, all of tin or copper chest, with two handles and a tight cover furnished with a hinge and secured padlock, all of tin or copper; such chest shall always be kept on the lower floor, on the right side of and close to the principal door or entrance from the street into the building so licensed, except when otherwise designated by the council and shall always be kept locked, except when powder is put in or taken out; and such person or firm, so licensed shall be allowed to deposit and keep, in such tin or copper chest, a quantity of gunpowder not exceeding four casks of twenty-five pounds each; the heads of each cask not to be opened, and each cask to be kept in a strong leather bag, closely tied and marked as aforesaid. § 16. And be it further enacted, that every person or firm licensed to keep and sell gunpowder as aforesaid, by wholesale or retail, shall have and keep a signboard placed over the door or building in which such powder is kept, on which shall be painted in Roman capitals the words “Licensed to sell Gunpowder”

1893 R.I. Pub. Laws 231, An Act Prohibiting The Carrying Of Concealed Weapons, chap. 1180, § 1.

§ 1. No person shall wear or carry in this state any dirk, bowie knife, butcher knife, dagger, razor, sword in cane, air gun, billy, brass or metal knuckles, slung shot, pistol or fire arms of any description, or other weapons of like kind and description concealed upon his person: Provided, that officers or watchmen whose duties require them to make arrests or to keep and guard prisoners or property, together with the persons summoned by such officers to aid them in the discharge of such duties, while actually engaged in such duties, are exempted from the provisions of this act. § 2. Any person convicted of a violation of the provisions of section 1 shall be fined not less than twenty dollars nor more than two hundred dollars, or be imprisoned not less than six months nor more than one year. § 3. Whenever any person shall be arrested charged with any crime or misdemeanor, or for being drunk or disorderly, or for any breach of the peace, and shall have concealed upon his person any of the weapons mentioned in section 1, such person, upon complaint and conviction, in addition to the penalties provided in section 2, shall be subject to a fine of not less than five dollars nor more than twenty five dollars, and the confiscation of the weapon so found.

General Laws of the State of Rhode Island and Providence Plantations to Which are Prefixed the Constitutions of the United States and of the State Page 1010-1011, Image 1026-1027 (1896) available at The Making of Modern Law: Primary Sources.

Offences Against Public Policy, § 23. No person shall wear or carry in this state any dirk, bowie-knife, butcher knife, dagger, razor, sword-in-cane, air-gun, billy, brass or metal knuckles, slung-shot, pistol or fire-arms of any description, or other weapons of like kind and description concealed upon his person: provided, that officers or watchmen whose duties require them to make arrests or to keep and guard prisoners or property, together with the persons summoned by such officers to aid them in the discharge of such duties, while actually engaged in such duties, are exempted from the provisions of this and the two following sections. § 24. Any person convicted of a violation of the provisions of the preceding section shall be fined not less than ten nor more than twenty dollars, or be imprisoned not exceeding three months, and the weapon so found concealed shall be confiscated. . § 26. No negative allegations of any kind need be averred or proved in any complaint under the preceding three sections, and the wearing or carrying of such concealed weapons or weapons shall be evidence that the wearing or carrying of the same is unlawful; but the respondent in any such case may show any fact that would render the carrying of the same lawful under said sections.

SOUTH CAROLINA

1731-43 S.C. Acts 168, § 23. 1740

It shall not be lawful for any slave, unless in the presence of some white person, to carry or make use of firearms or any offensive weapon whatsoever, unless such negro or slave shall have a ticket or license in writing from his master, mistress or overseer, to hunt and kill game, cattle, or mischievous birds or beasts of prey, and that such license be renewed once every month, or unless there be some white person of the age of 16 or upwards, in the company of such slave when he is hunting or shooting; or that such slave be actually carrying his masters arms to or from his masters plantation, by a special ticket, for that purpose, or unless such slave be found in the day time actually keeping off rice birds, or other birds within the plantation to which such slave belongs, lodging the same gun at night within the dwelling house of his master, mistress or white overseer. And provided also that no negro or other slave shall have liberty to carry any guns, cutlass, pistol or other weapon abroad from at any time between Saturday evening after sunset and Monday morning before sunrise notwithstanding a license or ticket for so doing. And in case any person shall find any slave using or carrying fire-arms, or other offensive weapons, contrary to the true intention of this act; every such person may lawfully seize and take away such fire-arms or offensive weapons; but before the property of such goods shall be vested in the person who shall seize the same, such person shall, within 48 hours next after such seizure, go before the next justice of the peace, and shall make oath of the manner of the taking; and if such justice of the peace after such oath shall be made, or upon any other examination, he shall be satisfied, that the said fire-arms or other offensive weapons, shall have been seized according to the directions and agreeable to the true intent and meaning of this act, the said justice shall, by certificate under his hand and seal, declare them forfeited, and that the property is lawfully vested in the person who seized the same. Provided that no such certificate shall be granted by any justice of the peace until the owner or owners of such fire-arms or other offensive weapons so to be seized as aforesaid, or the overseer or overseers who shall or may have the charge of such slave or slaves from, whom such fire-arms or other offensive weapons shall be taken or seized shall be duly summoned, to show cause (if any such they have) why the same should not be condemned as forfeited; or until 48 hours after the service of such summons and oath made of the service thereof before the said justice.

Ordinances, of the Town of Columbia, (S. C.) Passed Since the Incorporation of Said Town: To Which are Prefixed, the Acts of the General Assembly, for

Incorporating the Said Town, and Others in Relation Thereto Page 61-61, Image 61-62 (1823) available at The Making of Modern Law: Primary Sources. 1817 [Ordinances of the Town of Columbia, An Ordinance for Prohibiting the Firing of Guns in the Town of Columbia (1817). Whereas the practice of firing small arms within the town of Columbia is extremely dangerous to the lives; as well as the property of the inhabitants thereof, and ought to be strictly prohibited: Be it ordained by the Intendent and Municipal Wardens of the towns aforesaid, in council assembled, and it is hereby ordained by the authority of the same, That hereafter it shall not be lawful for any person to fire or discharge any gun, pistol or other small arms within the limits bounded by Henderson, Blossom, Lincoln and Upper streets; and if any person shall wantonly, knowingly, and willfully fire or discharge any gun, pistol, or other small arms within the said limits, such person shall forfeit and pay to the use of the town aforesaid, a sum not exceeding five dollars, for each and every such offence, to be sued for and recovered according to law. And whereas, offences of this kind may be committed by minors or other disorderly persons, who have no ostensible property whereof the said penalty can be levied. Be it therefore ordained by the authority aforesaid, That any gun, pistol or other small arms, fired or discharged by any such person in breach of this ordinance, shall be liable for the payment of the penalty or penalties aforesaid; and it shall be lawful for the intendant, either of the Wardens or constables, who shall see such person offending against this ordinance, to seize and take into possession the gun or pistol, or other small arms so fired or discharged, and despite the same with the Intendant or either of the Wardens; and if the person charged with the said offense, and convicted thereof, shall not within ten days after conviction pay the penalty incurred and the costs of prosecution, the same shall be sold to discharge the said penalty and costs: Provided nevertheless, That nothing in this ordinance contained shall extend to prohibit or restrain the usual exercises or duties of the military on muster or parade days, or in performance of patrol or other duties enjoined by law, or to prohibit or restrain any of the inhabitants of said town from shooting any mad dog, or any other dangerous animal found within the same, or from firing guns on the fourth of July, Christmas and New-Years days, or on any other day of general rejoicing of said town.]

1880 S.C. Acts 448, § 1, as codified in S.C. Rev. Stat. (1894). § 129 (2472.)
§ 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, not met and sitting in General Assembly, and by the authority of the same, That any person carrying a pistol , dirk, dagger, slung shot, metal knuckles, razor, or other deadly weapon usually used for the infliction of personal injury, concealed about his person shall be guilty of a misdemeanor and upon conviction thereof, before a Court of competent jurisdiction shall forfeit to the County the

weapon so carried concealed and be fined in a sum not more than two hundred dollars, or imprisoned for not more than twelve months, or both, in the discretion of the Court. § 2. It shall be the duty of every Trial Justice, Sheriff, Constable, or other peace officer, to cause all persons violating this Act to be prosecuted therefor whenever they shall discover a violation hereof.

TENNESSEE

Offenses Affecting Public Safety, Ordinances of the City Council of Memphis, Ch.14, Art. 3, §1 (1867).

“Section 1. It shall be deemed a misdemeanor to do, or cause to be done, any of the following acts; and any person convicted thereof shall be fined not less than five nor more than fifty dollars:”

“7th. To discharge any firearm within the city, unless in self-defense or while executing some law.

8th. To carry concealed on or about the person any pistol, bowie-knife, dirk or other deadly weapon.”

“12th. To violate any of the following provisions in relation to gunpowder and powder magazines:

That no powder magazine shall be erected or kept within the corporate limits of the city without a special license from the Board of Aldermen, and then only upon such condition and in such place as the Board may direct.

No merchant or other person shall keep on hand, or in store, or on his premises, within this city, more than twenty pounds of gunpowder at any one time, and this quantity shall be kept in a safe and secure box or canister completely closed.

No vehicle employed to carry powder about the city for sale or distribution shall carry more than ten kegs at a time; and said vehicle shall be so arranged as effectually to cover up the kegs and to guard and protect the same from public view and from accidental fire.

No boat shall deliver at this port more than ten kegs of gunpowder at one time without the permission of the Wharfmaster, and all gunpowder delivered from boats shall be delivered under the special superintendence of the said officer and according to his direction. And no person shall sell, or be allowed to sell, any gunpowder on board of or from any flatboat at this landing.

No person shall send to or deliver in the city any powder concealed in any box or barrel, or in any other manner, purporting to be any other article, under penalty of confiscation of the whole package, in addition to the fines imposed for violations of this ordinance.

Upon information given and sworn to before the Recorder, it is hereby made the duty of the Chief of Police to obtain a search warrant from the Recorder, and make examination of the premises named in the information, for powder, and if more gunpowder be found therein than is allowed by the ordinance to be kept, the said gunpowder shall be confiscated to the use of the city, and the offender shall be fined as herein directed.

No powder manufactory shall be allowed to be erected or carried on within this city, or within one mile of the same, all such establishments and manufactories being hereby declared nuisances. And if any such establishment shall be begun or carried on, or if any powder-house or magazine shall be erected and used without the special license aforesaid, on report and proof made to him, the Recorder shall order said nuisances to be abated immediately by the Chief of Police.”

1867, TN, Offenses Affecting Public Safety, Ordinances of the City Council of Memphis, Ch.14, Art. 3, §1

WM. H. Bridges, Digest of the Charters and Ordinances of the City of Memphis, from 1826 to 1867, Inclusive, together with the Acts of the Legislature Relating to the City, with an Appendix (Memphis, TN: Bulletin Publishing Company, 1867), 337-339. Ch. 14 An Ordinance in Relation to Offenses Affecting Good Morals and Decency, Public Peace, Quiet, Safety and Property, and in Relation to Misdemeanors and Nuisances Generally, Art. 3 Offenses Affecting Public Safety, §1. Approved 11 July, 1867.

Claude Waller, Digest of the Ordinances of the City of Nashville, to Which are Prefixed the State Laws Incorporating, and Relating to, the City, with an Appendix Containing Various Grants and Franchises Page 364-365, Image 372-373 (1893) available at The Making of Modern Law: Primary Sources.

Ordinances of the City of Nashville, § 738. Every person found carrying a pistol, bowie-knife, dirk-knife, slung-shot, brass knucks, or other deadly weapon, shall be deemed guilty of a misdemeanor, and, upon conviction of such first offense, shall be fined from ten to fifty dollars, at the discretion of the court; but, upon conviction of every subsequent offense, shall be fined fifty dollars; Provided, however, That no ordinary pocket-knife and common walking canes shall be construed to be deadly weapons. . . § 740. It is expressly understood that the provisions of the above sections, relating to carrying such deadly weapons, do not extend to police of other officers, or persons that are entitled by law to carry such deadly weapons; nor does it extend to the act of handling or moving such deadly weapons in any ordinary business way. § 741. All pistols, knives, and other weapons, the carrying of which upon the person is unlawful, which may be found upon the persons of individuals arrested by the metropolitan police, shall be seized by the captain of the metropolitan police, and shall be retained by him and forfeited to the Mayor and

City Council, and shall, in no case, be returned to the individual from whom the same was taken or to any one claiming the same.

TEXAS

1839 Tex. Gen. Laws 172, An Act Concerning Slaves, § 6

That no slave in this republic shall carry a gun or other deadly weapon without the written consent of his master, mistress or overseer; such arms or other weapons shall be liable to be taken by any person from any such negro, and all such property forfeited, if it does not exceed ten dollars in value; but any such property may be reclaimed by the owner on paying ten dollars to the person who may have so taken the same.

The Laws of Texas 1822-1897 Austin's Colonization Law and Contract; Mexican Constitution of 1824; Federal Colonization Law; Colonization Laws of Coahuila and Texas; Colonization Law of State of Tamaulipas; Fredonian Declaration of Independence; Laws and Decrees, with Constitution of Coahuila and Texas; San Felipe Convention; Journals of the Consultation; Proceedings of the General Council; Goliad Declaration of Independence; Journals of the Convention at Washington; Ordinances and Decrees of the Consultation; Declaration of Independence; Constitution of the Republic; Laws, General and Special, of the Republic; Annexation Resolution of the United States; Ratification of the same by Texas; Constitution of the United States; Constitutions of the State of Texas, with All the Laws, General and Special, Passed Thereunder, including Ordinances, Decrees, and Resolutions, with the Constitution of the Confederate States and the Reconstruction Acts of Congress Page 172, Image 349 (Vol. 2, 1898) available at The Making of Modern Law: Primary Sources. 1840

Laws of the Republic of Texas, [An Act Concerning Slaves (1840),] § 6. Be it further enacted, That no slave in this Republic shall carry a gun or other deadly weapon without the written consent of his master, mistress or overseer; such arms or other weapons shall be liable to be taken by any person from any such negro, and all such property forfeited, if it does not exceed ten dollars in value; but any such property may be reclaimed by the owner on paying ten dollars to the person who may have so taken the same.

1871 Tex. Laws 25, An Act to Regulate the Keeping and Bearing of Deadly Weapons.

§ 1. Be it enacted by the Legislature of the State of Texas, That any person carrying on or about his person, saddle, or in his saddle bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife

manufactured or sold for the purposes of offense or defense, unless he had reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing; or unless having or carrying the same on or about his person for the lawful defense of the State, as a militiaman in actual service, or as a peace officer or policeman, shall be guilty of a misdemeanor, and on conviction thereof shall, for the first offense, be punished by fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit to the county the weapon or weapons so found on or about his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not exceeding sixty days; and in every case of fine under this section the fined imposed and collected shall go into the treasury of the county in which they may have been imposed; provided, that this section shall not be so construed as to prohibit any person from keeping or bearing arms on his or her own premises, or at his or her own place of business, nor to prohibit sheriffs or other revenue officers, and other civil officers, from keeping or bearing arms while engaged in the discharge of their official duties, nor to prohibit persons traveling in the State from keeping or carrying arms with their baggage; provided further, that members of the Legislature shall not be included under the term "civil officers" as used in this act. § 2. Any person charged under the first section of this act, who may offer to prove, by way of defense, that he was in danger of an attack on his person, or unlawful interference with his property, shall be required to show that such danger was immediate and 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.

George Washington Paschal, A Digest of the Laws of Texas: Containing Laws in Force, and the Repealed Laws on Which Rights Rest [Carefully Annotated] Page 1322-1324, Image 292-294 (Vol. 2, 1873) available at The Making of Modern Law: Primary Sources. 1871

An Act to Regulate the Keeping and Bearing of Deadly Weapons, Art. 6512. Any person carrying on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purpose of offense or defense, unless he has reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing; or unless having or carrying the same on or about his person for the lawful defense the state, as a militiaman in actual service, or as a peace officer or policeman, shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be punished

by fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit to the county the weapon or weapons so found on or about his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not exceeding sixty days; and in every case of fine under this section the fines imposed and collected shall go into the treasury of the county in which they may have been imposed: Provided, That this section shall not be so construed as to prohibit any person from keeping or bearing arms on his or her own premises, or at his or her own place of business, nor to prohibit sheriffs or other revenue officers, and other civil officers, from keeping or bearing arms while engaged in the discharge of their official duties, nor to prohibit persons traveling in the state from keeping or carrying arms with their baggage: Provided further, that members of the legislature shall not be included under the term “civil officers” as used in this act. Art. 6513. Any person charged under the first section of this act, who may offer or prove, by way of defense, that he was in danger of an attack on his person, or unlawful interference with his property, shall be required to show that such danger was immediate and 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. . . Art. 6515. This act shall not apply to nor be enforced in any county of the state which may be designated in a proclamation of the governor as a frontier county, and be liable to incursions of hostile Indians.

1879 Tex. Crim. Stat. tit. IX, Ch. 4 (Penal Code)

Art. 318. If any person in this state shall carry on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purposes of offense or defense, he shall be punished by fine of not less than twenty-five nor more than one hundred dollars; and, in addition thereto, shall forfeit to the county in which he is convicted, the weapon or weapons so carried.

Art. 319. The preceding article shall not apply to a person in actual service as a militiaman, nor to a peace officer or policeman, or person summoned to his aid, not to a revenue or other civil officer engaged in the discharge of official duty, not to the carrying of arms on one’s own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process.

Art. 320. If any person shall go into any church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show, or public exhibition of

any kind, or into a ball-room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to muster, or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other fire-arm, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of a knife manufactured and sold for the purposes of offense and defense, he shall be punished by fine not less than fifty nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.

Art. 321. The preceding article shall not apply to peace officers, or other persons authorized or permitted by law to carry arms at the places therein designated.

Art. 322. Any person violating any of the provisions of articles 318 and 320, may be arrested without warrant by any peace officer, and carried before the nearest justice of the peace for trial; and any peace officer who shall fail to refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by fine not exceeding five hundred dollars.

Art. 323. The provisions of this chapter shall not apply to or be enforced in any county which the governor may designate, by proclamation, as a frontier county and liable to incursions by hostile Indians.

VIRGINIA

1633 Va. Acts 219, Acts Made by the Grand Assembly, Holden At James City, August 21st, 1633, An Act That No Arms or Ammunition Be Sold To The Indians, Act X

It is ordered and appointed, That if any person or persons shall sell or barter any guns, powder, shot, or any arms or ammunition unto any Indian or Indians within this territory, the said person or persons shall forfeit to public uses all the goods and chattels that he or they then have to their own use, and shall also suffer imprisonment during life, the one half of which forfeiture shall be to him or them that shall inform and the other half to public uses.

1642 Va. Acts 255, Acts of March 2nd, 1642, Act XXIII

Be it also enacted and confirmed, that what person or persons soever shall sell or barter with any Indian or Indians for piece, powder and shot and being thereof lawfully convicted, shall forfeit his whole estate . . . and if any person shall barter or trade with the Indians for any other commodities such person shall suffer imprisonment at the discretion of the Governor and Counsel. . . What person or persons soever within the colony, shall lend any Indian either piece, powder and shot, it shall be lawful for any person meeting with any such Indian so furnished, to

take away either piece, powder or shot, so as such person taking away . . . the party delinquent for his just offence shall forfeit two thousand pounds of tobacco . . . Available at <https://archive.org/details/statutesatlargeb01virg>

1651 Va. Acts 365, Articles At The Surrender Of The Country, art. 13
Articles Agreed On And Concluded At James City In Virginia For The
Surrendering And Settling Of That Plantation Under The Obedience And
Government Of The Commonwealth Of England . . . Art. 13: That all ammunition,
powder and arms, other than for private use shall be delivered up, security being
given to make satisfaction for it.

Act of May 5, 1777, ch. 3, in 9 HENING’S STATUTES AT LARGE 281, 281-82
(1821)

An act to oblige the free male inhabitants of this state above a certain age to give assurance of Allegiance to the same, and for other purposes. WHEREAS allegiance and protection are reciprocal, and those who will not bear the former are not entitled to the benefits of the later, Therefore Be it enacted by the General Assembly, that all free born male inhabitants of this state, above the age of sixteen years, except imported servants during the time of their service, shall, on or before the tenth day of October next, take and subscribe the following oath or affirmation before some one of the justices of the peace of the county, city, or borough, where they shall respectively inhabit; and the said justice shall give a certificate thereof to every such person, and the said oath or affirmation shall be as followeth, viz . . . And the justices tendering such oath or affirmation are hereby directed to deliver a list of the names of such recusants to the county lieutenant, or chief commanding officer of the militia, who is hereby authorised and directed forthwith to cause such recusants to be disarmed . . . And be it farther enacted, That every person above the age before mentioned, except as before excepted, refusing or neglected to take and subscribe the oath or affirmation aforesaid, shall, during the time of such neglect or refusal, be incapable to holding any office in this state, serving on juries, suing for any debts, electing or being elected, or buying lands, tenements, or hereditaments.

1786 Va. Acts 35. (Ch. 49, An Act Forbidding and Punishing Affrays).

“Be it enacted by the General Assembly, that no man, great nor small, of what condition soever he be, except the Ministers of Justice in executing the precepts of the Courts of Justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the justices of any court, or either of their Ministers of Justice, doing their office, with force and arms, on pain, to forfeit their armour to the Commonwealth, and their bodies to prison, at the pleasure of a Court; nor go nor ride armed by night nor by day, in fair or markets,

or in other places, in terror of the county, upon pain of being arrested and committed to prison by any Justice on his own view, or proof by others, there to abide for so long a time as a jury, to be sworn for that purpose by the said Justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.”

1786, VA, Ch. 49, An Act Forbidding and Punishing Affrays
Acts Passed at a General Assembly of the Commonwealth of Virginia Begun and Held at the Public Buildings in the City of Richmond, on Monday the Sixteenth Day of October in the Year of Our Lord, One Thousand Seven Hundred and Eighty-Six (Richmond, VA: Dixon, Holt, Nicolson, and Davies, 1786), 35. Chapter 49, An Act Forbidding and Punishing Affrays. Exact date of act’s passage not mentioned in text.

Collection of All Such Acts of the General Assembly of Virginia, of a Public and Permanent Nature, as Are Now in Force; with a New and Complete Index. To Which are Prefixed the Declaration of Rights, and Constitution, or Form of Government Page 187, Image 195 (1803) available at The Making of Modern Law: Primary Sources.

Race and Slavery Based | Virginia | 1792

[An Act to Reduce into one, the Several Acts Concerning Slaves, Free Negroes, and Mulattoes (1792),] §§ 8-9.

§8. No negro or mulatto whatsoever shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun, weapon, and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person, and upon due proof thereof made before any Justice of the Peace of the County or Corporation where such seizure shall be, shall by his order be forfeited to the seizer for his own use ; and moreover, every such offender shall have and receive by order of such Justice, any number of lashes not exceeding thirty-nine, on his or her bare back, well laid on, for every such offense.

§ 9. Provided, nevertheless, That every free negro or mulatto, being a house-keeper, may be permitted to keep one gun, powder and shot; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder, shot, and weapons offensive or defensive, by license from a Justice of Peace of the County wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves.

Staunton, The Charter and General Ordinances of the Town of Lexington, Virginia Page 87, Image 107 (1892) available at The Making of Modern Law: Primary Sources, 1867.

Ordinances of The Town of Lexington, VA, Of Concealed Weapons and Cigarettes, § 1. If any person carrying about his person, hid from common observation, any pistol, dirk, bowie-knife, razor, slung-shot, or any weapon of the like kind, he shall be fined not less than twenty dollars nor more than one hundred dollars; and any of such weapons mentioned shall be forfeited to the town. Nothing in this section shall apply to any officer of the town, county or state while in the discharge of his duty.

Charter and Ordinances of the Town of Front Royal, Va. Page 18, Image 18 (1899) available at The Making of Modern Law: Primary Sources. 1884

Ordered, that any person in the Corporation carrying about his person, concealed from public view, any pistol, dirk, razor, or any like weapon or other weapons, shall be fined not exceeding \$20.00 for each offense, and the said pistol, dirk, razor, or such like weapon so found, shall be confiscated by the Mayor and sold at public auction to the highest bidder for cash and the proceeds turned over to the School Fund of the Corporation.

The Code of Virginia: With the Declaration of Independence and the Constitution of the United States; and the Constitution of Virginia Page 897, Image 913 (1887). Offences Against the Peace, § 3780. Carrying Concealed Weapons, How Punished. Forfeiture and Sale of Weapons. If any person carry about his person, hid from common observation, any pistol, dirk, bowie-knife, razor, slung-shot, or any weapon of the like kind, he shall be fined not less than twenty nor more than one hundred dollars, and such pistol, dirk, bowie-knife, razor, slung-shot, or any weapon of the like kind, shall be forfeited to the commonwealth and may be seized by an officer as forfeited; and upon the conviction of the offender the same shall be sold and the proceeds accounted for and paid over as provided in section twenty-one hundred and ninety: Provided, that this section shall not apply to any police officer, town or city sergeant, constable, sheriff, conservator of the peace, or collecting officer, while in the discharge of his official duty.

WASHINGTON STATE

Wall Walla City Ordinance No. 2. An Ordinance Defining Offenses and Fixing the Punishment Thereof, §27 (16 Aug., 1878).

“Sec. 27. No person shall carry any concealed weapons within the corporate limits of the City of Walla Walla, and any person convicted thereof shall be fined in any sum not less than five or more than twenty-five dollars; and such weapons shall be confiscated and forfeited, and it shall be the duty of the Marshal, his Deputies and the Policemen of the City, upon being satisfied, by verbal complaint or other

information, that any person is carrying any weapon concealed upon his person, to arrest and search such person, and if any such weapon is found, to take the same and convey such person before a Justice of the Peace and make complaint against him, and upon his conviction, to sell such weapon at auction to the highest bidder, and pay the proceeds into such Justice's court. All sheath or bowie knives, pistols, and pocket knives with blades more than four inches long, also all sling-shots, metal knuckles, clubs, sticks or other instruments, capable of inflicting great bodily injury, shall be deemed weapons within the meaning of this section when carried either wholly or partially concealed; provided, that this section shall not apply to the City Marshal, his Deputies, or Policemen, or City Watchmen, or private watchmen employed as such by private citizens, nor the Sheriff, Deputy Sheriff, or any Constable of Walla Walla County, or to any person temporarily sojourning in the City for a period of not exceeding five days' prior to the filing of the complaint, but in no case shall it be necessary to specify in the complaint that the accused does not belong to the excepted classes herein specified."

1878, WA, Wall Walla City Ordinance No. 2. An Ordinance Defining Offenses and Fixing the Punishment Thereof, §27

Alex Mackay and W.T. Dovell eds., Amended Charter and Ordinances of the City of Walla Walla Together with General Laws of the State of Washington Applicable Thereto (Walla Walla, Wa: Press of the Walla Walla Union, 1896), 170. City Ordinance No. 2. An Ordinance Defining Offenses and Fixing the Punishment Thereof, §27.

1933 Wash. Sess. Laws 335-36, An Act Relating to Machine Guns, Regulating the Manufacture, Possession, Sale of Machine Guns and Parts, and Providing Penalty for the Violation Thereof, and Declaring an Emergency, ch. 64, §§ 1-5.

§ 1. That it shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun: provided, however, that such limitation shall not apply to any peace officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the State of Washington. § 2. For the purpose of this act a machine gun is defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second. § 3. Any person violating any of the provisions of this act shall be guilty of a felony. § 4. All machine guns, or parts thereof, illegally held or possessed are hereby declared to

be contraband, and it shall be the duty of all peace officers, and/or any officer or member of the armed forces of the United States or the State of Washington to seize said machine gun, or parts thereof, wherever and whenever found. § 5. This act is necessary for the immediate preservation of public health and safety, and shall take effect immediately.

WEST VIRGINIA

1925 W.Va. Acts 30-31, 1st Extraordinary Sess., An Act to Amend and Re-Enact Section Seven . . . Relating to Offenses Against the Peace; Providing for the Granting and Revoking of Licenses and Permits Respecting the Use, Transportation and Possession of Weapons and Fire Arms . . . , ch. 3, § 7, pt. b. (b) It shall be unlawful for any person to carry, transport, or have in his possession any machine gun, sub-machine gun, and what is commonly known as a high powered rifle, or any gun of a similar kind or character, or any ammunition therefor, except on his own premises or premises leased to him for a fixed term, until such person shall have first obtained a permit from the superintendent of the department of public safety of this state, and approved by the governor, or until a license therefore shall have been obtained from the circuit court as in the case of pistols and all such licenses together with the numbers identifying such rifle shall be certified to the superintendent of the department of public safety. Provided, further, that nothing herein shall prevent the use of rifles by bona fide rifle club members who are freeholders or tenants for a fixed term in this state at their usual or customary place of practice, or licensed hunters in the actual hunting of game animals. No such permit shall be granted by such superintendent except in cases of riot, public danger, and emergency, until such applicant shall have filed his written application with said superintendent of the department of public safety, in accordance with such rules and regulations as may from time to time be prescribed by such department of public safety relative thereto, which application shall be accompanied by a fee of two dollars to be used in defraying the expense of issuing such permit and said application shall contain the same provisions as are required to be shown under the provisions of this act by applicants for pistol licenses, and shall be duly verified by such applicant, and at least one other reputable citizen of this state. Any such permit as granted under the provisions of this act may be revoked by the governor at his pleasure upon the revocation of any such permit the department of public safety shall immediately seize and take possession of any such machine gun, sub-machine gun, high powered rifle, or gun of similar kind and character, held by reason of said permit, and any and all ammunition therefor, and the said department of public safety shall also confiscate any such machine gun, sub-machine gun and what is commonly known as a high powered rifle, or any gun

of similar kind and character and any and all ammunition therefor so owned, carried, transported or possessed contrary to the provisions of this act, and shall safely store and keep the same, subject to the order of the governor.

WISCONSIN

1883 Wis. Sess. Law 1034, An Act to Incorporate the City of Nicolet, ch. 351, § 32, pt. 45.

To regulate and prohibit the carrying or wearing by any person, under his clothes, or concealed about his person, of any pistol, sling-shot, or knuckles, bowie-knife, dirk knife, or dirk or dagger, or any other dangerous or deadly weapon, and to provide for the confiscation or sale of such weapon.

1883 Wis. Sess. Laws 713, vol. 2, An Act to Revise, Consolidate and Amend the Charter of the City of Oshkosh, the Act Incorporating the City, and the Several Acts Amendatory Thereof, ch. 6, § 3, pt. 56.

To regulate or prohibit the carrying or wearing by any person under his clothes, or concealed about his person, any pistol or colt, or slung shot, or cross knuckles or knuckles of lead, brass, or other metal or bowie knife, dirk knife, or dirk or dagger, or any other dangerous or deadly weapon; and to provide for the confiscation or sale of such weapon.

Charter and Ordinances of the City of La Crosse, with the Rules of the Common Council Page 176, Image 179 (1888) available at The Making of Modern Law: Primary Sources.

An Ordinance to Provide for the Government and Good Order of the City of La Crosse, for the suppression of vice and immorality, and the prevention of Crime,] § 15. It shall be unlawful for any person other than a policeman or other officer authorized to maintain the peace and to serve process to carry or wear any pistol, slungshot, knuckles, bowie knife, dirk or any other dangerous weapon, and any person convicted of a violation of this section shall be punished by a fine not exceeding one hundred dollars. In all cases of conviction hereunder, any and all dangerous weapons found on the person of the accused shall be confiscated and become the property of the city of La Crosse, and may be sold for the benefit thereof at such times and in such manner as the common council may from time to time direct.

HUNTING

ARIZONA

1936 Ariz. Sess. Laws 204, Game and Fish Preservation, § 1543.

It shall be unlawful for any person to take into the field or forest, or to have in his possession, while hunting wild animals or birds, any device designed to silence, muffle or minimize the report of any firearm, whether separated from or attached to such firearm. It shall be unlawful to kill or attempt to kill any deer, bear . . . except through the use of a gun propelling one ball or bullet at a single charge. Provided, however, that no ball or bullet weighing less than 87 grains may be used in taking deer, elk . . . The gun or implement used by any person in illegally killing any song or insectivorous bird is a nuisance and may be seized by any peace officer and confiscated by the warden for not more than one year.

DELAWARE

1863 Del. Laws 365, An Act to Amend Chapter 55 of the Revised Code of the State of Delaware, Entitled “For The Protection Of Fish, Oysters and Game,” chap. 328, § 10.

It shall be unlawful for any person not being a citizen of this State, to catch, take or kill, by himself or by his agent, or as the agent for or in the employment of any other person, whether such person be or be not a citizen of this State, any fish, wild goose . . . upon any of the waters of this state . . . or to enter upon such waters, land or marsh for such unlawful purpose, and any person offending against the provisions of this Section, shall be deemed guilty of a misdemeanor, and shall pay a fine of not less than fifty dollars and not more than one hundred dollars, and any boat or vessel, with her tackle, apparel and furniture, and any gun . . . used with the consent or knowledge of the owner thereof, shall be forfeited and may be seized, condemned and sold as hereinafter provided.

1893 Del. Laws 410, For the Protection Of Fish, Oysters, and Game, chap. 422, § 16.

If any person or persons shall enter upon any lands, not owned by himself, with gun and dog, or with gun alone, for the purpose of shooting any kind of birds or game without first obtaining permission to do so by the owner or occupant, he shall forfeit and pay a fine of five dollars; and if he shall not pay the said fine he shall forfeit his gun until redeemed, as hereinafter provided . . .

KENTUCKY

A Digest of the Statute Laws of Kentucky, of a Public and Permanent Nature, from the Commencement of the Government to the Session of the Legislature, Ending on the 24th February, 1834. With References to Judicial Decisions Page 788, Image 794 (Vol. 1, 1834) available at The Making of Modern Law: Primary Sources. 1834

An Act for the Better Preservation of the Breed of Deer, and Preventing unlawful Hunting, § 8. And be it further enacted by the authority aforesaid, That whosoever shall hereafter use any fire-hunting or the killing of any deer by such means on any patented land, every person present at such fire hunting shall forfeit and pay twenty shillings for every such offense; and if any Indian be found fire-hunting as aforesaid, it shall and may be lawful for the owner of such land, or his or her overseer, to take away the gun of such Indian, and the same to keep to his own use.

1904 Ky. Acts 150-51, An Act Creating the Offices of Fish and Game Wardens and Defining the Powers and Duties and Fixing the Compensation of such Officers, and for the Further Protection and Preservation of Fish, Game and Birds in the State of Kentucky, ch. 68, § 3.

Game wardens . . . may arrest on sight and without warrant any person detected by them in the act of violating any such law; they shall have the same right as sheriffs to require aid in executing any process or in arresting without process any person found by them in the act of violating any of said laws; and they shall have authority to seize without process; and birds, fish or game then found in the possession of any such person, together with the guns, nets, seines, traps or other devices, with which the same were taken or killed, and destroy or confiscate such guns, nets, seines, traps or other devices, and forthwith convey such offender before a court or magistrate

MARYLAND

1882 Md. Laws 257, An Act to . . . Exempt All That Portion of the Waters of the Chesapeake Bay Lying Northward of a Certain Line Therein Described from the Operation and Effect of Sections One and Three . . . , ch. 180, § 8

. . . the special police appointed by this act are authorized to arrest any person or persons who may be discovered in the act of hunting or shooting crippled ducks, or in purloining ducks that have been killed by other persons having a proper license to shoot, as well as other persons violating the provisions of this section, and upon conviction thereof before any justice of the peace of Cecil or Harford Counties, the license of such persons or persons shall be revoked, and such persons or persons, whether licensed or not, shall be fined not less than twenty dollars for each offense, and shall forfeit the boat and gun or guns, and material so employed in violation of

the provisions of this section, which boat and gun or guns, and material shall be sold, and the proceeds of such fine and sale, after the costs of prosecution have been paid, shall go to the officer or officers making the arrest. . .

1890 Md. Laws 297, Sabbath Breaking, ch. 290, § 1

No person whatsoever shall hunt with dog or gun on the Lord's day, commonly called "Sunday," nor shall profane the Lord's day by gunning, hunting, fowling, or by shooting or exploding any gun, pistol or firearm of any kind, or by any other unlawful recreation or pastime, and any person violating the provisions of this section shall, for every such offense, upon conviction before any justice of the peace for the county, forfeit the gun, pistol or other firearm used in such violation, and be fined not less than five dollars, nor more than thirty dollars. . .

MASSACHUSETTS

1717 Mass. Acts 336, An Act For The Better Regulation Of Fowling

...That if any person or persons shall, at any time after two months from the publication of this act, make use of any boat, canoe, float, raft or other vessel, wherewith to approach to, and shoot at any waterfowl, in any part of this province, he or they so offending, shall each of them forfeit and pay, for every such offence, the sum of forty shillings to the informer. And every such offender shall be, and hereby is prohibited and restrained from using a gun to shoot at waterfowl for the space of three years next after his offence, upon the like penalty of forty shillings for each time he shall presume so to offend, to be disposed of in manner as the forfeiture aforementioned.

NEW HAMPSHIRE

1905 N.H. Laws 515, An Act to Prohibit the Use of Swivel and Punt Guns, ch. 98, § 1.

IF any person shall, at any time, within this state, hunt, pursue, shoot at, or kill any game bird, as defined by section 34 of chapter 79 of the laws of 1901, with any punt gun swivel gun, or other gun not fired from the shoulder, or of larger bore than ten gauge, he shall be fined not more than ten dollars for each offense and shall forfeit all guns and implements with which the offense was committed. And all guns and implements so used shall be seized by any detective, constable or police officer and shall be destroyed by the person seizing them.

NEW JERSEY

Charles Nettleton, Laws of the State of New-Jersey Page 26, Image 53 (1821) available at The Making of Modern Law: Primary Sources. 1771

An Act for the Preservation of Deer, and other game, and to prevent trespassing with guns (1771), § 1. Be it Enacted by the Governor, Council and General Assembly of this colony of New Jersey, and it is hereby enacted by the authority of the same, That if any person or persons shall presume, at any time after the publication hereof, to carry any gun on any lands not his own, and for which the owner pays taxes, or is in his lawful possession, unless he hath license or permission in writing from the owner or owners, or legal possessor, every such person so offending, and convicted thereof, either upon the view of any justice of the peace within this colony, or by the oath or affirmation of one or more witnesses, before any justice of the peace of either of the counties, cities, or towns corporate of this colony, in which the offender or offenders may be taken or reside, he or she, or they, shall for every offence, forfeit and pay to the owner of the soil, or his tenant in possession, the sum of forty shillings, with costs of sit; which forfeiture shall and may be sued for and recovered by the owner of the soil, or tenant in possession before any justice of the peace in this colony, for the use of such owner or tenant in possession. . . § 3. And be it further enacted by the authority aforesaid, That if the person or persons offending against this act be non-residents of this colony, he or they shall forfeit and pay for every such offence, five pounds, and shall forfeit his or their gun or guns to any person or persons, who shall inform and prosecute the same to effect, before any justice of the peace in any county of this colony, wherein the offender or offenders may be taken or apprehended.

NORTH CAROLINA

1756-1776 N.C. Sess. Laws 168, An Act To Amend An Act Entitled, “An Additional Act To An Act, Entitled, An Act To Prevent Killing Deer At Unseasonable Times, And For Putting A Stop To Many Abuses Committed By White Persons Under Pretense Of Hunting, ch. 13. 1768

Whereas by the before recited act, persons who have no settled habitation, or not tending five thousand corn hills, are prohibited from hunting, under the penalty of five pounds, and forfeiture of his gun[.]

John. A Haywood, Manual of the Laws of North-Carolina, Arranged under Distinct Heads in Alphabetical Order. With References from One Head to Another, When a Subject is Mentioned in Any Other Part of the Book Than under the Distinct Where It is Placed Page 178, Image 186 (1801) available at The Making of Modern Law: Primary Sources. 1768

Hunting. 1768. § 2. From and after the First day of January next, no person whatever (masters excepted) not having a freehold of one hundred acres of land within this province, or tending ten thousand corn hills, at least five feet distance each, shall hunt or kill deer, under the penalty of ten pounds proclamation money for every offence; and moreover shall forfeit his gun, or have the value thereof; to be recovered by action of debt, bill, plaint or information, by any person who will prosecute for the same, wherein, upon conviction, over and above the said penalty and forfeiture as aforesaid, the defendant shall be committed to jail by order of the court, there to remain, without bail or mainprize for one month. § 5. Nothing herein shall bar or hinder an overseer of a slave or slaves from hunting and killing deer with a gun, on his employer's lands, or the wastelands of the public, within five miles of the residence of such overseer.

VIRGINIA

Virginia State Laws 1839 CHAP. 80. – An ACT to prevent the destruction of wild fowl in the counties of Accomack and Fairfax. (Passed April 9, 1839.)

1. *Be it enacted by the general assembly*, That no person whatsoever shall at any time shoot or kill wild fowl in the waters of, or within the jurisdiction of the counties of Accomack and Fairfax, by or with the aid of skiffs, and any person being convicted of a violation of this act before any justice of the peace of said county of Accomack, shall forthwith surrender his gun and skiff to the said justice, who shall cause the same to be sold; one half of the proceeds thereof shall go to the commonwealth for the use of the literary fund, and the other half to the informer.

1852 Va. Acts 133, An Act Amending The Twentieth Section Of Chapter . . .
Concerning Wild Fowl, § 20

If any person, except from the land, shall shoot at or kill wild fowl during the night within this state, . . . he may be convicted thereof before a justice; and on conviction, shall surrender his gun...

Third Edition of the Code of Virginia: Including Legislation to January 1, 1874
Page 802-803, Image 821-822 (1873) available at The Making of Modern Law:
Primary Sources. 1865

Unlawful Hunting: Hunting on another's land, or in the streets of a city or town, or along a public road, prohibited; penalty; how recoverable, § 5. If any person shall hunt, shoot, fowl or range with or without dogs, on the lands of another, without the consent of the owner or tenant of such lands, or shoot along any public road, or in the streets of any town or village, in any of the counties of this commonwealth, on the lands comprehended in the survey of any proprietor, he shall be deemed

guilty of a trespass, and shall be fined for each offense five dollars – the fine to be double in every instance if the offense be committed in the night or on Sunday – For the use of the owner or tenant of the lands, and for the commonwealth when the offense is committed in the public roads or in the streets of any town or village, to be recovered by warrant before any justice of the peace, together with all costs and charges attending the collection for the same, and shall moreover, forfeit as aforesaid, his gun and shooting apparatus, and his dog or dogs shall be killed if the justice shall, in his discretion, so order; and when any person shall be convicted a third time of said offense, the justice rendering judgment therefor shall require him to enter into a recognizance, with sufficient security, for his good behavior for twelve months; or, if he fail to give such security, to commit to jail for one month, unless it be sooner given, such recognizance to be forfeited if such person offend as aforesaid within the time limited in the recognizance.

1875 Va. Acts 109, An Act To Amend And Re-enact Section Twelve, Chapter Ninety-nine, Code of Eighteen Hundred And Seventy-Three, for the Protection Of Wild Fowl in the Counties Bordering on the Potomac And Rappahannock, ch. 100, § 12

If any person shall, at any time, either in the night or day-time, shoot at wild fowl in any county bordering . . . with any gun which cannot be conveniently discharged from the shoulder at arm’s length without a rest, or have such gun in his possession on a boat, a justice of any such county shall require such gun to be surrendered, and shall order it to be destroyed, and shall fine the offender ten dollars. . .

CATHOLICS

MARYLAND

An Act to Prevent Popery within this Province, Votes and Proceedings of the Lower House of Assembly of the Province of Maryland (22 May, 1756).

“And be it further Enacted, That all such Armour, Gunpowder, and Ammunition, of whatsoever Kinds, as any Papist whatever, within this Province, hath or shall have in his House or Houses, or elsewhere, or in the Hands and Possession of any other Person at his or their Disposition, shall be taken from such Papist, or Others, which have or shall have the same to the Use of such Papist, by Warrant of any Four Justices of the Peace of the County where such Papist shall be Resident (other than such necessary Weapons as shall be thought fit by the same Justices to remain and be allowed for the Defence of the Person or Persons of such Papists, or for the

Defence of his, her or their Houses), and that such Armour and Ammunition, so taken, shall be kept and maintained in such Places as the Justices of the Peace, for the said County, shall, at their next County Court, direct and appoint.

And be it further Enacted by the Authority aforesaid, That if any such Papist, having, or which shall have, any such Armour, Gunpowder, and Ammunition, or any of them, or if any other Person or Persons, who shall have any such Armour, Gunpowder, and Ammunition, or any of them, to the Use of any such Papist, shall refuse to declare or manifest to the said Four Justices, or either of them, what Armour, he, she or they have, or shall have, or shall let, hinder, or disturb, the Delivery thereof to the said Justices, or to any other Person or Persons authorized by their Warrant to take and seize the same, then every such Person, so offending, contrary to this Act in this Behalf, shall forfeit and lose, to the Right Honourable the Lord Proprietary, his Heirs and Successors, his and their said Armour, Gunpowder, and Ammunition ; and shall also be imprisoned by Warrant of or from any Four Justices of the Peace of such County, by the Space of Three Months, without Bail or Mainprize.”

1756, MD, An Act to Prevent Popery within this Province

Votes and Proceedings of the Lower House of Assembly of the Province of Maryland, February Session, 1756 (Annapolis, MD: Jonas Green, 1757), 95.

See also: Maryland Historical Society, Proceedings and Acts of the General Assembly of Maryland ; 24, 1755-1756, Ed. William H. Browne, vol. 52 (Baltimore, MD: The Lord Baltimore Press, 1935), 454.

“And be it further Enacted, That all Arms Gunpowder and Ammunition of what kind soever any Papist or reputed Papist within this Province hath or shall have in his House or Houses or elsewhere shall be taken from Such Papist or reputed Papist by Warrant under the hand of one Justice of the Peace for the County wherein such Papist or reputed Papist shall be Resident and that the said Arms and Ammunition so taken Shall be kept in Such Place as the Said Justice shall appoint. And be it further Enacted that if any Such Papist or reputed Papist having or which Shall have any Armes Gunpowder and Ammunition or any of them shall refuse to declare or manifest the Same to the Said Justice of the Peace or to any other Person Authorized by the Warrant of the Said Justice to take and Seize the same then every Such Person so Offending shall forfeit and lose the Said Armour Gunpowder and Ammunition and Shall also be imprisoned by Warrant of or from the Said Justice for the Space of three Months without Bail or Mainprize.”

1756, MD, Proceedings and Acts of the General Assembly of Maryland, Ed. William H. Browne

DUELING

PENNSYLVANIA

Laws of the Commonwealth of Pennsylvania, from the Fourteenth Day of October, One Thousand Seven Hundred, to the Twentieth Day of March, One Thousand Eight Hundred and Ten Page 182, image 226 (Vol. 3, 1810) available at The Making of Modern Law: Primary Sources.

An Act for the prevention of vice and immorality, and of unlawful gaming, and to restrain disorderly sports and dissipation, § 10. And be it further enacted by the authority aforesaid, That if any person within this commonwealth shall challenge, by word or writing, the person of another to fight at sword, rapier, pistol, or other deadly weapon, such person so challenging, shall forfeit and pay for every such offense, being thereof lawfully convicted in any court of record within this commonwealth, by the testimony of one or more witnesses, or by the confession of the party offending, the sum of two hundred and eighty dollars, or shall suffer twelve months imprisonment, without bail or mainprize; and the person who shall accept any such challenge shall, in like manner, upon conviction, forfeit and pay the sum of one hundred and forty dollars, or suffer such imprisonment for and during six months; and if any person shall willingly and knowingly carry and deliver any written challenge, or shall verbally deliver any message, purporting to be a challenge, or shall consent to be a second in any such intended duel, and shall be thereof legally convicted as aforesaid, he or they, so offending shall , for every such offense, forfeit and pay the sum of one hundred and forty dollars, or suffer six months imprisonment as aforesaid; and moreover the person challenging, and the person accepting the challenge, the person delivering the same, and the person accepting the challenge, the person delivering the same, and the person consenting to become a second to either of the parties, shall, for every offence, forfeit and be deprived of all the rights of citizenship within this commonwealth, for the space of seven years after conviction.

Source: <https://firearmslaw.duke.edu/repository/search-the-repository/>

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

14 **KIM RHODE et al.,**
15
16 Plaintiffs,
17
18 **v.**
19 **ROB BONTA, in his official capacity**
as Attorney General of the State of
California, et al.,
20 Defendant.

3:18-cv-00802-BEN-JLB

DECLARATION OF MICHAEL VORENBERG

Courtroom: 5A
Judge: Hon. Roger T. Benitez
Action Filed: May 17, 2017

DECLARATION OF MICHAEL VORENBERG

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I, Michael Vorenberg, declare under penalty of perjury that the following is true and correct:

1. I have been asked by the Office of the Attorney General of the State of California to prepare an expert report on the history and tradition of “background checks” for firearms (guns and ammunition) during the period of the U.S. Civil War and Reconstruction. This Declaration is based on my own personal knowledge and experience, and, if I am called as a witness, I could and would testify competently to the truth of the matters discussed in this Declaration.

I. PROFESSIONAL QUALIFICATIONS

2. I am an associate professor of history at Brown University. I received my A.B. from Harvard University in 1986, and my Ph.D. in history from Harvard in 1995. After receiving my Ph.D., I began a postdoctoral fellowship at the W.E.B. Du Bois Institute at Harvard, and then served as an assistant professor of History at the State University of New York at Buffalo. I joined the faculty at Brown University in 1999, and have taught history there ever since.

3. I have concentrated my research on the history of the U.S. Civil War and Reconstruction. My first book, *Final Freedom: The Civil War, the Abolition of Slavery, and the Thirteenth Amendment*, was published by Cambridge University Press in 2001. The book was a Finalist for the Gilder Lehrman Lincoln Prize. I am also the author of *The Emancipation Proclamation: A Brief History with Documents*, published by Bedford/St. Martin’s in 2010. I am the author of a number of articles and essays on Reconstruction and the law. These include: “The 1866 Civil Rights Act and the Beginning of Military Reconstruction,” in Christian Samito, ed., *The Greatest and the Grandest Act: The Civil Rights Act of 1866 from Reconstruction to Today* (Southern Illinois University Press, 2018); Citizenship and the Thirteenth Amendment: Understanding the Deafening Silence,” in Alexander

1 Tsesis, ed., *The Promises of Liberty: The History and Contemporary Relevance of*
2 *the Thirteenth Amendment* (Columbia University Press, 2010); “Reconstruction as a
3 Constitutional Crisis,” in Thomas J. Brown, ed., *Reconstructions: New Directions*
4 *in the History of Postbellum America* (Oxford University Press, 2006); and
5 “Imagining a Different Reconstruction Constitution,” *Civil War History*, 51 (Dec.
6 2005), 416-26.

7 4. I have provided expert testimony in *Miller v. Bonta*, a lawsuit in the
8 Southern District of California (Case No. 3:19-cv-01537-BEN-JLB) and *Rupp v.*
9 *Bonta*, a lawsuit in the Central District of California (Case No. 8:17-cv-00746-JLS-
10 JDE), both challenging California’s regulations of assault weapons; *Wiese v. Bonta*,
11 a lawsuit in the Eastern District of California (Case No. 2:17-cv-00903-WBS-KJN)
12 and *Duncan v. Bonta*, a lawsuit in the Southern District of California (Case No.
13 3:17-cv-01017-BEN-JLB), both challenging California’s regulations of large-
14 capacity magazines; *Ocean State Tactical LLC v. Rhode Island*, a lawsuit in the
15 District of Rhode Island (Case No. 1:22-cv-246-JJM-PAS) challenging that state’s
16 regulation of large-capacity magazines; *Oregon Firearms Federation, Inc. v.*
17 *Brown*, a lawsuit in the District of Oregon (Case No. 2:22-cv-01815-IM)
18 challenging that state’s regulation of large-capacity magazines; *National*
19 *Association for Gun Rights v. City of Naperville, Ill.*, a lawsuit in the Northern
20 District of Illinois (Case No. 1:22-cv-04775) challenging the state of Illinois’ and
21 the City of Naperville’s regulation of assault weapons; and *National Association of*
22 *Gun Rights v. Campbell*, a lawsuit in the District of Massachusetts (Case No. 1:22-
23 cv-11431) challenging the state of Massachusetts’ regulation of assault weapons
24 and large-capacity magazines.

25 5. My curriculum vitae is attached as Exhibit A.

26 6. I am being compensated at a rate of \$250 per hour.

27
28

1 **II. SUMMARY OF OPINIONS**

2 7. This Declaration provides results of an investigation into qualifications
3 imposed by federal, state, and local governments on the ability of individuals to
4 acquire and possess firearms and ammunition during the Reconstruction period of
5 U.S. History (1863-1877), with special focus on the period during Reconstruction
6 when the Fourteenth Amendment to the U.S. Constitution was created, ratified, and
7 enforced (1866-1876).

8 8. The phrase “background checks,” which commonly appears as shorthand
9 for investigations of those seeking to acquire and possess firearms and ammunition,
10 did not enter American parlance until the twentieth century, but the principle behind
11 background checks—that one’s past record can disqualify a person from the full
12 rights of gun ownership—goes back at least as far as the eighteenth century. U.S.
13 legal authorities have always understood and often enforced the principle that one’s
14 past unlawful actions can be a bar to access to firearms. This Declaration examines
15 one period in particular, the era of the Fourteenth Amendment, when authorities
16 demanded that respect for the law be a requirement for access to firearms.

17 9. During the era of the Fourteenth Amendment, loyalty to the Union and its
18 laws—federal, state, and local—was requisite to one’s being assured the rights and
19 privileges promised by the Amendment. Indeed, loyalty was at the core of the
20 Amendment, and was enshrined in the Amendment’s third clause, which imposed
21 restrictions on office-holding on those who either had “engaged in insurrection or
22 rebellion” against the country or had “given aid or comfort” to the insurrectionists.¹
23 Although the language of the Amendment’s third clause mentioned only restrictions
24 on office-holding, the congressional debates on the clause reveal that rights beyond
25 office-holding were to be restricted. The disloyal were to be denied civil rights
26 (which would necessarily include rights of firearms possession) and the loyal were

27 _____
28 ¹ U.S. Const. amend. XIV, § 3.

1 to be guaranteed those rights.² Loyalty was also at the core of laws passed in
2 conjunction with the Amendment and to enforce the Amendment.³ In all these
3 measures, loyalty was measured by one’s *past* actions, not merely by promises to
4 be loyal in the future. During Reconstruction, law enforcers could ask anyone to
5 swear an oath vowing past loyalty, and they investigated oath-takers for past
6 disloyalty. Failure to satisfy the stringent standards of loyalty of the era was
7 regarded by authorities as a sign of possible unlawful, even insurrectionary or
8 treasonous behavior in the future. To preserve the security of the nation, of the
9 states, and of local communities, authorities imposed proscriptions on the once-
10 disloyal, whose past actions were regarded as unlawful. Proscriptions included
11 explicit bans in the law, most commonly the denial of voting rights, but they also
12 included non-statutory restrictions by civilian and military policing forces,
13 including the denial of firearms and ammunition. Indeed, the policing of firearms
14 acquisition and possession by pro-Union authorities during Reconstruction was
15 considered by lawmakers a priority. Lawmakers during Reconstruction were
16 chiefly concerned with the nation falling back into Civil War.⁴ To prevent that
17 from happening, lawmakers took steps to keep firearms from those who had been
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20 ² Mark A. Graber, *Punish Treason, Reward Loyalty: The Forgotten Goals of*
21 *Constitutional Reform after the Civil War* (Lawrence: University Press of Kansas,
22 2023), 111-30; Jonathan Truman Dorris, *Pardon and Amnesty under Lincoln and*
23 *Johnson: The Restoration of the Confederates to Their Rights and Privileges, 1861-*
24 *1898* (Chapel Hill: University of North Carolina Press, 1953), 319-25. On firearms
25 possession as a civil right included in the Fourteenth Amendment, see Nicholas J.
26 Johnson, David B. Kopel, George A. Mocsary, E. Gregory Wallace, and Donald
27 Kilmer, *Firearms Law and the Second Amendment: Regulation, Rights, and Policy*
28 (3rd ed., New York: Wolters Kluwer, 2022), 465-71.

³ Harold M. Hyman, *To Try Men’s Souls: Loyalty Tests in American History*
(Berkeley: University of California Press, 1959), 257-66; Dorris, *Pardon and*
Amnesty under Lincoln and Johnson, 325-38.

⁴ Graber, *Punish Treason, Reward Loyalty*, 162 (Republican lawmakers’
“overarching concern with preventing rebel rule”).

1 lawbreakers, including and especially past insurrectionaries, on the assumption that
2 these people were most likely to lead the nation back into Civil War.

3 10. A crucial system used by Reconstruction-era authorities to keep firearms
4 out of the hands of potential insurrectionaries was the administration of loyalty
5 oaths that required those who took them to have clean legal records. Law enforcers
6 investigated those who took the oath, looking for past connections to the
7 Confederacy, past legal transgressions, and past declarations of intentions to
8 jeopardize the safety and existence of the Union. Law enforcers made efforts to
9 deny firearms to or seize firearms from those who refused to take the oath along
10 with those who took the oath but were found by investigation to have lied under
11 oath about their past lawfulness and loyalty. In interrogating the loyalty of those
12 who possessed or wished to possess firearms, law enforcers during the era of the
13 Fourteenth Amendment were performing tasks analogous to modern background
14 checks.

15 **III. THE SCOPE OF THIS DECLARATION AND ITS CONNECTION**
16 **TO THE HISTORY AND TRADITION OF FIREARMS**
17 **REGULATION IN THE UNITED STATES**

18 11. This Declaration covers the era of the Fourteenth Amendment. The
19 resolution submitting the Amendment to the states for ratification was passed by
20 Congress in 1866, and ratification was completed in 1868. But the era of the
21 Fourteenth Amendment is here defined as beginning in 1863—the standard starting
22 point of Reconstruction, but also the point at which elements that would make their
23 way into the Fourteenth Amendment began to take shape—and ending in 1872,
24 when national, state, and local authorities had made their last concerted efforts to
25 enforce the Amendment.

26 12. The geographic scope of this Declaration is for the most part limited to
27 the American South, and in particular those regions of the South that rebelled
28 against the U.S. during the Civil War. The Fourteenth Amendment was created

1 with this region in mind, and the ancillary and enforcing legislation accompanying
2 the Amendment were all aimed primarily at the South.

3 13. Why is the period of the Fourteenth Amendment so important to examine
4 if one wants to understand the history and tradition of firearms regulation in general
5 and background checks in particular? As the U.S. Supreme Court declared in
6 *McDonald v. City of Chicago*, 561 U.S. 742 (2010) , and reaffirmed in *New York*
7 *State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022), the Second
8 Amendment did not apply to the states (i.e., did not restrict state laws) until and
9 because of the Fourteenth Amendment. The public meaning of the Fourteenth
10 Amendment at the time of its adoption was that it applied the Second Amendment
11 to the states. But it was also the public meaning of the Fourteenth Amendment that
12 enjoyment of Second Amendment rights required proof of past law-abiding
13 behavior, specifically past, unbroken loyalty to the United States. Acts passed by
14 the federal government during the era of the Fourteenth Amendment, including acts
15 specifically to enforce the Amendment, empowered state and federal law
16 enforcement officials to administer oaths that served as proof of past law-abiding
17 behavior. The acts also empowered law enforcement officials to investigate the
18 veracity of the oaths taken by examining the background of the people who took
19 them.

20 **IV. RESEARCH MATERIALS AND METHODOLOGY**

21 14. In preparing this Declaration, I researched standard scholarly works on
22 the era of the Fourteenth Amendment. I also researched original documents from
23 the era. These included newspaper and magazine articles contemporary to the
24 period studied. The articles are accessible in commonly used databases by
25 historians, such as *Chronicling America* and *ProQuest Historical Newspapers*. To
26 research pamphlets and documents from local and state governments during the era,
27 I relied on the *HathiTrust* digital library and *ProQuest Civil War Era*. For U.S.
28 government documents of the era, I used the *Hein Online* database.

1 17. Even before the era of the Fourteenth Amendment, local and state
2 authorities during the Civil War might require of the citizenry more stringent
3 standards of loyalty that looked to one’s past behavior and reputation. Such
4 stringent examinations by Union authorities of people’s past records was
5 particularly important in matters of arms-bearing, as communities in the North
6 faced legitimate threats of armed insurrection from Confederate sympathizers in
7 their midst. The danger of such armed conspirators was most severe in the
8 Midwest, where there were populations with significant familial and political ties to
9 the Confederacy. The presence of pro-Confederate sympathizers in the Midwest
10 led to the much-publicized treason trials in Indiana in 1864. (These trials were the
11 background to the 1866 U.S. Supreme Court case *Ex Parte Milligan*; Lambdin
12 Milligan was one of those Indianans convicted of treason.) In this political climate
13 in the Midwest, it was common for legal authorities to surveil and regulate those
14 who sought to acquire firearms. For example, in one Ohio community, authorities
15 declared that “arms and ammunition be disposed of with discretion and only to
16 parties of undoubted Union sentiments.” Officials in this community—known by
17 their detractors as “district spies”—regularly investigated those who sought to
18 obtain arms and ammunition or permits to deal in arms and ammunition.⁷

19 18. Despite their presence in the North during the Civil War, loyalty tests
20 were most common in the South during the war, in the form of pro-Union loyalty
21 oaths imposed on those in U.S. army-occupied areas of the South. The primary
22 function of these oaths was to identify southerners who could be counted on to
23 support the U.S. government as regions in the South underwent a restoration from
24 pro-Confederate to pro-Union affiliation. The form of these oaths was simple—that

25 _____
26 *Civil War Era* (Chapel Hill: University of North Carolina Press, 2019); 140-47,
27 269-71; Harold Melvin Hyman, *Era of the Oath: Northern Loyalty Tests during the*
28 *Civil War and Reconstruction* (1954; repr., New York: Octagon Books, 1978),
21-47.

⁷ *Urbana [Ohio] Union*, Aug. 28, 1867, p. 2.

1 is, they required a pledge only of present and future loyalty, with no regard to one’s
2 past sympathies.

3 19. This simple oath for southerners seeking to renounce their Confederate
4 affiliation and restore their standing as U.S. citizens was part of President Abraham
5 Lincoln’s wartime reconstruction policy. In December 1863, Lincoln spelled out a
6 proposal for restoring states in rebellion to the Union and bringing one-time
7 Confederates back under the mantle of U.S. citizenship. The loyalty oath that
8 Lincoln proposed was a simple oath. It read as follows:

9 I, [name of oath-taker], do solemnly swear, in presence of Almighty
10 God, that I will henceforth faithfully support, protect, and defend the
11 Constitution of the United States and the Union of the States
12 thereunder; and that I will, in like manner, abide by and faithfully
13 support all acts of congress passed during the existing rebellion with
14 reference to slaves, so long and so far as not repealed, modified, or
held void by congress, or by decision of the supreme court; and that I
will, in like manner, abide by and faithfully support all proclamations
of the President made during the existing rebellion having reference to
slaves, so long and so far as not modified or declared void by decision
of the supreme court. So help me God.⁸

15 This oath, or variations of it, which covered only a person’s present and future
16 loyalties and law-abiding behaviors, became the standard oath used by U.S.
17 officials and their allies during the Civil War at the state and local level.

18 20. However, some of Lincoln’s fellow Republican lawmakers believed that
19 a more stringent oath should be applied, one that looked not only to the oath-takers’
20 present and future but also to their past. Specifically, this oath included a statement
21 of one’s *past* record of loyalty and lawfulness. This oath was commonly known as
22 “the ironclad oath” or “the test oath.” Congress began applying the oath to federal
23 officeholders and jurors in 1862 and expanded the categories of people who had to
24 take it over the course of the Civil War. The standard ironclad oath read as follows:

25 I, [name of oath-taker], do solemnly swear (or affirm) that I have never
26 voluntarily borne arms against the United States since I have been a
citizen thereof; that I have voluntarily given no aid, countenance,

27 ⁸ Roy P. Basler, ed., *Collected Works of Abraham Lincoln* (New Brunswick,
28 N.J.: Rutgers University Press, 1953), 7: 54.

1 counsel, or encouragement to persons engaged in armed hostility
2 thereto; that I have neither sought nor accepted nor attempted to
3 exercise the functions of any office whatever, under any authority or
4 pretended authority in hostility to the United States; that I have not
5 yielded a voluntary support to any pretended government, authority,
6 power or constitution within the United States, hostile or inimical
7 thereto. And I do further swear (or affirm) that, to the best of my
8 knowledge and ability, I will support and defend the Constitution of
9 the United States, against all enemies, foreign and domestic; that I will
10 bear true faith and allegiance to the same; that I take this obligation
11 freely, without any mental reservation or purpose of evasion, and that I
12 will well and faithfully discharge the duties of the office on which I am
13 about to enter, so help me God.⁹

14 The ironclad oath embraced the principle that in the determination of one’s
15 qualification for U.S. citizenship, one’s past record relating to the law was at least
16 as important as one’s pledge to abide by the law in the future.

17 21. The ironclad oath was part of the proposed reconstruction plan offered by
18 Republicans in Congress as an alternative to Lincoln’s proposed reconstruction
19 plan. Under Lincoln’s proposed reconstruction plan of December 1863, the simple
20 loyalty oath rather than the ironclad oath was to be the oath applied to southerners
21 during the Civil War who sought to establish that they were Unionists, not
22 Confederates. The congressional reconstruction plan offered as an alternative to
23 Lincoln’s became known as the Wade-Davis bill, named for its sponsors Senator
24 Benjamin Wade and Representative Henry Winter Davis. The bill called for
25 southern civilians to take an ironclad oath.¹⁰ Congress passed the Wade-Davis bill
26 in June 1864, but President Lincoln pocket-vetoed the measure. In August 1864,
27 Wade and Davis issued a “manifesto” denouncing Lincoln’s reconstruction policy
28

⁹ Howard Gillman, Mark A. Graber, and Keith A. Whittington, *American Constitutionalism*, vol. 2, *Rights and Liberties* (New York, Oxford University Press, 2014), reprint at https://global.oup.com/us/companion.websites/fdscontent/uscompanion/us/static/companion.websites/9780199751358/instructor/chapter_6/testoaths.pdf (accessed August 11, 2023).

¹⁰ <https://www.archives.gov/milestone-documents/wade-davis-bill#:~:text=Be%20it%20enacted%20by%20the,governor%2C%20whose%20pay%20and%20emoluments> (accessed August 11, 2023).

1 as too lenient on one-time Confederates and urging authorities to adopt the
2 ironclad-oath policy in place of Lincoln’s simple-oath policy. The position taken
3 by Wade and Davis and their adherents was one of a number of factors that led to
4 them being labeled Radical Republicans by their detractors (whereas Lincoln’s
5 faction of the Republican Party was known as “moderates” or “conservatives”).
6 The so-called Radicals failed to pass a congressional reconstruction policy prior to
7 1865, the year in which the Civil War ended and Lincoln was assassinated. Thus, a
8 universal ironclad-oath policy remained a proposal only, not the law, up to the point
9 that Lincoln was succeeded by President Andrew Johnson. Johnson adopted
10 reconstruction policies similar to those of Lincoln. Like Lincoln, he opposed
11 ironclad oaths in favor of simple oaths. However, within two years of his taking
12 office, Johnson would find himself on the outs of the political party that had
13 installed him in the Executive Office. He and his followers by 1867 were a
14 minority faction of the Republican Party, and those once denounced as “radicals”
15 were now mainstream Republicans. Under this regime, which would orchestrate
16 the adoption of the Fourteenth Amendment, ironclad oaths became the norm across
17 the South.

18 22. Two related factors led ironclad oaths to replace simple oaths as the
19 means by which southern whites were readmitted to national citizenship after the
20 Civil War. First, Andrew Johnson became increasingly unpopular with Republican
21 voters, in large part because of his leniency toward former Confederates. Johnson
22 was liberal in granting pardons and amnesty to one-time Confederates. He also
23 opposed measures popular among congressional Republicans for assuring equal
24 rights to African Americans. Such measures included the Civil Rights Act of 1866,
25 the act renewing the Freedman’s Bureau (also of 1866), and the constitutional
26 amendment that would become the Fourteenth Amendment (passed by Congress in
27 1866, ratified by the states in 1868). As mainstream Republicans turned against
28 Johnson, they likewise tended to reject his preferred oath—the simple oath—in

1 favor of the ironclad oath. The second factor leading mainstream Republicans to
2 embrace an ironclad-oath policy was the clear evidence cropping up across the
3 southern landscape that simple oaths were failing to keep southern whites from
4 remaining steadfast in their insurrectionary, white supremacist leanings. By late
5 1866, former Confederates who had taken the simple oath had regained control of
6 southern state governments and had begun passing measures and taking actions that
7 punished and disfranchised loyal white and Black Unionists. Included among such
8 measures were “Black Codes,” which were designed to keep newly freed African
9 Americans in a state of subservience akin to slavery. Many of the “Black Codes”
10 included clauses that prohibited Blacks from carrying or even possessing firearms.
11 These neo-Confederate regimes ruling southern states through much of 1866 did
12 little or nothing to prevent violence against white and Black Unionists. Indeed, the
13 state laws prohibiting access to firearms to Blacks made violence by disloyal white
14 supremacists against Blacks all the more likely. Thus, the spring and summer of
15 1866 witnessed two of the worst massacres of Blacks during Reconstruction, one in
16 Memphis and one in New Orleans. These massacres, along with the policies of the
17 neo-Confederate regiments generally, helped persuade mainstream Republicans that
18 reconstruction policies based on simple loyalty oaths were insufficient; ironclad
19 oaths must be imposed on any southern white seeking to become re-categorized as a
20 loyal and lawful American.

21 23. Some of the first ironclad oaths in the post-war South appeared at the
22 state level—specifically in Arkansas, Tennessee, and West Virginia, where
23 Republicans rather than neo-Confederates controlled the state governments. In
24 these states, ironclad oaths were required of whites who wanted to vote, to hold
25 office, to serve as government employees, and even to be members of certain
26 professions, including doctors, lawyers, and clergymen.¹¹ The iron-clad oath policy

27 _____
28 ¹¹ Kenneth R. Bailey, “Test Oaths, Belligerent Rights, and Confederate

1 was most strictly and widely imposed in Tennessee, the pro-Union government of
2 which was seen as a model state regime by Republicans and a nightmare-scenario
3 by former Confederates.¹² Not by coincidence, Tennessee became not only the first
4 formerly seceded state to impose ironclad oaths vigorously, but also the first such
5 state to restrict militia service and gun-access generally to those who took the
6 ironclad oath.¹³

7 24. Ironclad-oath policies imposed by southern states were challenged by
8 some former Confederates and ultimately were ruled upon by the U.S. Supreme
9 Court in the “Test Oath Cases” of 1866-67.¹⁴ The Court accepted much of the
10 plaintiffs’ argument that ironclad oaths were potentially tantamount to ex post facto
11 laws and violative of Fifth Amendment rights against self-incrimination. However,
12 the Court’s ruling in the Test Oath Cases had little effect. As historians have
13 shown, in practice, Republicans at both the state and national level continued to
14 impose ironclad oaths, and these oaths became the law of the land, making the
15 Court’s ruling irrelevant.¹⁵

16
17 Money: Civil War Lawsuits Before the West Virginia Supreme Court of Appeals,”
18 *West Virginia History*, 1-22; Randy Finley, “In War’s Wake: Health Care and
19 Arkansas Freedmen, 1863-1868,” *Arkansas Historical Quarterly*, 51 (Summer
20 1992), 148; Hyman, *To Try Men’s Souls*, 163-66. The first post-war state
21 constitution of Virginia also included an ironclad-oath policy, even though that
22 state would briefly end up under the control of former Confederates. See Nicole
23 Myers Turner, *Soul Liberty: The Evolution of Black Religious Politics in
24 Postemancipation Virginia* (University of North Carolina Press, 2020), 55.

25
26 ¹² Ted Tunnell, “Creating ‘The Propaganda of History’: Southern Editors and
27 the Origins of ‘Carpetbagger and Scalawag,’” *Journal of Southern History*, 72
28 (Nov. 2006), 807-08.

¹³ Ben H. Severance, *Tennessee’s Radical Army: The State Guard and Its
Role in Reconstruction, 1867-1869* (Knoxville: University of Tennessee Press,
2005), 35-36.

¹⁴ Hyman, *Era of the Oath*, 107-20.

¹⁵ Philip S. Paludan, “John Norton Pomeroy, State Rights Nationalist,”
American Journal of Legal History, 12 (Oct. 1968), 279-80; Hyman, *To Try Men’s
Souls*, 260-61.

1 25. The struggle over ensuring loyalty and law-abiding behavior among
2 southern whites was the context in which the 39th Congress, dominated by
3 Republicans, created the measure that would become the Fourteenth Amendment.
4 Congressional discussion and debate of the proposals that would cohere into the
5 Amendment began in December 1865 and ended in June 1866. The Amendment is
6 best-known for its first clause, which speaks of “privileges and immunities” and of
7 “due process” and “equal protection.” But, as the scholar Mark Graber has argued,
8 the drafters of the Amendment were as interested in, if not more interested in, the
9 third clause, which contained language excluding certain southern whites from
10 citizenship. In other words, according to Graber, the Amendment was as much
11 about denying citizenship to potentially disloyal southern whites as it was about
12 assuring citizenship to Blacks and unquestionably loyal southern whites. Graber’s
13 study focuses especially on the “exclusion resolution” that eventually appeared in
14 the Amendment’s third clause. As the book’s title indicates, a primary goal of the
15 Amendment was to “punish treason” and “reward loyalty.”¹⁶

16 26. The Fourteenth Amendment would not be ratified until 1868, but even
17 before that date, the same Republican Congressmen who had drafted the measure
18 passed other laws that required ironclad oaths of those known to have been or even
19 suspected to have been Confederates or Confederate sympathizers. One of the most
20 significant of these measures was the Reconstruction Act of 1867, which
21 empowered local, state, and national authorities to administer ironclad loyalty
22 oaths. The ironclad oaths administered typically included a pledge that the person
23 taking the oath had never engaged in “armed hostility” against the United States.
24 This broad language covered activity that went beyond acts of outright treason and
25 insurrection. It covered any activity in which a person had carried out armed
26 aggression against loyal Unionists. Thus, ironclad oaths might proscribe from the

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¹⁶ Graber, *Punish Treason, Reward Loyalty*, 38-40.

1 privileges of citizenship those who had engaged in unauthorized guerrilla activities
2 or those who had simply committed armed robbery or assault against loyal
3 Unionists.

4 27. The oath-taking system established by the 1867 Reconstruction Act
5 replaced the “Provost Marshal system” established during the Civil War. During
6 the war, U.S. Provost Marshals of occupying armies in the South would administer
7 oaths to members of a community wishing to be considered for reinstatement to
8 U.S. citizenship. Names of oath-takers were recorded in a log book, and members
9 of local Provost Marshals’ officers would be cognizant of which members of the
10 community had refused to take the oath. The local roll of oath-takers acted in effect
11 as a database for local law enforcement officers of who could be entrusted with the
12 privileges of citizenship, which included voting, the receipt of food rations from the
13 U.S. army, the admission to professions, and the purchase and sale of firearms and
14 ammunition. With the Reconstruction Act of 1867, the work of registering and
15 monitoring oath-takers—along with the duty of knowing who had refused to take
16 the oath—passed to local and state constabularies and judges. Meanwhile, the U.S.
17 army remained empowered to oversee the oath-taking system administered by
18 civilian officials. If a local U.S. commander deemed that a community lacked loyal
19 civilian law enforcers and judges, he could assume the duties of overseeing the
20 monitoring of oath-taking. By this point—that is, by 1867, the year of the
21 Reconstruction Act—almost all oaths were ironclad oaths. Thus, by statute and by
22 the power vested in civilian law enforcement officials and U.S. army officers, the
23 law regulated who was deemed loyal by requiring an examination of people’s past
24 records.

25 28. The system of tracking community members’ past records via oath-
26 administration was replicated in other facets of the U.S. Reconstruction program.
27 For example, the U.S. Southern Claims Commission, established in 1871 to allow
28 southerners who had always been loyal to file claims for property seized by military

1 personnel during the war, required claimants to take ironclad oaths.
2 Commissioners were empowered to investigate claimants’ records in regard to prior
3 illegal and disloyal activity and to disqualify those who were found to have acted in
4 ways that contradicted the ironclad oath that claimants had taken. Similarly, under
5 the congressional acts passed in 1870 and 1871 that enforced the Fourteenth and
6 Fifteenth Amendments—known popularly as “The Enforcement Acts” or “The Ku
7 Klux Klan” acts—civilian and army investigators regularly administered ironclad
8 oaths in their efforts to uncover violations of loyal Unionists’ civil and political
9 rights.¹⁷

10 29. It should be noted that not all elements of the oath-taking system
11 established during the era of the Fourteenth Amendment were spelled out in federal
12 and state statutes. Statutes most commonly mentioned the administration of oaths
13 in the context of establishing voter rolls for elections. However, much about the
14 process of administering oaths and investigating the veracity of oath-takers was not
15 spelled out in statutes. Rather, civilian and military law enforcers were understood
16 to have discretion to administer the oath system in whatever way best “kept the
17 peace.” In other words, the day-to-day operation of the oath system at the local
18 level followed the American tradition of police powers, by which law was
19 embodied not only in explicit statutes but also in the discretionary actions of those
20 empowered to “keep the peace.” Included in peace-keeping, of course, was the
21 maintenance of public safety in regard to dangerous weapons. Thus, law enforcers
22 in the era of the Fourteenth Amendment could be expected to consult loyalty-oath
23 records in determining who might be prevented from obtaining or possessing a
24 dangerous weapon.

25 _____
26 ¹⁷ See, for example, *U.S. Congressional Serial Set*, vol. 1308, 40th Cong., 1st
27 sess., Sen. Exec. Doc. 14, “Message of President communicating correspondence
28 on reconstruction, and opinions of Attorney General on construction of
reconstruction acts,” pp. 141-42. On the use of ironclad oaths by the Southern
Claims Commission, see Hyman, *To Try Men’s Souls*, 265.

1 30. One example from the historical record—many might be given—will
2 help illuminate this point about the oath-taking system being integrated into
3 traditional (though non-statutory) policing to ensure public safety. In Laurens,
4 South Carolina, in October 1870, a man named Joseph Crews was both a leader of
5 the local, pro-Union militia and a member of the board of canvassers. In this latter
6 role, he had a record of all who were registered to vote in the community. This list
7 necessarily represented those adult men in the community who had taken the
8 ironclad oath. Those adult men in the community who were not on the list
9 obviously had not taken the oath or had taken the oath but been disqualified
10 because of past transgressions. The list thus served as a database of sorts for Crews
11 as he determined who could protect the community and who threatened the
12 community. It was crucial for Crews to have this database, as the community had
13 been terrorized by Ku Klux Klansmen during September and early October, and he
14 sought to do what he could to quell the violence. He gathered known loyal men
15 into militia companies (most of these men were Black, some were white) and had
16 them gather all the guns and ammunition that they could find from stores in town
17 and place them under guard in Crews’s house and in one other guarded location.
18 His purpose was to ensure that none of these weapons was purchased or seized by
19 those known to be disloyal—that is, those who had failed to pass the test-oath
20 requiring a record of law-abiding behavior. This sequence of events was analogous
21 to modern-day episodes in which law-enforcers use background checks to keep
22 dangerous weapons out of the hands of those who have committed past unlawful
23 conduct and are most likely to use them for unlawful purposes in the future.¹⁸


24 ¹⁸ Descriptions of Ku Klux Klan activity in and around Laurens, South
25 Carolina prior to this episode, including attacks and killing of Black Americans,
26 may be found here: “The Ku-Klux reign of terror. Synopsis of a portion of the
27 testimony taken by the Congressional investigating committee. No. 5 (1872),
28 <https://www.loc.gov/resource/rbpe.23700800/?st=text> (accessed August 11, 2023).
The episode involving Crews, the voter lists, and the dangerous weapons, is
described here: *U.S. Congressional Serial Set*, vol. 1529 (1871-72), 42nd Cong.,

1 **VI. CONCLUSION**

2 31. During the era of the Fourteenth Amendment, federal, state, and local
3 governments qualified access to the privileges and immunities protected by that
4 Amendment—including the acquisition and possession of firearms—on sworn and
5 evidenced past loyalty to the Union. To ensure that only loyal southerners enjoyed
6 the privileges and rights afforded by the Amendment, all southerners were required
7 to swear oaths of loyalty, and government officials were authorized to, and did,
8 conduct investigations into the past behavior of those who took the oaths. Today,
9 disloyalty to the United States is not an express bar to enjoying Second Amendment
10 rights, but the use of contemporary background checks as an investigative tool to
11 ensure that persons prohibited from acquiring and possessing firearms—due to, for
12 example, a past felony conviction—are analogous to the oath requirements and
13 investigations of the Reconstruction era.

14 I declare under penalty of perjury that the foregoing is true and correct.

15 Executed on August 15, 2023 at Providence, Rhode Island.

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17 _____
18 Michael Vorenberg

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27 _____
28 2nd sess., “Affairs in Insurrectionary States,” pt. 1, “Report and Minority Views,”
pp. 554-56.

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

14 **KIM RHODE et al.,**

15 Plaintiffs,

16 v.

18 **ROB BONTA, in his official capacity**
as Attorney General of the State of
 19 **California, et al.,**

20 Defendant.

3:18-cv-00802-BEN-JLB

DECLARATION OF JENNIFER M. MCCUTCHEN

Courtroom: 5A
 Judge: Hon. Roger T. Benitez
 Action Filed: May 17, 2017

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DECLARATION OF JENNIFER M. MCCUTCHEN

I, Jennifer M. McCutchen, declare under penalty of perjury that the following is true and correct:

1. I have been asked by the Office of the Attorney General of the California Department of Justice to prepare a declaration on the history of firearm and gunpowder restrictions applicable to certain groups, particularly Native peoples, during the colonial and Early Republic eras. This declaration is based on my own personal knowledge and research, and, if I am called as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

PROFESSIONAL QUALIFICATIONS

2. I am an Assistant Professor of History at the University of St. Thomas in St. Paul, Minnesota. I assumed this position on September 1, 2022. From September 1, 2019, to August 31, 2022, I was an Assistant Professor of History at the University of Southern Maine. I regularly offer courses in the colonial and Early Republic eras of United States History, the history of the American Revolution, and Native American History.

3. I have a Ph.D. in History from Texas Christian University, awarded in 2019. My expertise includes the history of trade, exchange, and diplomacy between Native peoples and Europeans in the eighteenth century, with a specific focus on gunpowder and firearms. I have several publications in this field including peer-reviewed articles in the academic journals *Terrae Incognitae* and *Studies in Eighteenth-Century Culture*. I also have a peer-reviewed article in *Ethnohistory* published in July 2023 titled “‘They Will Know in the End that We are Men’: Gunpowder and Gendered Discourse in Creek-British Diplomacy, 1763–1776.” I am currently completing an 80,000-word book manuscript, based on my dissertation research, which uses the gunpowder trade as a lens to explore diplomacy between members of the Creek Confederacy and British/American

1 officials during the second half of the eighteenth century. The manuscript proposal
2 is currently under review with the University of Oklahoma Press. My current
3 curriculum vitae is attached as **Exhibit A** to this declaration.

4 4. I have provided written expert testimony in *Nguyen v. Bonta*, No. 3:20-
5 cv-02470 (S.D. Cal.).

6 5. I am being compensated at a rate of \$200 per hour.

7 **PROFESSIONAL OPINIONS**

8 6. I have been asked to provide an overview of the history of firearm,
9 gunpowder, and ammunition restrictions applicable to certain demographic groups,
10 particularly Native peoples, during the late colonial and founding/Early Republic
11 eras of the United States. I use the terms “gunpowder” and “ammunition”
12 frequently in this declaration, and sometimes interchangeably. Gunpowder refers to
13 black powder, which during the eighteenth-century consisted of 75% saltpeter, 15%
14 charcoal, and 10% sulfur. Ammunition is defined as “cartridge cases, primers,
15 bullets, or propellant powder designed for use in any firearm.”¹ Below, I make
16 three basic points:

17 7. First, firearms could not (as they cannot today) be used without proper
18 ammunition and because gunpowder (the projectile component of ammunition in
19 the historical period discussed) could not be produced in large quantities in North
20 America, gun owners in the colonial and Early Republic eras were consistently
21 concerned with securing stable access to gunpowder. These gun owners included
22 large numbers of Native peoples, upon whose labor empires depended to support
23 their hunting-based colonial trade economies, as well as enslaved people, free
24 African Americans, and non-Protestant white settlers.

25 _____
26 ¹ ATF.gov, “Firearms Gun Control Act Definitions – Ammunition,” Bureau
27 of Alcohol, Tobacco, Firearms, and Explosives, last modified April 26, 2018,
28 accessed August 7, 2023, [https://www.atf.gov/firearms/firearms-guides-
importation-verification-firearms-gun-control-act-definition-ammunition](https://www.atf.gov/firearms/firearms-guides-importation-verification-firearms-gun-control-act-definition-ammunition).

1 8. Second, in the seventeenth and early eighteenth centuries, individual
2 colonies looked to English legislation to prohibit Native peoples from accessing
3 guns and accompanying ammunition accessories, like gunpowder, gunflints, and
4 bullets. This was largely due to perceived public safety risks associated with
5 trading guns and ammunition with Native peoples, who existed outside of the
6 English colonial polity. Similarly, seventeenth-century firearms and gunpowder
7 restrictions targeted non-Native groups, such as non-Protestant settlers and enslaved
8 African Americans, who colonial governments deemed “dangerous” to the safety
9 and security of white, Anglo-American populations.

10 9. Third, by the second decade of the eighteenth century, colonial
11 governments no longer sought to fully prohibit Native peoples from obtaining arms
12 and ammunition. Rather, they used seventeenth-century English law as precedent
13 to more strictly regulate *how* Native peoples acquired guns, gunpowder, and
14 ammunition. This shift proved crucial for colonies that relied upon both the labor
15 of Native hunters and Native consumers to fuel their economies. It also created a
16 space for Patriots and Loyalists, respectively, to use gunpowder as a bargaining
17 chip to secure alliances during the American Revolution and provided a foundation
18 from which the new United States attempted to use gunpowder and ammunition to
19 secure Native dependence through the early nineteenth-century. During this period,
20 laws restricting access to guns and gunpowder for enslaved African Americans
21 persisted and did not undergo any notable modifications until after the founding of
22 the United States. Access to guns, gunpowder, and ammunition for members of the
23 above groups was not always controlled in the same manner or for the same
24 reasons, but colonial and state governments felt these populations posed enough of
25 a public safety risk to necessitate governmental oversight over their access to
26 firearms and the tools that rendered them operational.

1 **I. BACKGROUND ON GUNPOWDER, AMMUNITION, AND**
2 **NATIVE PEOPLES AND OTHER POPULATIONS IN THE**
3 **COLONIAL ERA**

4 10. Anyone who used firearms during the colonial era (1600–1763),
5 including colonial settlers and Native peoples, relied on the limited resource of
6 gunpowder. Gunpowder was a non-renewable resource that could not be
7 manufactured in large quantities in North America during the colonial era of United
8 States history. It was difficult to produce, heavily subject to the skill of the
9 manufacturer, and susceptible to damage by water, moisture, and other
10 environmental factors. The final product also depended on the quality of its
11 ingredients which consisted of carbon (for combustion), sulfur (for instantaneous
12 ignition), and saltpeter, or potassium nitrate (which provided the oxygen needed to
13 facilitate an explosion). Of the major components, carbon was the easiest to obtain,
14 with sulfur a close second; Charcoal was readily available in English woodlands,
15 and sulfur could be obtained from domestic mineral springs or imported from
16 Southern Italy. Saltpeter, the chief component of gunpowder and the rarest of the
17 three, occurred naturally in crystallized form on the walls of caves and damp cellars
18 or as a side effect of the bacterial break down of animal dung or guano.²

19 11. While the English began producing gunpowder in London as early as the
20 fourteenth century, gunpowder manufacture increased in the sixteenth century
21 under the reigns of Henry VIII and Elizabeth I. The Crown’s appetite for saltpeter
22 grew alongside the empire’s expanding scale of warfare and increasing weapons

23 ² Guano is excrement from bats, sea birds, and seals. Bird guano, which
24 contains the highest nitrogen levels of the three, can be found largely in South
25 America, particularly in coastal Peru. During the colonial period, as well as today,
26 South American guano was used primarily for fertilizer. While bat guano can be
27 found in caves throughout North America, its use in large-scale gunpowder
28 manufacture did not emerge until the last decade of the eighteenth century. See
David Cressy, *Saltpeter: The Mother of Gunpowder* (New York, NY: Oxford
University Press, 2012), 10.

1 arsenal, and parliament understood the need for a self-sufficient gunpowder
2 economy that did not depend on imported saltpeter supplies. The Renaissance had
3 encouraged alchemists, natural philosophers, and individuals in the military arts to
4 think critically about pyrotechnics, creating a field of scientific and technical
5 literature that brought mining, the extraction and refining of numerous metals and
6 alloys, and knowledge of explosive-producing compounds to a wider audience.³ By
7 the seventeenth century this field of study had encouraged English parliament to
8 introduce “saltpeter ordinances,” which allowed the government to dig for Saltpeter
9 under private “pigeon houses, Stables, Cellars, Vaults, empty Ware-Houses, and
10 other Out-houses.”⁴ The need for saltpeter was a significant motivator of English
11 colonization in the South Pacific and North America from the sixteenth through
12 eighteenth centuries. By the second half of the seventeenth century, imported
13 saltpeter from India replaced the need for home-sourced supplies.⁵ Parliament

14 ³ Vannoccio Biringuccio, *The Pirotechnia of Vannoccio Biringuccio: The*
15 *Classic Sixteenth Century Treatise on Metals and Metallurgy*, ed. Cyril Stanley
16 Smith and Martha Teach Gnudi (Mineola, NY: Dover Publications, 1990); Cyprian
17 Lucar, *Three bookes of colloquies concerning the arte of shooting in great and*
18 *small peeces of artillerie* (London: Thomas Dawson, 1588), accessed August 7,
19 2023,
20 <https://quod.lib.umich.edu/e/eebo2/A13381.0001.001/1:6.2.12?rgn=div3;view=fullt>
21 [ext](#); Cressy, *Saltpeter*, 13-14. It was Lucar who suggested that saltpeter could be
22 extracted from the earth by digging “out of floors in cellars vaults, stables, ox-stalls,
23 goat or sheep cotes, pigeon houses, or out of the lowermost rooms in other houses.”
24 Lucar, *Three books concerning the arte of shooting*, Appendix 5-11. Also quoted in
25 Cressy, *Saltpeter*, 20.

26 ⁴ An Ordinance enabling Saltpeter-men to make Gun-Powder, British History
27 Online, last modified February 7, 1646, accessed August 7, 2023,
28 [https://www.british-history.ac.uk/no-series/acts-ordinances-interregnum/pp828-](https://www.british-history.ac.uk/no-series/acts-ordinances-interregnum/pp828-830)
29 [830](#). At the height of its war with Spain, Elizabethan England consumed close to
30 100 tons of gunpowder per year. By the 1630s, Charles I peacetime forces needed
31 more than 250 tons of gunpowder. This increased to 647 tons per year during the
32 Seven Years’ War and 1,600 tons per year during the American Revolution.

⁵ Between 1601 and 1801, each British East India company ship devoted an

1 hoped North America would prove a similarly fruitful source of saltpeter,
2 expressing confidence that their newly acquired colonies contained saltpeter “as
3 good and as plentifully as any place in the world.”⁶ But while Jamaica and Antigua
4 had saltpeter deposits, and some islands off the coast of New England contained
5 guano, none were abundant enough to produce allow for large-scale export and
6 gunpowder manufacture.

7 12. The lack of saltpeter in eastern North America posed a significant
8 challenge to colonial ambitions, and it forced all who utilized firearms throughout
9 the continent to depend on gunpowder manufactured in Europe. This included
10 enslaved peoples, non-Protestant white settlers, and large numbers of Native
11 American men.⁷ The Jamestown settlers introduced guns to the Powhatan
12 confederacy shortly after their arrival in North America in May 1607.⁸ Firearms
13 became widely accessible to Native peoples a few decades later when Dutch traders
14 from Long Island and the Connecticut River Valley introduced the flintlock musket
15 to Native communities in the region. Native groups like the Iroquois and the
16 Pequot used these weapons to displace and subjugate nearby Native rivals,
17 launching what historian David Silverman calls an Indian arms race.⁹ They also

18 _____
19 average of sixteen percent of its cargo space to saltpeter. The average weight of
20 saltpeter on any given voyage was 452.8 cubic meters, or 1.6 metric tons. See
21 James W. Frey, “The Indian Saltpeter Trade, the Military Revolution, and the Rise
22 of Britain as a Global Superpower,” *The Historian* 71, no. 3 (Fall 2009): 507.

23 ⁶ Cressy, *Saltpeter*, 153.

24 ⁷ Enslaved peoples’ responsibilities could include shooting vermin, hunting
25 animals for food, and protecting the slaveholder’s property, all of which required
26 their use of firearms, gunpowder, and ammunition.

27 ⁸ John Smith, *The Generall Historie of Virginia, New England, and the
28 Summer Isles* (Glasgow: James MacLehose and Sons, 1907), 1: 158–59.

⁹ David J. Silverman, *Thundersticks: Firearms and the Violent
Transformation of Native America* (Cambridge, MA: Harvard University Press,
2016), 23.

1 employed these weapons to challenge English colonial expansion as demonstrated
2 in two violent conflicts: the Pequot War (1636–1637) and King Philip’s War
3 (1675–1676). These patterns of gun-induced Native violence transformed the
4 Indian world and deeply influenced cross-cultural interactions between Native
5 peoples and European colonizers. The Carolina colony’s first English settlers, for
6 example, recounted meeting large groups of Natives who had traveled to Charles
7 Town from the interior seeking any means of defense against the neighboring
8 Westos, who “having guns and powder and shot . . . come upon these Indians here
9 in the time of their crop and destroy all by killing, carrying away their corn and
10 children.”¹⁰

11 13. By the late seventeenth and early eighteenth centuries, Native men had
12 become critical consumers of British guns, ammunition, and gunpowder, proving
13 both a boon and bane for colonial officials. Arms manufacturers in Birmingham
14 and London, England, began manufacturing lightweight, flintlock muskets known
15 as “trade guns” specifically for Native customers. In addition, many colonies relied
16 upon Native hunters to sustain their eighteenth-century economies in lieu of stable
17 cash crops, and the demands of the pelt, deerskin, and slave trades necessitated
18 Native access to guns and ammunition.¹¹ Colonial officials understood the public

19 ¹⁰ Stephen Bull, “Stephen Bull to Lord Ashley, September 12, 1670,” in *The*
20 *Shaftesbury Papers: South Carolina Historical Society*, ed. Langdon Cheves,
21 192–96 (Charleston, SC: Home House Press, 2010), 194; Matthew Jennings,
22 “‘Cutting One Another’s Throats’: British, Native, and African Violence in Early
23 Carolina,” in *Creating and Contesting Carolina: Proprietary Era Histories*, ed.
Michelle LeMaster and Bradford J. Wood (Columbia, SC: The University of South
Carolina Press, 2013), 114.

24 ¹¹ European colonization of North America can be defined as trade
25 colonialism, a relationship in which the colonial periphery feeds the metropole with
26 raw materials, and the metropole manufactures finished goods to sell in its colonies.
27 Government-imposed tariffs regulate trade to ensure that capital accumulates in the
28 mother country. In colonial North America, Native peoples served as primary
producers of raw goods and consumers of finished goods, often acquired through

1 safety risks associated with arming large, potentially hostile, Native groups, and
2 over the course of the eighteenth century put considerable effort into determining
3 how many of their Native neighbors owned guns. For example, estimates of Creek
4 gun ownership ranged from 2,000 in the early 1700s, to 6,000 at the turn of the
5 nineteenth century.¹² Each Native gunman needed approximately two pounds of
6 gunpowder per year to sustain their hunting yields. Thus, during their peak era of
7 firearms ownership, members of the Creek Confederacy needed 12,000 pounds of
8 gunpowder annually to meet the demands of the Euro-American deerskin trade.¹³

9 14. Gunpowder in this historical period is commonly referred to as black
10 powder and is not to be confused with modern smokeless powder. The quantity of
11 gunpowder needed to fire a “trade gun”—the lightweight, .60 caliber flintlock
12 muskets created for Native consumers in the eighteenth century—depended on

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14 diplomatic mediation. Colonizers understood that to achieve their goals, they would
15 have to provide Native peoples with tools that could expedite their labor—guns and
16 gunpowder. The danger, however, was that Native peoples could also use these
17 tools to wage war on their enemies, both Indigenous and non-Indigenous. For an
18 overview of colonial theory, see Nancy Shoemaker, “A Typology of Colonialism,”
19 *Perspectives on History*, last modified October 1, 2015, accessed August 7, 2023,
20 [https://www.historians.org/research-and-publications/perspectives-on-](https://www.historians.org/research-and-publications/perspectives-on-history/october-2015/a-typology-of-colonialism)
21 [history/october-2015/a-typology-of-colonialism](https://www.historians.org/research-and-publications/perspectives-on-history/october-2015/a-typology-of-colonialism).

22 ¹² South Carolina enumerated 2,619 Creek gunmen in 1715. A French report
23 of a few years later put the number of gunmen at 2,500. In 1764, John Stuart, who
24 served as British Superintendent of Indian Affairs from 1762 until 1779, reported
25 the number of Creek gunmen at 3,600. In 1773, Governor Wright of Georgia
26 reported that there were 4,000 Creek gunmen. By the end of the eighteenth century,
27 American estimates placed Creek military strength between 5,000 and 6,000
28 warriors. Kathryn Holland Braund, *Deerskins and Duffels: The Creek Indian Trade with Anglo America, 1685–1815* (Lincoln, NE: University of Nebraska Press, 1993), 9; Kenneth Coleman and Milton Ready, eds., *Colonial Records of the State of Georgia: Volume 28, Part 2: Original Papers of Governor Wright, President Habersham, and Others, 1764–1782* (Athens, GA: University of Georgia Press, 1979), 189.

¹³ Braund, *Deerskins and Duffels*, 71–72.

1 several factors, namely the quality of the powder and its granularity. Native
2 gunowners usually received coarser and less desirable black powder than their
3 Euro-American counterparts, which required them to use slightly more gunpowder
4 on each shot. A general rule of thumb for determining gunpowder use, however, is
5 one grain of powder for each numerical degree of caliber.¹⁴ Consequently, Native
6 trade gun owners would need 60 grains of powder for each shot if using a .60
7 caliber flintlock musket, allowing a Native gun owner to fire approximately 116
8 bullets per pound of gunpowder. Historian Kathryn E. Holland Braund
9 conservatively estimates that the average Creek hunter killed about one hundred
10 deer per year—fifty for the European trade and fifty for home consumption.
11 Because flintlock muskets were less accurate than rifles, however, it usually took
12 more than one shot for even the most experienced Native hunter to achieve a kill.¹⁵
13 Thus, a Creek gunman in the late colonial and founding eras would need a
14 minimum of two pounds of gunpowder annually to simply sustain their hunting
15 yields. This amount increases when accounting for priming, spillage, and other
16 forms of loss, as well as additional gunpowder for warfare, protection, and
17 tattooing. Thus, gunpowder was a limited commodity in high demand by all people
18 who used firearms in the colonies, including Native peoples.

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¹⁴ The grain is an English unit of weight equating to 1/7000 of a pound.

¹⁵ While Native men preferred rifles for their long-range accuracy, these firearms produced larger holes in deerskins, potentially devaluing them. Rifles were also more dangerous to Indigenous enemies, posing a greater threat to colonial populations. Thus, colonists enacted laws and regulations to ensure that all weapons traded to Native Americans were inferior to those owned by whites, with late colonial-era trade restrictions coming to specify that rifles could not be traded to Native peoples. Angela R. Riley, “Indians and Guns,” *The Georgetown Law Journal* 100 (2012): 1690.

1 **II. LAWS REGARDING THE TRADE OF GUNPOWDER,**
2 **AMMUNITION, AND FIREARMS TO NATIVE AMERICANS**
3 **AND OTHER POPULATIONS IN THE EARLY COLONIAL ERA**

4 15. During the early colonial era (1600-1720), laws were enacted and
5 enforced that restricted the trade of gunpowder, ammunition, and firearms to Native
6 Americans, enslaved peoples, and non-Protestant settlers. Early North American
7 gun legislation focused predominantly on Native Americans, though these laws
8 were complicated by the financially lucrative nature of the eighteenth-century
9 Native American firearms trade. Figures of firearm and gunpowder use in the
10 eighteenth-century Creek Confederacy reflect usage patterns of other North
11 American Native groups during the period.¹⁶ These figures provide insight as to
12 why colonies implemented strict laws regarding the trade of firearms and
13 gunpowder to Native peoples in the seventeenth century, and why these laws
14 shifted to allow limited Native access to gunpowder through government-controlled
15 channels during the eighteenth and early nineteenth centuries.

16 16. Because firearms were expensive and existing guns were reusable and
17 repairable, North American gun owners came to prefer constant and reliable access
18 to gunsmiths, as well as the tools that rendered firearms operational: gunpowder,
19 ammunition, and gunflints. Demand for gunpowder and ammunition came to shape
20 cross-cultural diplomacy between Native peoples and European officials over the
21 course of the eighteenth century. The centrality of these goods to Native life, along
22 with the Native peoples' inability to produce them, led colonial—and later,
23 American—officials to view these commodities as tools through which they could
24 attempt to control Native populations, force them to adhere to imperial interests,
25 and secure Native American dependence. But while colonial trade relationships
26 rendered Native people dependent upon guns and gunpowder, they never became

27 ¹⁶ This is particularly true of Southeastern deer hunting groups, but also of
28 confederacies in the Great Lakes region (like the Haudenosaunee/Iroquois), and in
New England (like the Algonquian and Wabanaki peoples).

1 politically or economically dependent on colonial or imperial states. In addition,
2 most Native peoples remained well armed though the American Revolution and
3 founding eras, sometimes owning better guns, and firing better shots, than their
4 Euro-American enemies.¹⁷ This prompted widespread fear among settler
5 populations and stimulated the creation of numerous laws aimed at limiting and
6 controlling Native access to gunpowder and ammunition to protect public safety.

7 17. Laws restricting the sale or trade of gunpowder and ammunition to
8 Native Americans, and other “undesirable” populations, began to appear largely in
9 the seventeenth century but were preceded by English laws that prohibited the
10 possession and use of weapons by certain populations. One of the earliest examples
11 is the 1181 Assize of Arms in which King Henry II of England outlined “the
12 obligation of all freemen of England to possess and bear arms in the service of the
13 King and realm and to swear allegiance to the king.” Essentially restoring the
14 ancient Anglo-Saxon militia system, the Assize “stipulated precisely the military
15 equipment that each man should have according to his rank and wealth” to defend
16 the crown. Every knight, for example, “was to arm himself with a coat of mail, and
17 shield and lance; every freeholder with lance and hauberk; every burgess and
18 poorer freeman with lance and iron helmet.”¹⁸ The Assize also established religious
19 restrictions on weapons possession, stipulating that “Jews may not take up arms or
20 armor in pledge.”¹⁹ A later law, passed in 1403, prohibited the use of armor or
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22 ¹⁷ Vanessa Holden, “Firearms and the Violent Transformation of Native
23 America,” SHEAR: Society for Historians of the Early American Republic,
24 <https://www.shear.org/2016/12/27/firearms-and-the-violent-transformation-of-native-america/>.

25 ¹⁸ Thomas Haughton, *The Student’s Summary of the Principal Events in*
26 *English History with Notes* (London: George Philip and Son, 1887), 78.

27 ¹⁹ Joseph Jacobs, “Notes on the Jews of England under the Angevin
28 Kings,” *The Jewish Quarterly Review* 4, no. 4 (July 1892): 639.

1 arms in sensitive places by people not allowed by the king.²⁰ By the sixteenth
2 century, English authorities saw a need for legislation to control the ownership and
3 use of firearms and other weapons. This included a piece of legislation that limited
4 the use of guns or crossbows to people who either possessed Royal permission or
5 “[held] property to the value of 300 Marks.”²¹ In 1541, Parliament’s passage of
6 “An Act Concerning Crossbows and Handguns” ordered that “no person or persons,
7 other than such as have land, tenement, fees, annuities or office, to the yearly value
8 of one hundred pounds aforesaid . . . shall carry or have . . . any crossbow bent or
9 gun charged or furnished with powder, fire, or touche for the same, except it be in
10 time and service of war.”²² A 1662 English law allowed Crown officials to seize all
11 guns from any person “judge[d] dangerous to the peace of the Kingdom.” Even
12 after the English Bill of Rights established a right of the people to arm themselves,
13 “the right was given only to Protestants, based on a continued belief that Catholics
14 were likely to engage in conduct that would harm themselves or others and upset
15 the peace.”²³

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18 ²⁰ 4 Hen 4 c 29, Duke Center for Firearms Law,
<https://firearmslaw.duke.edu/laws/4-hen-4-c-29/>.

19 ²¹ “An Acte Avoidyng Shooting in Crossebowes and Gonnes,” in Tom
20 Warlow, *Firearms, the Law, and Forensic Ballistics*. (New York: CRC Press,
21 2005), 17.

22 ²² 33 Hen. 8, c. 6, § 1, Duke Center for Firearms Law,
23 <https://firearmslaw.duke.edu/laws/33-hen-8-c-6-§-1-an-act-concernin-crossbows-and-handguns-1541/>.

24 ²³ 1689, 1 W. & M. st. 2, c. 2, Duke Center for Firearms Law,
25 <https://firearmslaw.duke.edu/laws/1689-1-w-m-st-2-c-2/>; An Act for the better
26 secureing the Government by disarming Papists and reputed Papists, 1 W. & M. ch.
27 15, Duke Center for Firearms Law, <https://firearmslaw.duke.edu/laws/an-act-for-the-better-secureing-the-government-by-disarming-papists-and-reputed-papists-1-w-m-ch-15-1689/>.

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1 18. By the end of the seventeenth century, a significant number of
2 Englishmen, at least on paper, were prohibited from owning guns or accessing
3 gunpowder. These laws served as precedent for those in colonial North America
4 that sought to restrict access to guns and firearms on the grounds of religion or race.
5 Early legislation included a Massachusetts law from 1637 aimed at disarming the
6 followers of an extremist Puritan preacher named John Wheelwright. The law
7 required any individual who expressed “opinions & revelations” that “seduced &
8 led [others] into dangerous errors” to turn in all “guns, pistols, swords, powder,
9 shot, & match.”²⁴ A 1756 Maryland law allowed the Justice of the Peace to disarm
10 any Catholic, and a Virginia law from the same year permitted the disarmament of
11 any Catholic or Papist who refused to take an oath of loyalty to the colonial
12 government.²⁵

13 19. Seventeenth-century restrictions on firearms ownership were also racially
14 motivated, with the exception of a 1665 Connecticut law that prohibited the sale of
15 guns, gunpowder and ammunition to Dutch and French men.²⁶ A 1639 Virginia
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17 ²⁴ Nathaniel B. Shurtleff, *Records of the Governor and Company of the*
18 *Massachusetts Bay in New England* (Boston: William White, 1853), 211–12.
19 Accessed August 12, 2023, <https://archives.lib.state.ma.us/handle/2452/802285>.

20 ²⁵ An Act to Prevent Popery within this Province, Votes and Proceedings of
21 the Lower House of Assembly of the Province of Maryland, Duke Center For
22 Firearms Law, [https://firearmslaw.duke.edu/laws/an-act-to-prevent-popery-within-](https://firearmslaw.duke.edu/laws/an-act-to-prevent-popery-within-this-province-votes-and-proceedings-of-the-lower-house-of-assembly-of-the-province-of-maryland-22-may-1756/)
23 [this-province-votes-and-proceedings-of-the-lower-house-of-assembly-of-the-](https://firearmslaw.duke.edu/laws/an-act-to-prevent-popery-within-this-province-votes-and-proceedings-of-the-lower-house-of-assembly-of-the-province-of-maryland-22-may-1756/)
24 [province-of-maryland-22-may-1756/](https://firearmslaw.duke.edu/laws/an-act-to-prevent-popery-within-this-province-votes-and-proceedings-of-the-lower-house-of-assembly-of-the-province-of-maryland-22-may-1756/); An Act for Disarming Papists, and Reputed
25 Papists, Refusing to Take the Oaths to the Government (1756), in 7 William W.
26 Hening, *The Statutes at Large, Being a Collection of all the Laws of Virginia* 35–36
27 (Richmond: Franklin Press, 1809).

28 ²⁶ The Public Records of the Colony of Connecticut, Duke Center For
Firearms Law, [https://firearmslaw.duke.edu/laws/the-public-records-of-the-colony-](https://firearmslaw.duke.edu/laws/the-public-records-of-the-colony-of-connecticut-prior-to-the-union-with-new-haven-colony-may-1665-page-113-114-image-125-126-1850-available-at-the-making-of-modern-law-primary-sources/)
[of-connecticut-prior-to-the-union-with-new-haven-colony-may-1665-page-113-](https://firearmslaw.duke.edu/laws/the-public-records-of-the-colony-of-connecticut-prior-to-the-union-with-new-haven-colony-may-1665-page-113-114-image-125-126-1850-available-at-the-making-of-modern-law-primary-sources/)
[114-image-125-126-1850-available-at-the-making-of-modern-law-primary-](https://firearmslaw.duke.edu/laws/the-public-records-of-the-colony-of-connecticut-prior-to-the-union-with-new-haven-colony-may-1665-page-113-114-image-125-126-1850-available-at-the-making-of-modern-law-primary-sources/)
[sources/](https://firearmslaw.duke.edu/laws/the-public-records-of-the-colony-of-connecticut-prior-to-the-union-with-new-haven-colony-may-1665-page-113-114-image-125-126-1850-available-at-the-making-of-modern-law-primary-sources/). This was based on the grounds that “the Dutch and French do sell and

1 law mandated that all persons, “except Negroes,” were to be “provided with arms
2 and ammunitions.”²⁷ A New York Law from 1664 deemed it illegal “for any slave
3 to have or use any gun, pistol, sword, club, or any other kind of weapon
4 whatsoever, but in the presence of his her or their Master or Mistress, and in their
5 own ground” with a penalty of twenty lashes.²⁸ A 1694 New Jersey law prohibited
6 enslaved people from carrying “any gun or pistol . . . into the woods,” without their
7 slaveholder’s consent.²⁹ A violent rebellion of enslaved peoples in New York City
8 in April of 1712 resulted in the enactment of harsher slave codes, including a
9 prohibition on “any Negro, Indian, [or] Mulatto Slave from having or using any gun
10 or pistol outside of their master’s presence.³⁰ This set a precedent for other
11 colonies, with Maryland enacting a law in 1715 that banned “negro[es] or other
12 slaves . . . [from] carry[ing] any gun or any other offensive weapon, from off their
13 master’s land, without license from their said master.”³¹ Laws disarming enslaved
14 trade to the Indians guns, pistols, and warlike instruments.”

15 ²⁷ PBS.org, Africans in America Part 1 – Colonial Laws,
16 <https://www.pbs.org/wgbh/aia/part1/1h315t.html>.

17 ²⁸ The Colonial Laws of New York From the Year 1664 To The Revolution,
18 Duke Center for Firearms Law, <https://firearmslaw.duke.edu/laws/the-colonial-laws-of-new-york-from-the-year-1664-to-the-revolution-including-the-charters-to-the-duke-of-york-the-commissions-and-instructions-to-colonial-governors-the-dukes-laws-the-laws-of-the/>.

19 ²⁹ The Grants, Concessions, And Original Constitutions of the Province of
20 New Jersey, Duke Center for Firearms Law. <https://firearmslaw.duke.edu/laws/the-grants-concessions-and-original-constitutions-of-the-province-of-new-jersey-page-341-image-345-1881-available-at-the-making-of-modern-law-primary-sources/>.

21 ³⁰ An Act for the suppressing and punishing the conspiracy and insurrection
22 of Negroes and other Slaves (1712), New York Slave Laws: Colonial Period,
23 <https://www.famous-trials.com/newyorkplot/367-slavelaws>.

24 ³¹ An Act For The Speedy Trial of Criminals, and Ascertaining Their
25 Punishment in the County Courts, Duke Center for Firearms Law,
26 <https://firearmslaw.duke.edu/laws/1715-md-laws-117-an-act-for-the-speedy-trial-of-criminals-and-ascertaining-their-punishment-in-the-county-courts-when->
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1 African Americans were part of a larger effort to disarm individuals of diverse
2 religious, racial, and socioeconomic backgrounds based on judgment of character,
3 morality, and perceived threats to public safety.

4 20. Laws banning the trade and sale of gunpowder to Native peoples make
5 up most legislation in this area. They appear as early as 1619, when Virginia
6 passed legislation prohibiting individual settlers from selling or gifting arms and
7 ammunition to Indians.³² During the colonial period, individual colonies
8 formulated their own laws and policies regarding trade between settlers and Native
9 peoples based on local-level needs. Through the seventeenth century, laws
10 prohibiting the trade of guns, gunpowder, and ammunition to Native Americans
11 emerged in the New England colonies, which saw the rapid immigration of
12 English-Protestant families after 1620. Their settlement on Native lands produced
13 violent cross-cultural conflicts like the Pequot War (1636) and King Philip’s War
14 (1675), producing legislation like a 1633 act from the Massachusetts Bay Colony
15 which mandated “no person . . . shall . . . sell, give or barter, directly or indirectly,
16 any gun or guns, powder, bullets, shot, lead, to any Indian whatsoever, or to any
17 person inhabiting out of this jurisdiction.”³³

18 21. The Mid-Atlantic colonies also passed numerous laws barring the sale of
19 guns or gunpowder to Native peoples, with many of Virginia’s laws emerging

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21 [prosecuted-there-and-for-payment-of-fees-due-from-criminal-persons-chap-26/](#).

22 ³² H.R. McIlwaine and John P. Kennedy, eds., “1619: Laws Enacted by the
23 First General Assembly of Virginia,” Online Library of Liberty, last modified
24 August 1619, accessed August 8, 2023, <https://oll.libertyfund.org/page/1619-laws-enacted-by-the-first-general-assembly-of-virginia>.

25 ³³ The Charters And General Laws Of The Colony And Province Of
26 Massachusetts Bay, Duke Center for Firearms Law,
27 <https://firearmslaw.duke.edu/laws/the-charters-and-general-laws-of-the-colony-and-province-of-massachusetts-bay-page-133-image-140-1814-available-at-the-making-of-modern-law-primary-sources/>.

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1 during a twenty-year period of warfare between English settlers and members of the
2 Powhatan confederacy.³⁴ A 1633 Virginia law stated that any individual person
3 selling “guns, powder, shot, or any arms or ammunition unto any Indian or Indians
4 within this territory” would face imprisonment.³⁵ A January 1639 Virginia act
5 reduced the punishment for general trading with the Indians, but stipulated that the
6 trade of arms and ammunition would remain a felony.³⁶ Punishment for trading
7 guns to the Natives expanded in 1642 to include the forfeiture of one’s estate.³⁷ A
8 1649 Maryland law banned its inhabitants from selling or exchanging guns,
9 ammunition, or “any other kind of martiall Armes” to Native peoples.³⁸ New
10 Netherland passed a law in 1645 prohibiting all persons from trading “any
11 munitions of war with the Indians,” and forbade their importation to the colony
12 without explicit permission. Punishment, the act stipulated, could include death.³⁹

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15 ³⁴ These conflicts are called the Anglo Powhatan Wars and took place
16 between approximately 1622 and 1644.

17 ³⁵ 1633 Va. Acts 219, Duke Center for Firearms Law,
18 <https://firearmslaw.duke.edu/laws/1633-va-acts-219/>.

19 ³⁶ *Statutes at Large: Collection of Virginia Laws from 1619*, archive.org,
20 226; <https://archive.org/details/statutesatlargeb01virg/page/226/mode/2up>; 1639
21 Va. Acts 224, Duke Center for Firearms Law, [https://firearmslaw.duke.edu/
22 laws/1639-va-acts-224-acts-of-january-6th-1639-act-xvii/](https://firearmslaw.duke.edu/laws/1639-va-acts-224-acts-of-january-6th-1639-act-xvii/).

23 ³⁷ 1642 Va. Acts 255, Duke Center for Firearms Law,
24 [https://firearmslaw.duke.edu/laws/1642-va-acts-255-acts-of-march-2nd-1642-act-
25 xxiii/](https://firearmslaw.duke.edu/laws/1642-va-acts-255-acts-of-march-2nd-1642-act-xxiii/).

26 ³⁸ William Hand Browne, ed., *Archives of Maryland* (Baltimore: Maryland
27 Historical Society, 1885), vol. 1: 250.

28 ³⁹ A 1656 New Netherland law also prohibited the admission of armed
Indians into cities, villages, and houses. 1656 N.Y. Laws 235, Duke Center for
Firearms Law, <https://firearmslaw.duke.edu/laws/1656-ny-laws-235/>; 1645 N.Y.
Laws 47, Duke Center for Firearms Law, [https://firearmslaw.duke.edu/laws/1645-
n-y-laws-47-by-the-director-and-council-of-new-netherland-further-prohibiting-the-
sale-of-firearms-etc-to-indians/](https://firearmslaw.duke.edu/laws/1645-n-y-laws-47-by-the-director-and-council-of-new-netherland-further-prohibiting-the-sale-of-firearms-etc-to-indians/).

1 In 1676, the Plymouth colony also enacted a law against individual trading or
2 selling arms and ammunition to Indians, a practice deemed to be “very poisonous
3 and destructive to the English.”⁴⁰ Like New Netherland’s law, anyone convicted of
4 selling, bartering, or trading guns and ammunition to Native Americans could be
5 put to death.⁴¹ A Virginia law, also enacted in 1676, made it a capital offense to
6 sell guns or ammunition to the Indians, and declared that any colonist found within
7 any Indian town or three miles without the English plantations with more than one
8 gun and ten charges of powder and shot for his necessary use would be considered
9 guilty of selling to the Indians, and punished accordingly.⁴²

10 **III. LAWS REGARDING THE TRADE OF GUNPOWDER,**
11 **AMMUNITION, AND FIREARMS TO NATIVE AMERICANS**
12 **AND OTHER POPULATIONS IN THE LATE COLONIAL AND**
13 **FOUNDING ERAS**

14 22. While eighteenth-century laws continued to prohibit the private trade of
15 guns and gunpowder with Native Americans, legislation did not seek to completely
16 ban Native peoples from obtaining arms and ammunition. Rather, colonies used
17 existing English law as precedent for regulating the ability of Native peoples to
18 acquire firearms and gunpowder because of their roles as hunters within colonial
19 economies. During this time, however, colonial governments continued to heavily
20 restrict the ability of other groups, including enslaved peoples, from acquiring and

21 ⁴⁰ 1675 Records of the Colony of New Plymouth, Duke Center for Firearms
22 Law, <https://firearmslaw.duke.edu/laws/records-of-the-colony-of-new-plymouth-in-new-england-page-173-image-179-1856-available-at-the-making-of-modern-law-primary-sources/>.

23 ⁴¹ 1675 Records of the Colony of New Plymouth, Duke Center for Firearms
24 Law, <https://firearmslaw.duke.edu/laws/records-of-the-colony-of-new-plymouth-in-new-england-page-173-image-179-1856-available-at-the-making-of-modern-law-primary-sources/>.

25 ⁴² William Waller Hening, *The Statutes at Large; Being a Collection of All*
26 *the Laws of Virginia, from the First Session of the Legislature, in the Year 1619*
27 (New York: R. & W. & G. Bartow, 1823), vol. 1: 441.
28

1 possessing firearms and gunpowder. This shows that colonial and state
2 governments believed these populations posed enough of a public safety risk to
3 necessitate governmental regulation over their access to firearms and gunpowder,
4 though they implemented control in different ways.

5 23. A series of late seventeenth-century English legislative measures
6 prohibited the importation of foreign weapons and associated goods with the goal
7 of preventing “any design of Traitorous and factious persons who may by this
8 [method] furnish themselves with . . . arms from beyond the state.”⁴³ These laws,
9 put forth under the guise of public safety, “kept all malcontents, fanatics, and
10 sectaries disarmed and under constant surveillance.”⁴⁴ The Game Act of 1671
11 further limited individual access to firearms and ammunition by raising property
12 and wealth requirements to own guns to fifty times the level required to vote.⁴⁵
13 While it primarily sought to reserve hunting as a sport for the nobility and gentry,
14 the Game Act of 1671 also was the first piece of hunting-related legislation to

15 ⁴³ National Archives, London, “Proclamation Prohibiting the Importation of
16 Firearms,” Anglo American Legal Tradition, last modified September 4, 1661,
17 http://aalt.law.uh.edu/AALT7/C2/PC2no55/IMG_0190.htm; Joyce Lee Malcom, *To*
18 *Keep and Bear Arms: The Origins of an Anglo-American Right* (Cambridge, MA:
19 Harvard University Press, 1996), 48.

20 ⁴⁴ Malcom, *To Keep and Bear Arms*, 49. This included a series of concurrent
21 Crown proclamations which declared that all who had fought for Parliament in the
22 English Civil War were prohibited from carrying firearms.

23 ⁴⁵ Diarmuid F. O’Scannlain, “Glorious Revolution to American Revolution:
24 The English origin of the Right to Keep and Bear Arms,” *Notre Dame Law*
25 *Review* 95, no. 1 (December 2019): 402. After 1430, English men were franchised
26 to vote by virtue of possessing property of an annual rent of at least forty shillings,
27 or two pounds. These men were called “forty-shilling freeholders.” This standard
28 remained unaltered in the seventeenth century. The basic requirement to hunt with
firearms after 1671 was income of at least 100 pounds per year on “freehold
estates” or 150 pounds per year on “leaseholds.” Malcom, *To Keep and Bear Arms*,
71; William Blackstone, *Commentaries on the Laws of England: In Four Books*
(*Book 4*) 175 (Oxford: Clarendon Press, 1770): 175.

1 include guns on the list of prohibited devices, drawing a connection between
2 wealth, status, and access to firearms and ammunition. Together, these laws
3 allowed the Crown to selectively disarm English subjects who they deemed a public
4 safety risk, while effectively granting the government complete control over the
5 production and distribution of firearms in the empire.

6 24. Consequently, eighteenth-century colonial legislation began to explicitly
7 state that only private trade was punishable by law; government-sponsored trade of
8 arms and ammunition, regulated through a license from a specific colony, was
9 acceptable. This allowed colonies to design, implement, and manage their own
10 trade to ensure that Native hunters had access to the goods they needed while
11 restricting the actions of oft-unscrupulous private citizens. Such a shift proved
12 crucial for colonies that relied upon both the labor of Native hunters and the larger
13 consumer patterns of Native communities to fuel their economies. A 1723
14 Connecticut law, for example, prohibited all unlicensed persons within the colony
15 from lending guns, ammunition, or associated goods to Native Americans.⁴⁶ A
16 1763 Pennsylvania law explicitly banned unlicensed private citizens from
17 exchanging guns, gunpowder, shot, bullets, lead, or other warlike stores to Native
18 peoples. Offenders were subject to “pay the sum of five hundred pounds . . . and
19 shall be whipped with thirty-nine lashes on his bare back, well laid on, and be
20 committed to the common goal [jail] of the county, there to remain twelve months
21 without bail or mainprise.”⁴⁷ A Maryland law from 1763 prohibited “any Person or
22 Persons within this Province to Sell or give any Indian Woman or Child any Gun

23 _____
24 ⁴⁶ 1723 Connecticut Acts 292, Duke Center for Firearms Law,
25 [https://firearmslaw.duke.edu/laws/1723-conn-acts-292-an-act-for-preventing-
lending-guns-ammunition-etc-to-the-indians/](https://firearmslaw.duke.edu/laws/1723-conn-acts-292-an-act-for-preventing-lending-guns-ammunition-etc-to-the-indians/).

26 ⁴⁷ 1763 Pa. Laws 319, Duke Center for Firearms Law,
27 [https://firearmslaw.duke.edu/laws/1763-pa-laws-319-an-act-to-prohibit-the-selling-
of-guns-gunpowder-or-other-warlike-stores-to-the-indians/](https://firearmslaw.duke.edu/laws/1763-pa-laws-319-an-act-to-prohibit-the-selling-of-guns-gunpowder-or-other-warlike-stores-to-the-indians/).

1 Powder Shot or lead Whatsoever[,]” but allowed individuals to trade ammunition to
2 Native men as long as the quantity did not exceed one pound of gunpowder or six
3 pounds of shot or lead at any one time.⁴⁸ Laws restricting free and enslaved
4 African Americans from accessing guns and ammunition did not change much from
5 the seventeenth to eighteenth centuries. Legislation generally continued to require
6 that enslaved people have a ticket or license from their master. It was not until the
7 founding that state legislatures began enacting laws completely banning enslaved
8 people from accessing guns and ammunition.

9 25. As part of their efforts to control Native access to gunpowder and
10 firearms, colonies also sought to ensure that weapons and accompanying goods
11 traded to Native Americans were inferior to those owned by whites. A 1756 report
12 from Indian agent Daniel Pepper illuminates British colonial concerns regarding
13 Native access to rifles. Pepper reported that the Cherokee and Upper Creeks were
14 “getting into the Method of using Riffle Guns instead of Traders [trade guns] . . . as
15 they can kill point blank at 200 yards distance. This, in my humble opinion, puts
16 them too much upon an equality with us in case of a breach.” As for legal
17 ramifications, Pepper noted “the People who sell them to the Indians are generally
18 poor, their Gun being the greatest part of their estate, a fine would be of little or no
19 effect. Imprisonment or something of corporal punishment would creat[e] a greater
20 Dread.”⁴⁹ A 1764 draft trade regulation corroborates Pepper’s concerns:

21 Rifled Barreled Guns should certainly be prohibited; the Shawanese and
22 Delawares, with many of their neighbours are become very fond of them
23 [rifles], and use them with such dexterity, that they are capable of doing
24 infinite damage, and as they are made in some of the frontier Towns, where
25 the Indians will procure them at any Price . . . all white persons should be

25 ⁴⁸ *Archives of Maryland*, vol. 58, 420.

26 ⁴⁹ William L. McDowell, Jr., ed., *Documents Relating to Indian Affairs,*
27 *1754–1765 (South Carolina)* (Columbia, SC: South Carolina Department of
28 Archives and History, 1970), 256.

1 restricted on a very severe penalty from selling them to any Indians.⁵⁰

2 26. The examples above indicate that laws prohibiting the sale of firearms
3 and gunpowder to Native peoples took on many forms in the late colonial period,
4 depending largely upon local political and/or economic needs. Allowing each
5 colony to establish its own trade laws supported local-level authority and broad
6 government control, but a lack of unified Indian trade legislation led to limited
7 imperial oversight in an empire whose identity was deeply intertwined with
8 commerce. This became a major concern for the Crown after the French and Indian
9 War when the British increasingly sought to control the actions of both colonial and
10 Native populations. The Plan of 1764 imposed new, universal trade regulations
11 aimed at demonstrating the empire’s socio-economic and political dominance over
12 North America’s colonial and Native populations. New policies provided the
13 British Board of Trade executive authority to establish universal protocols for
14 commerce with the Natives. Individual colonies, who for most of the century had
15 determined trade laws with nearby Native peoples, were now expected to follow
16 imperial laws and regulations.

17 27. Colonial officials quickly realized that a lack of local-level autonomy
18 over Native trade laws created space for large numbers of corrupt, illegal traders to
19 cross into Indian territory to conduct unauthorized exchange; something that
20 motivated previous colonial policies aimed at government regulation. A 1766 letter
21 from Georgia’s governor James Wright detailed how the Creeks and other
22 Southeastern Native peoples, were “over Stock’d with goods by the great number of
23 traders that go amongst them,” and who were also “generally the very worst kind of
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⁵⁰ Angela R. Riley, “Indians and Guns,” *The Georgetown Law Journal* (2012), 100: 1690.

1 people.”⁵¹ In February 1768, Indian Commissary Roderick McIntosh complained
2 that the Upper Creek towns were swarmed with traders, whom he regarded as
3 “notorious villains” for trading guns and gunpowder to Native men at prices below
4 the established exchange rate.⁵² Thus, despite Britain’s efforts to standardize Indian
5 trade policies, the colonies’ inability to make and enforce trade laws led to a
6 significant uptick in illegal arms trading and, subsequently, Native violence. The
7 British Board of Trade’s decision to return the management of the Indian trade to
8 the colonial governments in late 1768 marked a return to policies that embraced
9 local-level lawmaking to better control the actions of both traders and Native
10 peoples.⁵³ This elucidates that colonial officials felt Native access to gunpowder,
11 guns, and ammunition posed a public safety threat significant enough to warrant
12 legal action, but that laws needed to be created and enforced on the colonial level to
13 control the actions of private citizens and traders whose attempts to trade with
14 Native Americans outside of governmental oversight proved an equally significant
15 threat.

16 28. War also impacted trade customs and laws. Before the American
17 Revolution, Euro-American officials occasionally threatened to cut off the trade of
18 gunpowder and firearms to Native peoples. During the French and Indian War, for
19 example, British General Jeffrey Amherst set forth a decree prohibiting
20 representatives authorized to interact with Indian tribes on behalf of the colonies
21

22 ⁵¹ Coleman and Ready, *Colonial Records of Georgia v 28*, 157.

23 ⁵² Roderick McIntosh, “McIntosh to Stuart,” February 8, 1768, Document
24 104, Thomas Gage Papers, William L. Clements Library, The University of
25 Michigan, Ann Arbor, MI.

26 ⁵³ Richard White, *The Roots of Dependency: Subsistence, Environment, and*
27 *Social Change among the Choctaws, Pawnees, and Navajos* (Lincoln, NE:
28 University of Nebraska Press, 1988), 72.

1 (Indian agents) from trading or gifting gunpowder and firearms to Native men,
2 declaring both the dangers of this practice and the high financial cost to the British
3 government.⁵⁴ His proposal never came to fruition, however, as the complete
4 stoppage of the trade would have signaled a declaration of war to Native peoples.

5 29. During the American Revolution, Patriots and Loyalists attempted to use
6 gunpowder and ammunition as a bargaining chip to secure Native support. To be
7 successful, officials from both sides needed to continue enforcing existing trade
8 laws to ensure that access to guns, gunpowder, and ammunition reached Native
9 Americans through government-regulated channels, and not through uncooperative
10 or self-minded traders. Though only limited records survive, a quantitative analysis
11 of gunpowder imports reveal that the American colonies received an enormous
12 amount of gunpowder—1,030,694 pounds total—during the three-year period of
13 1769 to 1771. Later sources indicate that a significant portion of this gunpowder
14 was earmarked for the Indian trade; in 1775 a group of South Carolina Patriots
15 confiscated 13,000 pounds of gunpowder from the Loyalist cargo ship *Philippa*.
16 They gave 8,000 pounds to the Georgia Provincial Congress, who promptly sent
17 2,000 pounds—or 25% of their haul—to neighboring Creeks and Cherokees. The
18 Provincial Congress stated directly that this gunpowder was a gift “not from the
19 *King* or from the [royal] *Government* or from the *Traders*, but from the *People of*
20 *the Province* [the rebels].”⁵⁵

21 30. The above example highlights how Patriots, Loyalists, and Native
22 Americans used gunpowder as a tool of diplomatic negotiation during the
23 Revolutionary period, a strategy that is reflected in several laws from the era. At
24 the same time, local jurisdictions enacted laws that sought to regulate access to

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26 ⁵⁴ Colin Calloway, *Pen, Ink, and Witchcraft: Treaties and Treaty Making in*
American Indian History (New York, NY: Oxford University Press, 2013), 22.

27 ⁵⁵ Sheldon S. Cohen, “The *Philippa* Affair,” *The Georgia Historical*
28 *Quarterly* 69, no. 3 (Fall 1985): 350–51.

1 guns and gunpowder for “high risk” individuals, often noted in the documentary
2 record as white men who were deemed to be insufficiently loyal to the civil
3 government. A 1776 Pennsylvania law required all white males to take an oath of
4 allegiance “before some one of the justices of the peace of the city or county where
5 they shall respectively inhabit.” Failure to do so would result in their disarmament
6 “by the lieutenant or sublieutenants of the city or counties respectively.”⁵⁶ A 1776
7 Massachusetts law similarly resolved to disarm “such persons as are notoriously
8 disaffected to the cause of America, or who refuse to associate to defend by arms
9 the United American Colonies.”⁵⁷ Three acts from Pennsylvania (1777, 1778, and
10 1779) and another from Virginia (1777) required white male gun owners to swear
11 an oath of allegiance if they wished to retain their guns, with disarmament serving
12 as punishment.⁵⁸ Loyalty oaths allowed Patriots to regulate access to guns and

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14 ⁵⁶ *Military Obligation: The American Tradition* (1947), 23.
15 <https://firearmslaw.duke.edu/wp-content/uploads/2023/04/1777-PA-An-Act-to-regulate-the-Militia-of-the-Common-Wealth-of-Pennsylvania-§-9-10.pdf>.

16 ⁵⁷ Robert J. Spitzer, “Gun Law History in the United States and Second
17 Amendment Rights,” *Law and Contemporary Problems* 80, no. 2 (2017): 72,
18 accessed August 8, 2023,
19 <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4825&context=lcp> 72;
20 1776 Pa. Laws 11, Duke Center for Firearms Law, <https://firearmslaw.duke.edu/laws/1776-pa-laws-11-an-ordinance-respectingthe-arms-of-non-associators-§-1/>;
21 Statutes at Large of Pennsylvania from 1682 to 1801 vol. 9, 11,
22 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015051124082&seq=17>; Act of Mar.
14, 1776, Duke Center for Firearms Law. <https://firearmslaw.duke.edu/laws/act-of-mar-14-1776-ch-vii-1775-1776-mass-act-at-31-32-35/#>.

23 ⁵⁸ 1777 Pa. Laws 61, Duke Center for Firearms Law,
24 <https://firearmslaw.duke.edu/laws/1777-pa-laws-61-an-act-obliging-the-male-white-inhabitants-of-this-state-to-give-assurances-of-allegiance-to-the-same-and-for-other-purposes-therein-mentioned-ch-xxi-§§-2-4/>; 1778 Pa. Laws 123, Duke
25 Center for Firearms Law, <https://firearmslaw.duke.edu/laws/1778-pa-laws-123/>;
26 1779 Pa. Laws 193, Duke Center for Firearms Law,
27 <https://firearmslaw.duke.edu/laws/1779-pa-laws-193/>; Act of May 5, 1777, Duke
28 Center for Firearms Law, <https://firearmslaw.duke.edu/laws/act-of-may-5-1777-ch->

1 gunpowder for settler populations and gave rebel governments the authority to
2 disarm “high risk” peoples, revealing that Patriots used access to gunpowder and
3 firearms as tools of coercion and control in their attempts to secure support for the
4 Revolutionary cause.

5 31. While the end of the American Revolution brought independence to
6 Britain’s former North American colonies, the new United States inherited the
7 Crown’s unresolved questions about relationships with Native nations. To answer
8 these questions, United States policymakers looked to colonial-era laws regulating
9 the trade of gunpowder and firearms to Indians. With Native diplomacy now under
10 the jurisdiction of the federal government, Congress reworked existing local-level
11 laws for national use. The resulting Indian Trade and Intercourse Act (1790)
12 established that private individuals needed a license to conduct trade with Native
13 peoples and were required to renew their license every two years. Sections of the
14 Indian Trade and Intercourse Act heavily emulated earlier, colonial-level firearms
15 regulations. The 1796 “Act for Establishing Trading Houses with the Indian
16 Tribes,” however, authorized the president to establish designated facilities—
17 known as “factories”—for the “purpose of carrying on a liberal trade with the
18 several Indian nations,” and appoint agents to run them. By providing goods to
19 Native peoples at-cost, these trading houses aimed to push out any illegal or foreign
20 competition while asserting control over the quality and quantity of goods Native
21 peoples acquired. But Indian factories were not intended to be profit-seeking
22 ventures; they existed to impose federal authority over the 150,000 Native peoples
23 living between the Appalachian Mountains and the Mississippi River. More
24 affordable than warfare against Native peoples, historian David Nichols describes

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26
27 [3-in-9-henings-statutes-at-large-281-281-82-1821/](#)
28

1 the Indian factory system as “conquest on the cheap,” riddled with abuse and
2 misconduct on the part of factory agents.⁵⁹

3 32. Notably, section seven of the 1796 “Act for Establishing Trading
4 Houses” addresses firearms and associated goods. Instead of placing a restriction
5 upon private traders, it specifically prohibits agents from “purchas[ing], or
6 receiv[ing] of any Indian, in the way of trade or barter, a gun or other article
7 commonly used in hunting,” imposing a one-hundred-dollar penalty for each
8 offense. This indicates that the success of factory system depended upon the sale of
9 cheaply made goods to Native peoples, inferior to those made for white American
10 populations. By prohibiting factory agents from purchasing firearms, gunpowder,
11 or ammunition from Native people, U.S. officials sought to curb the sale of arms
12 outside the purview of the federal government. Because it was not uncommon for
13 Native peoples to access better-quality firearms from Spanish Florida or British
14 Canada, factory agents could acquire these weapons and re-sell them to bolster their
15 income. Later laws included restrictions upon the sale of guns and gunpowder by
16 private citizens, as evidenced by an 1807 Mississippi Territory law that prohibited
17 white settlers from purchasing or trading guns or any tool used in hunting “with any
18 Indian.”⁶⁰ Such actions would challenge U.S. efforts to control Native peoples

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20 ⁵⁹ David Andrew Nichols, *Engines of Diplomacy: Indian Trading Factories*
21 *and the Negotiation of Empire* (Chapel Hill: University of North Carolina Press,
22 2016), 1. Nichols writes that in 1821, Senator Thomas Hart Benton of Missouri
23 accused the factors of “abuse and misconduct” characterizing the merchandise from
24 Indian factories as “the rubbish of Georgetown retail stores.” Benton argued the
25 system had achieved none of its goals and branded it “worse than useless.” The
26 federal government disbanded the Factory system in the same year.

27 ⁶⁰ Harry Toulmin, *The Statutes of the Mississippi Territory, Revised and*
28 *Digested by the Authority of the General Assembly*, Duke Center for Firearms
Law. <https://firearmslaw.duke.edu/laws/harry-toulmin-the-statutes-of-the-mississippi-territory-revised-and-digested-by-the-authority-of-the-general-assembly-page-593-image-612-natchez-1807-available-at-the-making-of-modern-law-prima/>.

1 through access to guns and gunpowder, and undermine their efforts to navigate the
2 long-standing contradiction of providing firearms and ammunition to potentially
3 dangerous outsiders.

4 33. Federal regulation of the Indian trade occurred in conjunction with a
5 rapidly expanding “cotton kingdom” in the American South. With increasing
6 numbers of enslaved people, early nineteenth century laws regarding gun use and
7 ownership reflect a tightening of restrictions over both free and enslaved African
8 Americans. Unlike earlier laws which generally permitted limited gun use among
9 enslaved individuals, legislation passed after the founding, particularly in Southern
10 states and territories, frequently prohibited all enslaved African Americans from
11 possessing guns, ammunition, or gunpowder.⁶¹ Subsequent legislation from
12 Southern states and territories followed suit, severely restricting the abilities of

13
14 ⁶¹ Some northern states retained exceptions for enslaved peoples with their
15 masters’ permission. One example is seen in a 1797 Delaware law which
16 prohibited “any Negro or Mulatto slave” from possessing any gun, ammunition, or
17 weapon without their master’s license. 1797 Del. Laws 104, An Act for the Trial of
18 Negroes Ch. 43, §6, Duke Center for Firearms Law,
19 [https://firearmslaw.duke.edu/laws/1797-del-laws-104-an-act-for-the-trial-of-](https://firearmslaw.duke.edu/laws/1797-del-laws-104-an-act-for-the-trial-of-negroes-ch-43-§6/)
20 [negroes-ch-43-§6/](https://firearmslaw.duke.edu/laws/1797-del-laws-104-an-act-for-the-trial-of-negroes-ch-43-§6/); Charles Nettleton, Laws of the State of New Jersey Page
21 370–71, Duke Center for Firearms Law, [https://firearmslaw.duke.edu/laws/charles-](https://firearmslaw.duke.edu/laws/charles-nettleton-laws-of-the-state-of-new-jersey-page-370-371-image-397-398-1821-available-at-the-making-of-modern-law-primary-sources/)
22 [nettleton-laws-of-the-state-of-new-jersey-page-370-371-image-397-398-1821-](https://firearmslaw.duke.edu/laws/charles-nettleton-laws-of-the-state-of-new-jersey-page-370-371-image-397-398-1821-available-at-the-making-of-modern-law-primary-sources/)
23 [available-at-the-making-of-modern-law-primary-sources/](https://firearmslaw.duke.edu/laws/charles-nettleton-laws-of-the-state-of-new-jersey-page-370-371-image-397-398-1821-available-at-the-making-of-modern-law-primary-sources/). This law prohibited
24 “any negro or other slave” from hunting or carrying a gun on the first day of the
25 week, or Sunday subject to imprisonment. Other states enacted harsher restrictions
26 upon free African Americans, generally prohibiting them from carrying firearms or
27 other weapons without a license or special permission. See 1806 Md. Laws 44, An
28 Act To Restrain The Evil Practices Arising From Negroes Keeping Dogs, And To
Prohibit Them From Carrying Guns Or Offensive Weapons, ch. 81, Duke Center
for Firearms Law, [https://firearmslaw.duke.edu/laws/1806-md-laws-44-an-act-to-](https://firearmslaw.duke.edu/laws/1806-md-laws-44-an-act-to-restrain-the-evil-practices-arising-from-negroes-keeping-dogs-and-to-prohibit-them-from-carrying-guns-or-offensive-weapons-ch-81/)
[restrain-the-evil-practices-arising-from-negroes-keeping-dogs-and-to-prohibit-](https://firearmslaw.duke.edu/laws/1806-md-laws-44-an-act-to-restrain-the-evil-practices-arising-from-negroes-keeping-dogs-and-to-prohibit-them-from-carrying-guns-or-offensive-weapons-ch-81/)
[them-from-carrying-guns-or-offensive-weapons-ch-81/](https://firearmslaw.duke.edu/laws/1806-md-laws-44-an-act-to-restrain-the-evil-practices-arising-from-negroes-keeping-dogs-and-to-prohibit-them-from-carrying-guns-or-offensive-weapons-ch-81/); 1806 Va. Acts 51, ch. 94,
Duke Center for Firearms Law, [https://firearmslaw.duke.edu/laws/1806-va-acts-51-](https://firearmslaw.duke.edu/laws/1806-va-acts-51-ch-94/)
[ch-94/](https://firearmslaw.duke.edu/laws/1806-va-acts-51-ch-94/).

1 African Americans, both free and unfree, from carrying or possessing firearms and
2 ammunition.⁶² Thus, during the founding era, firearms restrictions applicable to
3 Native peoples exhibited greater nuance than the strict prohibitions applicable to
4 free African Americans and enslaved populations.

5 CONCLUSIONS

6 34. During the late colonial and founding eras, gun owners were consistently
7 concerned with securing stable access the tools that rendered their firearms
8 operational: gunpowder and ammunition. Securing gunpowder was a challenge, as
9 a lack of saltpeter in Eastern North America ensured that it could not be produced
10 in large quantities in the colonies. Gun owners in colonial America who sought
11 stable access to gunpowder were diverse and included enslaved people, non-
12 Protestant white settlers and large numbers of Native Americans, whose labor
13 empires depended on to support their hunting-based colonial trade economies. In
14 the seventeenth and early eighteenth centuries, individual colonies looked to
15 English legislation to enact numerous restrictions on Native peoples from accessing
16 guns, and accompanying ammunition accessories, like gunpowder, gunflints, and
17 bullets. This was largely due to perceived public safety risks associated with
18 trading guns and ammunition to Native Americans, who existed outside of the
19 English colonial polity.

20
21 ⁶² These laws include: 1804 Miss. Laws 90-91, An Act Respecting Slaves,
22 § 4, Duke Center for Firearms Law, [https://firearmslaw.duke.edu/laws/1804-miss-](https://firearmslaw.duke.edu/laws/1804-miss-laws-90-91-an-act-respecting-slaves-§-4/)
23 [laws-90-91-an-act-respecting-slaves-§-4/](https://firearmslaw.duke.edu/laws/1804-miss-laws-90-91-an-act-respecting-slaves-§-4/); Harry Toulmin, A Digest of the Laws of
24 the State of Alabama, Duke Center for Firearms Law,
25 [https://firearmslaw.duke.edu/laws/harry-toulmin-a-digest-of-the-laws-of-the-state-](https://firearmslaw.duke.edu/laws/harry-toulmin-a-digest-of-the-laws-of-the-state-of-alabama-containing-the-statutes-and-resolutions-in-force-at-the-end-of-the-general-assembly-in-january-1823-to-which-is-added-an-appendix-conta/)
26 [of-alabama-containing-the-statutes-and-resolutions-in-force-at-the-end-of-the-](https://firearmslaw.duke.edu/laws/harry-toulmin-a-digest-of-the-laws-of-the-state-of-alabama-containing-the-statutes-and-resolutions-in-force-at-the-end-of-the-general-assembly-in-january-1823-to-which-is-added-an-appendix-conta/)
27 [general-assembly-in-january-1823-to-which-is-added-an-appendix-conta/](https://firearmslaw.duke.edu/laws/harry-toulmin-a-digest-of-the-laws-of-the-state-of-alabama-containing-the-statutes-and-resolutions-in-force-at-the-end-of-the-general-assembly-in-january-1823-to-which-is-added-an-appendix-conta/); Henry S.
28 Geyer, A Digest of the Laws of Missouri Territory, Duke Center for Firearms Law,
[https://firearmslaw.duke.edu/laws/henry-s-geyer-a-digest-of-the-laws-of-missouri-](https://firearmslaw.duke.edu/laws/henry-s-geyer-a-digest-of-the-laws-of-missouri-territory-comprising-an-elucidation-of-the-title-of-the-united-states-to-louisiana-constitution-of-the-united-states-treaty-of-session-organic-law/)
[territory-comprising-an-elucidation-of-the-title-of-the-united-states-to-louisiana-](https://firearmslaw.duke.edu/laws/henry-s-geyer-a-digest-of-the-laws-of-missouri-territory-comprising-an-elucidation-of-the-title-of-the-united-states-to-louisiana-constitution-of-the-united-states-treaty-of-session-organic-law/)
[constitution-of-the-united-states-treaty-of-session-organic-law/](https://firearmslaw.duke.edu/laws/henry-s-geyer-a-digest-of-the-laws-of-missouri-territory-comprising-an-elucidation-of-the-title-of-the-united-states-to-louisiana-constitution-of-the-united-states-treaty-of-session-organic-law/).

1 35. By the second decade of the eighteenth century, however, colonial
2 governments no longer sought to fully prohibit Native peoples from obtaining arms
3 and ammunition. This was because most North American colonies, and the larger
4 English empire, depended upon Native laborers to support their hunting-based trade
5 economies. Consequently, colonial governments began to use seventeenth-century
6 English law as precedent to more strictly regulate *how* Native Americans acquired
7 guns, gunpowder, and ammunition. This legislative shift, which was not mirrored
8 with respect to enslaved populations, proved crucial for Patriots and Loyalists, who
9 used gunpowder as a tool of negotiation to secure alliances during the American
10 Revolution. It also provided a foundation from which the new United States
11 attempted to use the sale of guns, gunpowder, and ammunition in conjunction with
12 their Indian Factory System to secure Native dependence through the early
13 nineteenth-century.

14 36. This brief account of laws regarding the sale, trade, and exchange of
15 gunpowder and ammunition demonstrates that colonial governments, state
16 governments, and the federal government viewed the trade and sale of gunpowder
17 and firearms to certain racial, religious, or socioeconomic populations as a threat to
18 public safety and the social moral character of their colonies. Yet when it came to
19 Native Americans, they did not seek to fully prohibit them from accessing these
20 goods. Rather, they understood the public safety risks associated with the
21 unregulated trade of gunpowder and firearms to Native Americans, and created
22 laws that restricted the ability of private citizens to trade these goods to Native
23 peoples and other potentially dangerous individuals. This allowed eighteenth and
24 early nineteenth lawmakers to control not only how Native Americans gained
25 access to gunpowder and other associated goods, repressing public safety concerns,
26 but also exercise authority over diplomatic negotiations and alliance formation in
27 ways that could possibly result in Native subordination and dependence. While
28 access to guns, gunpowder, and ammunition for members of the above groups was

1 not always controlled in the same manner, colonial and state governments felt these
2 populations posed enough of a public safety risk to necessitate governmental
3 regulation over their access to firearms and gunpowder.

4 I declare under penalty of perjury that the foregoing is true and correct.

5 Executed on August 16, 2023 at St. Paul, MN.

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Jennifer M. McCutchen

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

14 **KIM RHODE et al.,**

15 Plaintiffs,

16 v.

17 **ROB BONTA, in his official capacity**
 18 **as Attorney General of the State of**
 19 **California, et al.,**

20 Defendant.

3:18-cv-00802-BEN-JLB

**FIFTH SUPPLEMENTAL
 DECLARATION OF MAYRA G.
 MORALES IN RESPONSE TO
 THE COURT'S ORDER ENTERED
 ON JULY 18, 2023**

Courtroom: 5A
 Judge: Hon. Roger T. Benitez
 Action Filed: May 17, 2017

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

2 I, MAYRA G. MORALES, declare:

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

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

- 9 • The August 5, 2019 Declaration of Mayra G. Morales in Support of
10 Defendant Xavier Becerra’s Opposition to Plaintiffs’ Motion for
11 Preliminary Injunction, ECF No. 34-1;
- 12 • The September 27, 2019 Supplemental Declaration of Mayra G. Morales
13 in Support of Defendant Xavier Becerra’s Opposition to Plaintiffs’
14 Motion for Preliminary Injunction, ECF No. 42;
- 15 • The November 18, 2019 Second Supplemental Declaration of Mayra G.
16 Morales in Support of Defendant Xavier Becerra’s Opposition to
17 Plaintiffs’ Motion for Preliminary Injunction, ECF No. 48;
- 18 • The February 28, 2020 Third Supplemental Declaration of Mayra G.
19 Morales in Support of Defendant Xavier Becerra’s Opposition to
20 Plaintiffs’ Motion for Preliminary Injunction, ECF No. 53; and
- 21 • The April 10, 2020 Fourth Supplemental Declaration of Mayra G.
22 Morales in Support of Defendant Xavier Becerra’s Opposition to
23 Plaintiffs’ Motion for Preliminary Injunction, ECF No. 59.

24 3. In accordance with this Court’s order, entered on July 18, 2023, *see* ECF
25 No. 90, this fifth supplemental declaration provides additional data for the tables in
26 my February 28, 2020 Third Supplemental Declaration for the past six months—
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1 January 2023 through June 2023. To aid in readability, the tables are presented
2 following my signature.

3 4. Section I provides a narrative summary of information on Standard
4 Ammunition Eligibility Checks based on purchaser information in the Automated
5 Firearms System (AFS) (which I will refer to as “AFS Checks”) for January 1,
6 2023, through June 30, 2023. The data underlying this summary appears in Tables
7 1.1 through 1.4. As discussed below, 99.2% of all ammunition eligibility checks
8 were AFS Checks, and most AFS Checks were completed (approved, denied, or
9 rejected) in a matter of seconds.

10 5. Section II of this declaration provides a narrative summary of the
11 information on Basic Ammunition Eligibility Check (which I will refer to as “Basic
12 Checks”) from January 1, 2023, through June 30, 2023. The data underlying this
13 summary appears in Tables 2.1 through 2.3.

14 6. Section III provides a narrative summary of information on Certificate of
15 Eligibility Ammunition Verification Checks (which I will refer to as “COE
16 Checks”) for January 1, 2023 through June 30, 2023. The data underlying this
17 summary appears in Table 3.

18 7. Section IV of this declaration updates information about purchasers who
19 had been denied as prohibited, but who, upon additional review, were determined to
20 be not prohibited. From January 2023 through June 2023, the Department reviewed
21 200 transactions where a purchaser was denied as prohibited, and it has determined
22 that 6 of those purchasers were in fact eligible (3%).

23 **I. AFS CHECK (STANDARD AMMUNITION ELIGIBILITY CHECK)**
24 **INFORMATION FOR JANUARY 2023 THROUGH JUNE 2023**

25 8. This section of my declaration provides the information that the
26 Department has collected as of June 30, 2023, regarding AFS Check rejections.
27 The AFS Check was described previously in my September 27, 2019 Supplemental
28 Declaration. Suppl. Decl. ¶¶ 19-25, 28-31, ECF No. 42. The regulation outlining

1 the AFS Check is located in California Code of Regulations, title 11, section 4282
2 (renumbered from section 4302).

3 9. Section I.A of this declaration provides the data on AFS Checks for
4 January 1, 2023, through June 30, 2023. Section I.B sets forth the reasons for AFS
5 Check rejections in those months. Subsection I.B.1 discusses small discrepancies
6 in the data reporting the reasons for the rejections (but not the actual reasons
7 themselves) that have arisen, or will likely arise, as that data is re-tabulated over
8 time. Section I.C provides information on purchasers who were rejected in an AFS
9 Check, but who later purchased ammunition on or before June 30, 2023.

10 **A. AFS Check Approvals, Denials, and Rejections for January**
11 **2023 Through June 2023**

12 10. Table 1.1 sets forth the AFS Check approvals, denials, and rejections for
13 January 1, 2023, through June 30, 2023. As noted in my September 27, 2019
14 Supplemental Declaration, Suppl. Decl. ¶ 27, ECF No. 42, denials occur when
15 official records identify the purchaser as a prohibited person who cannot lawfully
16 possess a firearm or ammunition. *See also* 2d Suppl. Decl. ¶ 21, ECF No. 48.
17 Rejections occur when the purchaser's information does not match an AFS record.

18 11. From January 1, 2023, through June 30, 2023, the Department processed
19 538,359 AFS Checks, which is roughly 99.2% of all ammunition eligibility checks
20 during this time.¹ It approved 480,131 (89%), rejected 58,087 (11%) because the
21 information submitted by the purchaser did not match an AFS entry, and denied
22 141 (0.03%) because the Department's information showed the purchaser to be on
23 the Armed Prohibited Persons System (APPS) list.

24 12. From January 1, 2023, through June 30, 2023, AFS Checks were
25 completed within 170.7 seconds on average.

26 _____
27 ¹ The percentage of ammunition eligibility checks processed through AFS
28 from July 2019 through January 2020 was roughly 97%. *See* 3d Suppl. Decl.
Tables 1.1 and 2.1, ECF No. 53.

1 13. From January 1, 2023, through June 30, 2023, taking into account all
2 types of ammunition eligibility checks—AFS Checks, Basic Checks, and COE
3 Checks—more than 99% of all ammunition eligibility checks were completed in
4 less than one minute, and more than 88% of all ammunition eligibility checks were
5 approved in less than one minute.

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

Month	Rejections as Percent of Total AFS Checks by Month
January 2023	10.8%
February 2023	10.8%
March 2023	10.5%
April 2023	11.1%
May 2023	10.6%
June 2023	10.9%

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18 15. Table 1.4 charts the weekly rejection rate from January 1, 2023 through
19 the week ending June 30, 2023. As the table in the previous paragraph and
20 Table 1.4 show, the rejection rate has remained steady at approximately 10.8% over
21 the past six months.

22 **B. Information on AFS Check Rejections for January 2023**
23 **Through June 2023**

24 16. To recap from my September 27, 2019 Supplemental Declaration and
25 November 18, 2019 Second Supplemental Declaration, AFS Checks are
26 streamlined eligibility checks that rely on the purchaser already having undergone a
27 firearms background check and being subject to inclusion in APPS, in the event
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1 they later become prohibited. By definition, an AFS Check will work only for
2 those who have an AFS record, and whose record is up to date. A purchaser
3 without an AFS record, or with an AFS record that is not current, will not be able to
4 obtain an eligibility determination; the system will reject that submission. Suppl.
5 Decl. ¶ 28, ECF No. 42; 2d Suppl. Decl. ¶ 24, ECF No. 48.

6 17. It again bears noting that an AFS Check rejection, due to the purchaser’s
7 information not matching a record in AFS, is not a determination that the purchaser
8 is ineligible to purchase ammunition. It means that the purchaser cannot avail
9 themselves of that streamlined eligibility check. They may still use a Basic Check,
10 or, in certain situations, a Certificate of Eligibility Verification Check (California
11 Code of Regulations, title 11, section 4285 (renumbered from section 4305)) or
12 Firearms Eligibility Check (California Code of Regulations, title 11, section 4284
13 (renumbered from section 4304)). *See also* Suppl. Decl. ¶¶ 21-25, ECF No. 42; 2d
14 Suppl. Decl. ¶ 25, ECF No. 48.

15 18. An AFS Check will be rejected if the purchaser’s name, address, date of
16 birth, or ID number, or some combination of that information, does not match an
17 AFS record. Suppl. Decl. ¶ 30, ECF No. 42; 2d Suppl. Decl. ¶ 26, ECF No. 48.

18 19. Table 1.2 summarizes the reasons for the AFS Check rejections for
19 January 1, 2023, through June 30, 2023. Table 1.2 also accounts for any
20 misallocation of some rejections resulting from a prospective ammunition purchaser
21 having transferred the firearm associated with their AFS record or a law
22 enforcement event pertaining to the firearm associated with their AFS records being
23 entered.

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

25 20. As noted in my previous declarations, the systems that the Department
26 uses to tabulate the reasons for rejections are dynamic, not static. New events or
27 entries are added to AFS records on a daily basis. Modifications to AFS records
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1 also occur on a daily basis. This means that if, for instance, data sets are run on the
2 reasons for the rejections in February 2023 six different times spread out over a
3 year, they may change slightly because individual AFS records have changed over
4 that time.

5 21. A hypothetical example shows one way that this could play out: a person
6 has an AFS entry associated with a firearm, and the name, date of birth, and address
7 on their ID all match the AFS record, but the ID number does not match. On
8 February 1, 2023, the person attempts to purchase ammunition using an AFS Check
9 and is rejected because of the ID number. If the Department tabulates data on
10 rejections for February on April 1, 2023, the reason for that rejection would be
11 reported as an “ID number mismatch” in Table 1.2. But if the record is modified to
12 update the ID number on April 15, 2023, and the Department re-tabulates the data
13 on May 1, 2023, the reason for the rejection may be reported differently in a later
14 version of Table 1.2. This difference would not change the fact that the February 1,
15 2023, AFS Check was rejected because of an ID number mismatch.

16 22. Potential discrepancies like the one in the hypothetical are likely to affect
17 reported reasons for rejections of a small number of transactions.

18 23. As with the correction described above, the potential for slight
19 discrepancies in the reported reasons for rejections in Table 1.2 does not change the
20 total number of rejections reported in Table 1.1 or the actual reason for any
21 rejection. Nor is it likely to prevent a Department analyst from ascertaining the
22 actual reason for a rejection of a specific transaction.

23 **2. Reasons for AFS Check rejections.**

24 24. Having made these observations, the percentage breakdown of the
25 reasons for the rejections across the six months from January 1, 2023, through June
26 30, 2023 remain generally consistent with what was previously reported for July
27 2019 through January 2020. *See* Suppl. Decl. ¶¶ 31-34 & Table 2.2, ECF No. 42;
28 2d Suppl. Decl. ¶¶ 27-33 & Table 2.2, ECF No. 48; 3d Suppl. Decl. ¶¶ 39-42 &

1 Table 2.2, ECF No. 53. Across all reported time periods, the most common reason
2 AFS Checks were rejected was that the purchaser’s address did not match the
3 address in an AFS record. These purchasers’ name, ID number, and date of birth
4 matched an entry, but their address did not match an entry. This accounted for
5 about 41% of the rejections over the most recent six-month period.

6 25. The next most common reason AFS Checks were rejected was where the
7 name did not match an entry. Across the most recent six months, about 27% of
8 AFS Checks were rejected for this reason.

9 26. Another significant source of rejections occurred when the purchaser
10 could not be associated with an AFS entry at all. In most cases, this likely occurred
11 because either the purchaser or the ammunition vendor mistakenly chose to run an
12 AFS Check where the purchaser did not have an AFS record. This accounted for
13 roughly 16% of all AFS Check rejections from January 1, 2023, through June 30,
14 2023.

15 27. These three reasons for rejections—address mismatches, no apparent
16 AFS entry, and name mismatches—accounted for about 85% of all rejections. The
17 remaining 15% or so of rejections occurred for various other reasons listed in
18 Table 1.2.

19 **C. Information on Purchasers Rejected in an AFS Check Who**
20 **Later Purchased Ammunition on or before June 30, 2023**

21 28. At the Court’s request, my September 27, 2019 Supplemental
22 Declaration included information on whether purchasers who were rejected in an
23 AFS Check had subsequently purchased ammunition. Suppl. Decl. ¶¶ 36-39, ECF
24 No. 42.

25 29. Table 1.3 lists information on purchasers who were rejected who later
26 purchased ammunition by month.

27 30. As explained in my September 27, 2019 Supplemental Declaration, there
28 is a difference between the total number of rejections each month and the unique

1 individuals rejected. Suppl. Decl. ¶ 38, ECF No. 42; *see also* 2d Suppl. Decl. ¶ 34,
2 ECF No. 48. I understand that the primary difference between rejections and
3 denials and unique ID numbers is largely because some individual purchasers
4 attempted to use the AFS Check procedure more than once and were rejected or
5 denied on more than one occasion.

6 31. Of the 7,342 individuals who had an AFS Check rejected in January,
7 4,620 (62.9%) had purchased ammunition by June 30, 2023.

8 32. Of the 7,222 individuals who had an AFS Check rejected in February,
9 4,601 (63.7%) had purchased ammunition by June 30, 2023.

10 33. Of the 7,941 individuals who had an AFS Check rejected in March, 5,105
11 (64.3%) had purchased ammunition by June 30, 2023.

12 34. Of the 8,139 individuals who had an AFS Check rejected in April, 4,937
13 (60.7%) had purchased ammunition by June 30, 2023.

14 35. Of the 6,950 individuals who had an AFS Check rejected in May, 4,080
15 (58.7%) had purchased ammunition by June 30, 2023.

16 36. And of the 7,410 individuals who had an AFS Check rejected in June,
17 3,905 (52.7%) had purchased ammunition by June 30, 2023.

18 **II. BASIC AMMUNITION ELIGIBILITY CHECK INFORMATION FOR JANUARY**
19 **2023 THROUGH JUNE 2023**

20 37. As discussed in my previous declarations, the Basic Check is described in
21 California Code of Regulations, title 11, section 4283 (renumbered from section
22 4303). This check can be used irrespective of whether a purchaser or transferee (I
23 will generally refer to these together as “purchaser”) can take advantage of one of
24 the other eligibility checks. As discussed above, most ammunition eligibility
25 checks do not utilize the Basic Check, but rather are processed through the Standard
26 Check using existing records in the AFS—only 0.5% of ammunition eligibility
27 checks from January 2023 to June 2023 were processed using the Basic Check.

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1 38. Under section 4283(b), a Basic Check costs \$19 and entails submitting
2 identifying information, including the purchaser’s name, date of birth, current
3 address, and ID number, to the Department’s Dealer Record of Sale (DROS) Entry
4 System (DES). The process proceeds in two steps. First, the Department
5 automatically checks the person’s ID or driver license number (I will generally
6 refer to IDs and driver licenses as “IDs”), name, and date of birth, against DMV
7 records to confirm the information submitted matches a DMV record and that the
8 ID is valid. If the information matches, then the submitted information is
9 automatically run through four state databases: (1) Automated Criminal History
10 Record System (ACHS); (2) Mental Health Firearms Prohibition System (MHFPS);
11 (3) California Restraining and Protective Order System (CARPOS); and (4) Wanted
12 Persons System (WPS).

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

22 40. Table 2.1 lists the Basic Check approvals, rejections, and denials for
23 January 1, 2023, through June 30, 2023.

24 41. From January 1, 2023, through June 30, 2023, the Department processed
25 2,828 Basic Checks. Of those, 92% have been approved and about 3.18% have
26 been rejected because the purchaser’s information does not match Department of
27 Motor Vehicle records or the records used to make a determination were
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1 incomplete, thereby preventing Department analysts from ascertaining whether the
2 purchaser was prohibited.

3 42. Over 130 people, or 4.8% of the total processed, have been denied
4 because the Department's records show them to be prohibited persons.

5 43. Table 2.2 sets forth the average processing times for Basic Checks that
6 were submitted to the Department, by month, from January 2023 through June 2023
7 that had eligibility determinations made on or before June 30, 2023. A Basic Check
8 can be delayed for many reasons, most often it is because a Department analyst
9 must conduct additional research on an arrest cycle for a prohibiting event with
10 missing disposition. The Department will do its due diligence to obtain the
11 necessary information. However, if the Department is unable to obtain the
12 information, it will ultimately reject the transaction because an eligibility
13 determination could not be made.

14 44. For the typical purchaser, the Basic Check processing time takes an
15 average of five to six days. In January 2023, it took 4 days and 13 hours for the
16 typical purchaser. In June 2023, the processing time was about 6 days and 4 hours.

17 45. Another way to assess the experience of ammunition purchasers who
18 utilize the Basic Check option is to look at the median processing time for Basic
19 Checks—the processing time at which 50% of the transactions in the month took
20 less time and 50% took more time. The median will provide additional information
21 on how long the majority of the transactions are actually taking. Table 2.2 now
22 includes the median processing time for Basic Checks. For example, for January
23 2023 Basic Checks all decisions average (mean) time was 109 hours but the median
24 of those decisions is 42 hours. That gives a sense of how much the outlier cases
25 affect the average.

26 46. Table 2.3 lists the average processing times for Basic Checks that were
27 approved manually and automatically for the months of January 2023 through June
28 2023. These numbers are a subset of the Basic Checks that were submitted during

1 those months and that had eligibility determinations made on or before June 30,
2 2023. This table also lists median processing times.

3 47. Just under one-quarter of the approved Basic Checks were processed
4 automatically. The average processing time was about 2 hours.

5 48. Just over three-quarters of the approved Basic Checks were processed
6 manually. Subject to the observation above that some outliers affected the average,
7 the typical approved Basic Check that is manually processed takes about five
8 business days.

9 **III. CERTIFICATE OF ELIGIBILITY AMMUNITION VERIFICATION CHECK**
10 **INFORMATION FOR JANUARY 2023 THROUGH JUNE 2023**

11 49. As noted earlier, in certain situations, a purchaser may use a COE Check
12 as described in California Code of Regulations, title 11, section 4285 (renumbered
13 from section 4305). This check can be used by purchasers who have a current
14 Certificate of Eligibility issued by the Department. A Certificate of Eligibility
15 certifies that the Department has checked its records and determined the recipient is
16 not prohibited from acquiring or possessing firearms at the time the firearms
17 eligibility criminal background check was performed.

18 50. A Certificate of Eligibility is a licensing/permit requirement for various
19 firearms-related employment and activities. To obtain a Certificate of Eligibility,
20 an individual must submit fingerprint impressions through a livescan operator and
21 pay a \$71 fee. Thereafter, the individual must submit an application through the
22 California Firearms Application Reporting System. Once issued, a Certificate of
23 Eligibility may be renewed annually for \$22.

24 51. Under section 4285(b), a COE Check costs \$1. Less than 0.3% of
25 ammunition eligibility checks from January 2023 to June 2023 were processed
26 using a COE Check. On average, a COE Check took 6 seconds to complete.

27 52. As explained in my prior declaration, to determine whether a purchaser
28 has a current Certificate of Eligibility, the Department, through an automated

1 process in DES, cross-references the Certificate of Eligibility database. If the
2 purchaser does not have a current Certificate of Eligibility, the transaction will be
3 rejected.

4 53. Table 3 sets forth the COE Checks processed, approvals, and rejections
5 for January 1, 2023, through June 30, 2023. During that time, the Department
6 processed 1,323 COE Checks. It approved 1,208 (91%) and rejected 115 (9%)
7 because personal information provided to the ammunition vendor and entered into
8 DES did not match the information in the Certificate of Eligibility database; the
9 Certificate of Eligibility number provided to the ammunition vendor, and entered in
10 the DES did not match the information in the Certificate of Eligibility database; or
11 the Certificate of Eligibility for the purchaser was not current.

12 **IV. PERSONS PREVENTED FROM PURCHASING AMMUNITION AND**
13 **SUBSEQUENTLY DEEMED ELIGIBLE**

14 54. In my September 27, 2019 Supplemental Declaration, I provided
15 information in response to the Court's inquiry about purchasers who had been
16 denied approval to purchase ammunition because they were prohibited, but who
17 were later determined to not be prohibited. Suppl. Decl. ¶ 40, ECF No. 42.

18 55. From January 1, 2023, through June 30, 2023, a total of two purchasers
19 were denied on the grounds of a prohibiting offense, mental health commitment, or
20 restraining order, but were, based on the face of the official records, subsequently
21 determined to have been eligible to purchase ammunition at the time of purchase.
22 A total of four purchasers who were ineligible to purchase ammunition on the face
23 of their official records, were later determined to be eligible after Department staff
24 investigated the matter.

25 56. To summarize, the Department reviewed 200 transactions that were
26 submitted from January 2023 to June 2023, where the purchaser was denied as
27 prohibited. Of those 200 denials, 6 of the purchasers who were denied as
28 prohibited persons have since been determined to be eligible.

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

Executed on: August 16, 2023


MAYRA G. MORALES

TABLE 1 – AFS Eligibility Checks

TABLE 1 – AFS CHECKS (STANDARD AMMUNITION ELIGIBILITY CHECKS)

TABLE 1 – AFS Eligibility Checks

Table 1.1: AFS Checks — Approvals, Denials, & Rejections							
	January 2023	February 2023	March 2023	April 2023	May 2023	June 2023	Total
AFS Checks Processed	86,669	85,989	98,533	95,031	83,593	88,544	538,359
Approved	77,264	76,682	88,182	84,422	74,693	78,888	480,131
Denied (Prohibited Persons)	17	19	16	22	30	37	141
Rejected (no match with AFS records)	9,388	9,288	10,335	10,587	8,870	9,619	58,087
Average Processing Time	3.4 sec.	1.4 sec	998.7 sec ²	1.0 sec	10.6 sec	9.4 sec	170.7 sec (overall average)

² Longer average processing time in March 2023 was due to an internal program anomaly that delayed the processing of several AFS checks during that month. Consequently, the average processing time for March was significantly skewed, dramatically increasing the average processing time from January 2023 through June 2023.

TABLE 1 – AFS Eligibility Checks

Table 1.2: AFS Checks — Reasons for Rejections as of June 30, 2023												
	January 2023		February 2023		March 2023		April 2023		May 2023		June 2023	
Total Rejected	9,388		9,288		10,335		10,587		8,870		9,619	
Address Mismatch (name, date of birth, and ID number match)	3,806	40.54%	3,774	40.63%	4,239	41.02%	4,289	40.51%	3,641	41.05%	3,872	40.25%
No Identifiable AFS Entry (purchaser not eligible for AFS Check)	1,589	16.93%	1,441	15.51%	1,584	15.33%	1,775	16.77%	1,429	16.11%	1,535	15.96%
Name Mismatch (date of birth, address, and ID number match)	2,566	27.33%	2,592	27.91%	2,858	27.65%	2,838	26.81%	2,422	27.31%	2,683	27.89%
Name and ID Number Mismatch (date of birth and address match)	178	1.90%	198	2.13%	197	1.91%	235	2.22%	164	1.85%	193	2.01%
AFS Entry No Longer Valid (Name, Date of Birth, ID)	300	3.20%	336	3.62%	349	3.38%	351	3.32%	305	3.44%	275	2.86%

TABLE 1 – AFS Eligibility Checks

Table 1.2: AFS Checks — Reasons for Rejections as of June 30, 2023												
	January 2023		February 2023		March 2023		April 2023		May 2023		June 2023	
Number, and Address Match)												
Name and Address Mismatch (date of birth and ID number match)	355	3.78%	375	4.04%	451	4.36%	427	4.03%	360	4.06%	432	4.49%
AFS Entry No Longer Valid (Partially Matched on a combination of Name, Date of Birth, ID, Address)	204	2.17%	158	1.70%	206	1.99%	218	2.06%	168	1.89%	196	2.04%
ID Number and Address Mismatch (name and date of birth match)	103	1.10%	108	1.16%	100	0.97%	105	0.99%	99	1.12%	103	1.07%
ID Number Mismatch (name, date of birth, and address match)	115	1.22%	136	1.46%	159	1.54%	178	1.68%	128	1.44%	166	1.73%

TABLE 1 – AFS Eligibility Checks

Table 1.2: AFS Checks — Reasons for Rejections as of June 30, 2023												
	January 2023		February 2023		March 2023		April 2023		May 2023		June 2023	
Date of Birth Mismatch (name, address, and ID number match)	108	1.15%	110	1.18%	123	1.19%	100	0.94%	93	1.05%	112	1.16%
Date of Birth and ID Number Mismatch (name and address match)	34	0.36%	25	0.27%	38	0.37%	45	0.43%	36	0.41%	27	0.28%
Date of Birth and Address Mismatch (name and ID number match)	19	0.20%	21	0.23%	14	0.14%	10	0.09%	11	0.12%	17	0.18%
Name and Date of Birth Mismatch (address and ID number match)	7	0.07%	12	0.13%	9	0.09%	13	0.12%	11	0.12%	5	0.05%
Name, Date of Birth, and Address Mismatch (ID number match)	4	0.04%	2	0.02%	8	0.08%	3	0.03%	3	0.03%	3	0.03%

TABLE 1 – AFS Eligibility Checks

Table 1.3: Purchasers Who were Rejected on an AFS Check and Subsequently Purchased Ammunition on or before June 30, 2023						
	January 2023	February 2023	March 2023	April 2023	May 2023	June 2023
Individuals Rejected in AFS Checks	7,342	7,222	7,941	8,139	6,950	7,410
Number Who Purchased Ammunition on or before June 30, 2023, after an AFS Check Rejection	4,620	4,601	5,105	4,937	4,080	3,905

TABLE 1 – AFS Eligibility Checks

Table 1.4: AFS Check Rejection Rate by Week – January 2, 2023, through July 2, 2023			
Week	Total AFS Checks Submitted	AFS Check Rejections	Percent
January 2-8, 2023	21,866	2,423	11.08%
January 9-15, 2023	18,558	2,024	10.91%
January 16-22, 2023	19,533	2,091	10.70%
January 23-29, 2023	21,409	2,268	10.59%
January 30 – February 5, 2023	21,040	2,303	10.95%
February 6-12, 2023	19,761	2,103	10.64%
February 13-19, 2023	24,655	2,681	10.87%
February 20-26, 2023	20,457	2,204	10.77%
February 27 – March 5, 2023	20,538	2,129	10.37%
March 6-12, 2023	20,232	2,107	10.41%
March 13-19, 2023	22,829	2,392	10.48%
March 20-26, 2023	23,845	2,559	10.73%
March 27 – April 2, 2023	23,248	2,501	10.76%
April 3-9, 2023	21,644	2,244	10.37%
April 10-16, 2023	23,134	2,584	11.17%
April 17-23, 2023	22,226	2,517	11.32%
April 24-30, 2023	20,218	2,357	11.66%

TABLE 1 – AFS Eligibility Checks

Table 1.4: AFS Check Rejection Rate by Week – January 2, 2023, through July 2, 2023			
Week	Total AFS Checks Submitted	AFS Check Rejections	Percent
May 1-7, 2023	19,986	2,046	10.24%
May 8-14, 2023	17,181	1,917	11.16%
May 15-21, 2023	18,740	1,981	10.57%
May 22-28, 2023	21,130	2,240	10.60%
May 29 – June 4, 2023	19,521	2,159	11.06%
June 5-11, 2023	19,411	2,053	10.58%
June 12-18, 2023	23,256	2,512	10.80%
June 19-25, 2023	19,422	2,068	10.65%
June 26, 2023 – July 2, 2023	19,994	2,197	10.99%
Total	543,834	58,660	10.79%

TABLE 2 – Basic Eligibility Checks

TABLE 2 – BASIC AMMUNITION ELIGIBILITY CHECKS

TABLE 2 – Basic Eligibility Checks

Table 2.1: Basic Checks — Approvals, Denials, & Rejections as of June 30, 2023³							
	January 2023	February 2023	March 2023	April 2023	May 2023	June 2023	Total
Basic Checks ⁴ Received	486	452	544	513	505	533	3,033
Basic Checks Processed	478	452	541	507	493	357	2,828
Approved ⁵	433	417	488	465	463	336	2,602
Denied (Prohibited Persons)	28	16	33	25	21	13	136
Rejected (no match with DMV records)	6	5	3	3	3	3	23
Rejected (incomplete history)	11	14	17	14	6	5	67

³ This table is based on data available on June 30, 2023, and provides additional numbers for the last six months to Table 1.1 in my February 28, 2020 Third Supplemental Declaration. *See* 3d Suppl. Decl. at p. 9, Table 1.1, ECF No. 53.

⁴ As of June 30, 2023, a limited number of Basic Checks (the difference between the Basic Checks received and the Basic Checks processed) had been delayed, or the Basic Checks received in June 2023 had not yet been processed as of June 30, 2023. For example, checks received on June 30, 2023, likely would not have been processed by the time I collected data for this declaration.

⁵ Transactions that were initially denied, but later approved, are treated as approved for purposes of this table.

TABLE 2 – Basic Eligibility Checks

Table 2.2: Basic Checks — Processing Times as of June 30, 2023						
	January 2023	February 2023	March 2023	April 2023	May 2023	June 2023
Average Time ⁶	4 days, 13 hrs., 33 mins.	5 days, 17 hrs., 31 mins.	6 days, 10 hrs., 23 mins.	5 days, 21 hrs., 59 mins.	5 days, 1 hr., 53 mins.	6 days, 4 hrs., 54 mins.
Median Time	1 day, 18 hrs., 59 mins.	3 days, 21 hrs., 51 mins.	4 days, 15 hrs., 55 mins.	4 days, 12 hrs., 29 mins.	4 days, 2 hrs., 19 mins.	4 days, 0 hrs., 4 mins.

⁶ As noted in my November 18, 2019 Second Supplemental Declaration, not all Basic Check transactions receive a determination in the month the transaction is submitted. *See* 2d Suppl. Decl. at p. 10, Table 1.2, n.3, ECF No. 48. A small number of transactions each month require a substantial amount of processing time. This relatively small number of transactions can significantly increase the average, explaining the longer average processing time for months further in the past.

TABLE 2 – Basic Eligibility Checks

Table 2.3: Approved Basic Checks — Processing Times						
	January 2023	February 2023	March 2023	April 2023	May 2023	June 2023
Automatically Processed	98	90	111	93	100	105
Average Time	2 hrs., 11 mins.	2 hrs., 56 mins.	3 hrs., 0 mins.	4 hrs., 15 mins.	1 hr., 23 mins.	2 hrs., 45 mins.
Median Time	8 mins.	9 mins.	9 mins.	13 mins.	7 mins.	7 mins.
Manually Processed	335	327	377	372	363	231
Average Time	3 days, 16 hrs., 3 mins.	6 days, 8 hrs., 13 mins.	6 days, 20 hrs., 21 mins.	6 days, 4 hrs., 30 mins.	5 days, 17 hrs., 42 mins.	8 days, 18 hrs., 44 mins.
Median Time	1 day, 23 hrs., 42 mins.	4 days, 23 hrs., 18 mins.	4 days, 20 hrs., 22 mins.	4 days, 23 hrs., 42 mins.	4 days, 17 hrs., 21 mins.	9 days, 5 hrs., 56 mins.

TABLE 3 –Certificate of Eligibility Ammunition Verification Checks

TABLE 3 – CERTIFICATE OF ELIGIBILITY AMMUNITION VERIFICATION CHECKS

TABLE 3 –Certificate of Eligibility Ammunition Verification Checks

Table 3: Certificate of Eligibility Verifications							
	January 2023	February 2023	March 2023	April 2023	May 2023	June 2023	Total
Certificate of Eligibility Verifications Received	190	183	264	221	249	216	1,323
Approved	174	170	238	203	229	194	1,208
Rejected	16	13	26	18	20	22	115
Average Processing Time	0.9 sec	0.4 sec	0.6 sec	0.3 sec	0.6 sec	0.8 sec	0.6 sec (overall average)

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

14 **KIM RHODE et al.,**
15
16 Plaintiffs,
17
18 **v.**
19 **ROB BONTA, in his official capacity**
as Attorney General of the State of
California, et al.,
20 Defendant.

3:18-cv-00802-BEN-JLB
DECLARATION OF SIDNEY JONES
Courtroom: 5A
Judge: Hon. Roger T. Benitez
Action Filed: May 17, 2017

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DECLARATION OF SIDNEY JONES

I, SIDNEY JONES, declare:

1. I am a Special Agent in Charge for the California Department of Justice, Bureau of Firearms (hereafter generally referred to together as the “Department”). I make this declaration of my own personal knowledge and experience and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

2. I have been the Special Agent in Charge for the Southern California region since 2019. In this capacity, I supervise teams of Department Special Agents who are assigned to handle various tasks, including: recovering firearms and ammunition from prohibited individuals; monitoring gun shows for illegal activities; conducting surveillance on gun dealers suspected of illegal activity; and investigating illegal trafficking of firearms, manufacturing of assault weapons and machine guns, and illegal possession of various magazines and ammunition. Before becoming a Special Agent in Charge, I was a Special Agent Supervisor from 2014 to 2019, in which I also handled the tasks just described. I have served in various other law enforcement positions since 1990.

3. In accordance with this Court’s order, issued on July 18, 2023, ECF No. 90, this declaration seeks to provide information on the investigations of persons who underwent background checks for ammunition purchases and were identified as prohibited persons, and on the seizure of firearms and ammunition from, arrests of, and case dispositions for such persons.

I. DENIED AMMUNITION PURCHASE INVESTIGATIONS

4. I understand that the purpose of including ammunition background checks in Proposition 63 was to stop ammunition from getting into the hands of individuals prohibited by law from possessing firearms and ammunition by preventing them from actually buying any ammunition. That was and is the

1 primary purpose of requiring ammunition background checks at the point of sale,
2 and it has successfully denied prohibited persons from making such ammunition
3 purchases.

4 5. I also understand that the Court has requested information about an
5 ancillary benefit of ammunition purchase denials, apart from this primary purpose,
6 relating to investigations into prohibited persons, gun seizures, and prosecutions. In
7 accordance with that request, this section of my declaration provides information as
8 to how denied ammunition purchases can provide investigative leads to locate and
9 prioritize specific armed and prohibited individuals, which are the primary focus of
10 the Department's enforcement efforts.

11 6. In 2006, California became the first state in the nation to monitor
12 individuals who legally purchased or acquired firearms and later became prohibited
13 from owning or possessing them. The Armed and Prohibited Persons System
14 (APPS) database cross-references firearms purchasers against other records for
15 individuals who are prohibited from owning or possessing firearms. The
16 Department utilizes Crime Analysts, Special Agents, and Special Agent
17 Supervisors to locate and seize firearms from prohibited persons identified through
18 the APPS database, thereby preventing and reducing incidents of violent crime.

19 7. Individuals are entered into the APPS database when they legally
20 purchase or acquire a firearm. They are moved to the Armed and Prohibited
21 Persons System within the database if they become prohibited. Prohibited persons
22 are identified by running daily manual queries of the databases that cross-reference
23 the population of known firearm owners against individuals who may have had a
24 prohibiting triggering event (PTE) within the past 24 hours. New individuals are
25 added daily, creating a constantly changing and growing dataset.

26 8. Each of the Department's Bureau of Firearms offices has its own team of
27 Crime Analysts and Special Agents for enforcement efforts. The Crime Analysts
28 access the APPS database daily and develop investigative packages of armed and

1 prohibited people for each team of Special Agents to contact. The Crime Analysts
2 are required to crosscheck several databases to confirm addresses, photos, arrest
3 records, and the status of armed and prohibited individuals, among other relevant
4 information. Using these investigative packages, Special Agents attempt to locate
5 the firearm(s) associated with each armed and prohibited individual via a consent
6 search, probation or parole search, or a search warrant. Often, the armed and
7 prohibited individual will be in possession of numerous firearms, many of which
8 were not associated with that individual in the APPS database.

9 9. Special Agents and Crime Analysts are continuously working to research
10 and develop viable APPS investigations to determine which leads will potentially
11 provide the greatest possible number of positive results. But one way that an
12 investigation can hit a dead end is if the armed and prohibited individual cannot be
13 located because the individual no longer resides at the address that is in the APPS
14 database.

15 10. Monitoring denied ammunition purchases helps to address this problem
16 because the denied purchases often provide more current addresses than those
17 previously available in the APPS database. A more current address can help
18 Special Agents locate an armed and prohibited individual, when they could not do
19 so before, so that they can attempt to locate the firearm(s) associated with that
20 individual via a consent search, probation or parole search, or a search warrant.

21 11. Another reason that monitoring denied ammunition purchases is an
22 effective strategy is that attempted ammunition purchases signal to Special Agents
23 that a prohibited person still possesses and may be actively using a firearm. While
24 the use of ammunition denial data is ancillary to regular APPS investigations,
25 nearly every investigation based on an ammunition denial results in a seizure of
26 firearms and/or ammunition from a prohibited person.

27 12. In July 2020, Special Agents served a search warrant on an individual
28 who had tried to purchase ammunition while having a mental health prohibition.

1 During the search, Special Agents located three handguns, two shotguns, five rifles
2 (three of which were assault weapons), twelve standard capacity magazines, ten
3 large capacity magazines, and approximately 7,655 ammunition rounds.

4 13. In July 2020, Special Agents served a search warrant on an individual
5 who had tried to purchase ammunition while being prohibited by a probation
6 condition. During the search, Special Agents located five handguns (three of which
7 were unserialized ghost guns), one rifle, one shotgun, one assault weapon, eight
8 standard capacity magazines, three large capacity magazines, and about 218
9 ammunition rounds.

10 14. An additional example is from February 2021, during which Special
11 Agents served a search warrant on an individual who had tried to purchase
12 ammunition while being prohibited by a felony conviction. Special Agents located
13 in the individual's residence two unserialized ghost guns (one semiautomatic
14 handgun and one assault weapon), ten magazines, and about 500 ammunition
15 rounds. The individual was arrested.

16 15. In May 2021, Special Agents served a search warrant on an individual
17 who had tried to purchase ammunition even while prohibited by a felony
18 conviction. Special Agents located in the individual's residence 24 rifles, 15
19 handguns, 11 shotguns, 28 large capacity magazines, and about 16,000 ammunition
20 rounds. The individual was arrested.

21 16. A final example is from November 2022, when an individual with a
22 prohibiting misdemeanor conviction tried to purchase ammunition. Special Agents
23 served a search warrant on the individual, and during the search located seven rifles
24 (including an unregistered assault weapon and a short barrel rifle), two shotguns,
25 two handguns, eleven magazines, and approximately 1,200 ammunition rounds.
26 The individual was arrested, with criminal cases pending in court.

27 17. As noted above, stopping prohibited persons from purchasing
28 ammunition was the primary purpose of the point-of-sale background checks.

1 However, these are some of the more recent examples and representative outcomes
2 of denied ammunition purchases that help Special Agents to identify and locate
3 armed and prohibited individuals.

4 18. The Department also releases annual APPS reports to the California
5 legislature that contain additional data and information regarding the use of the
6 APPS database, including denied ammunition purchases. As detailed below, the
7 three most recent reports are attached to this declaration as exhibits.

8 19. A true and correct copy of Cal. Dep’t of Justice, Armed and Prohibited
9 Persons System (APPS) 2020 (available at
10 <https://oag.ca.gov/system/files/attachments/press-docs/2020-apps-report.pdf>) is
11 attached to this declaration as **Exhibit 1**.

12 20. A true and correct copy of Cal. Dep’t of Justice, Armed and Prohibited
13 Persons System 2021 (available at [https://oag.ca.gov/system/files/media/2021-apps-](https://oag.ca.gov/system/files/media/2021-apps-report.pdf)
14 [report.pdf](https://oag.ca.gov/system/files/media/2021-apps-report.pdf)) is attached to this declaration as **Exhibit 2**.

15 21. A true and correct copy of Cal. Dep’t of Justice, Armed and Prohibited
16 Persons System Report 2022 (available at
17 <https://oag.ca.gov/system/files/media/2022-apps-report.pdf>) is attached to this
18 declaration as **Exhibit 3**.

19 **II. SEIZURE FROM, ARREST OF, AND CASE DISPOSITION FOR PROHIBITED**
20 **PERSONS IDENTIFIED THROUGH DENIED AMMUNITION PURCHASES**

21 22. I understand that Mayra Morales, Assistant Director of the Bureau of
22 Firearms of the California Department of Justice, has presented data regarding
23 prohibited persons who were denied ammunition when they attempted to purchase
24 it—the overarching purpose of the ammunition background checks. In addition to
25 that data, and in accordance with the Court’s request, this section of my declaration
26 seeks to provide reasonably-ascertainable information regarding the seizure of
27 firearms and ammunition from, arrests of, and case dispositions for prohibited
28

1 persons denied the purchase of ammunition between July 1, 2019, and January 31,
2 2020.

3 23. As described in the previous section, Special Agents and Crime Analysts
4 are continuously working to research and develop viable APPS investigations,
5 including by using ammunition purchase denials as leads that could potentially
6 provide positive results. Developing those investigative packages, and then
7 conducting a search (whether via consent, probation or parole search, or a search
8 warrant), takes time and differs by investigation.

9 24. Based on my experience, I believe that data for seizures that occurred
10 through the end of the year 2020, though imperfect, should encompass the specified
11 data (to the extent known) for the majority of the prohibited persons who were
12 denied ammunition purchases between July 1, 2019, and January 31, 2020, as
13 requested by the Court.

14 25. To that end, the Department has collected data for APPS cases in which
15 seizures from individuals who were denied ammunition purchases occurred
16 between July 1, 2019, and December 31, 2020. I have reviewed that data and
17 describe it below.

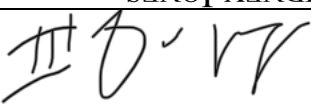
18 26. Seizures occurred in approximately 51 investigations between July 1,
19 2019, and January 31, 2020, that were the result of ammunition purchase denial
20 investigative leads.

21 27. In those 51 seizures, the Department seized approximately:

- 22 • 152 firearms, including assault weapons and ghost guns;
- 23 • 12 firearm receivers/frames, including for ghost guns;
- 24 • 237 magazines, including large capacity magazines; and
- 25 • 78,742 rounds of ammunition.

26 28. From the 51 investigations that resulted in seizures, approximately 15
27 individuals were arrested. Although the disposition of the majority of charges is
28 currently unknown, and some cases may well be ongoing, these 51 investigations

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SIDNEY JONES


have resulted in four known felony convictions and two known misdemeanor convictions, to-date.
29. As described earlier in this declaration, investigative leads generated by ammunition purchase denials are an ancillary benefit of ammunition background checks. The seizures, arrests, and convictions outlined above demonstrate how ammunition purchase background checks can lead to additional positive APPS investigation outcomes. Of course, the prohibited persons identified by the ammunition background checks and subject to the 51 seizures noted above were also prevented from purchasing additional ammunition, as were the remaining prohibited persons denied purchases at the point of sale.
Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.
Executed on August 15, 2023.

EXHIBIT 3



C A L I F O R N I A
DEPARTMENT OF JUSTICE

ARMED AND PROHIBITED PERSONS SYSTEM REPORT 2022

**ANNUAL REPORT TO THE LEGISLATURE
SB 94 LEGISLATIVE REPORT
CALENDAR YEAR 2022**



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EXECUTIVE SUMMARY

The Armed and Prohibited Persons System and Legislative Reporting Requirements

In 2006, California became the first and only state in the nation to monitor individuals who legally purchased or acquired firearms and later became prohibited from owning or possessing them. The Armed and Prohibited Persons System (APPS) database cross-references firearms purchasers against other records for individuals who are prohibited from owning or possessing firearms. The Department of Justice (DOJ) utilizes Crime Analysts, Special Agents, and Special Agent Supervisors to locate and seize firearms from prohibited persons identified through the APPS database, thereby preventing and reducing incidents of violent crime.

The authority and specifications for this public reporting initiative were established in Senate Bill (SB) 140 (Stats. 2013, ch. 2), which sunset in 2019, and were reestablished with further specifications under SB 94 (Stats. 2019, ch. 25) in 2019. SB 94, which added section 30012 to the California Penal Code, requires the DOJ to report specified information related to the APPS database, including the number of individuals in the APPS database and the degree to which the backlog in the APPS database has been reduced or eliminated. In this report, the term “backlog” is used in accordance with the definition created by SB 94 and codified in Penal Code section 30012, subdivision (a)(4): the number of cases for which the Department did not initiate an investigation within six months of the case¹ being added to the APPS database or a case for which DOJ has not completed investigatory work within six months of initiating an investigation.

Prior to the passage of SB 94, DOJ communicated to the Department of Finance (DOF) and to the Legislature that the current firearms database systems did not have the capability required to collect and report on the backlog as it has now been defined in statute and certain other metrics newly required by SB 94. In response, DOJ worked with DOF to submit a Budget Change Proposal (BCP) requesting funding to support the upfront planning and analysis costs to determine how to create an updated database system with the ability to track the requested data. DOJ has received the resources for the analysis phase of the modernization project. Once the analysis is complete, and additional funding secured, DOJ will begin the upgrade process for the APPS database and other firearms information technology (IT) systems.

COVID-19 Impact on APPS Enforcement

As pandemic restrictions lifted and businesses reopened, DOJ progressively increased APPS enforcement. By the end of 2021, monthly productivity returned to pre-pandemic levels. Although the impact of COVID-19 proved much more manageable in 2022 than in the prior two years, Agents were occasionally exposed to COVID-19 and required to quarantine, which impacted APPS enforcement.

1 Within the APPS database, a ‘case’ refers to one individual; therefore, the terms ‘case’ and ‘individual’ will be used interchangeably in this report.

APPS Database Analysis

A comprehensive review of the APPS database reveals the following:

- **Removals, Additions, and Incarcerations:** In 2022, DOJ removed 9,917 prohibited persons from the APPS database. At the same time, 9,277 prohibited persons were added to the APPS database. As of January 1, 2023, the APPS database contained 23,869 armed and prohibited persons.
- **Active and Pending Cases:** The Armed and Prohibited Persons System includes 9,294 Active cases and 14,575 Pending cases. Active cases have not yet been investigated or are in the process of being investigated. Pending cases have been thoroughly analyzed and all investigative leads have been exhausted. In addition to the 23,869 armed and prohibited person, there were 1,159 additional armed and prohibited persons who were incarcerated as of January 1, 2023.
- **Staff:** In 2022, DOJ's Bureau of Firearms had between 34-37 Special Agents and between 14-15 Special Agent Supervisors working to address the ever-changing number of armed and prohibited individuals.
- **Reasons for Prohibitions:** The statistics below outline the number of individuals in each prohibiting category of the APPS database, as of January 1, 2023. Persons can be prohibited under more than one category, which is why the total number exceeds 100%.
 - 12,745 (51%) were prohibited due to a felony conviction
 - 4,985 (20%) were prohibited due to the federal Brady Handgun Violence Prevention Act (18 U.S.C. §§ 921, 922)
 - 4,099 (16%) were prohibited due to a restraining order
 - 4,837 (19%) were prohibited due to mental health triggering events
 - 2,415 (10%) were prohibited due to a qualifying misdemeanor conviction
 - 768 (3%) were prohibited per the conditions of their probation.
- **Firearms Recovered:** In 2022, DOJ recovered 1,437 firearms. Of these, 916 (64%) were firearms identified in the APPS database and 521 (36%) were non-APPS firearms. Non-APPS firearms are those not known to be associated with the prohibited person but are found in that person's possession.
- **Investigated Individuals:** In 2022, DOJ investigated approximately 7,946 individuals who were identified as armed and prohibited persons in the APPS database.
- **Ammunition Denials:** In 2022, DOJ received reports of 194 armed and prohibited individuals who attempted to purchase ammunition and were denied. Agents and Crime Analysts investigated and closed 141 of these denial cases. The remainder of the denials remain under investigation.

Recommendations

After conducting an examination of the APPS program, DOJ recommends the following steps to improve the removal of firearms from prohibited persons:

- 1. Automatic Removal Post-Conviction:** Permanently fund the mandate that courts, through probation departments, and law enforcement agencies confiscate or enforce the transfer or legal storage of known firearms from individuals at the time of conviction when an individual becomes prohibited due to a felony or qualifying misdemeanor conviction.
 - *Reason for recommendation:* California Penal Code section 29810, describes the role of County courts in the post-conviction relinquishment process. Under this section, if a registered firearm owner is found guilty of a prohibiting crime and fails to relinquish the registered firearm, the courts must assign a probation officer to ensure the firearm is relinquished. However, local governments often lack the necessary resources to do so. Consequently, many individuals found guilty of a prohibiting crime to illegally own guns after their conviction. To aid in this effort, the California Legislature allocated \$40,000,000 to the Judicial Council in the 2022 budget to support a court-based firearm relinquishment program. This program was established “to ensure the consistent and safe removal of firearms from individuals who become prohibited from owning or possessing firearms and ammunition pursuant to court order” (AB 178, 2022 Biennium, 2022 Reg. Sess. (Cal. 2022)). This new grant represents a promising step toward alleviating DOJ’s APPS workload and minimizing the threat posed by prohibited persons.

- 2. Automatic Removal Post-Restraining Order:** Develop and fund a statewide, county-level firearm confiscation system for prohibitions that do not result from conviction of a state criminal charge. Firearms should be confiscated from an individual at the time they are served with any type of restraining order. Existing law requires that these firearms seizures must be documented in the Automated Firearms System (AFS). These entries into AFS would prevent unnecessary, duplicative efforts by DOJ and potentially other agencies.
 - *Reason for recommendation:* Law enforcement agencies (LEAs) are required to confiscate firearms from individuals immediately after they are issued a restraining order. However, a lack of accessible county-level data sometimes impedes their ability to identify and take action at the local level. A new county-level data system would empower localities to confiscate firearms from prohibited persons who pose a threat to their communities.

- 3. Increase the Budget to Expand Coordinated Efforts with LEAs:** Increase the budget to create joint local-state task forces with and under the direction of DOJ. With additional funding, DOJ could create these Joint Task Forces and improve local LEA’s reporting of firearms in their custody into the AFS. To further encourage participation, expand DOJ’s previous Gun Violence Reduction Program (GVRP) funding eligibility beyond sheriff’s offices to include other agencies tasked with firearm relinquishment, such as municipal law enforcement agencies and probation departments. Require and enforce that all GVRP awardees report on their annual progress to DOJ by January 15.
 - *Reason for recommendation:* The success of DOJ’s existing Gun Violence Task Forces, such as Contra Costa County Anti-Violence Support Effort Task Force (CASE) and the Tulare County Regional Gang Enforcement Team (TARGET), illustrates that joint task forces yield exceptionally high rates of case closures and provide needed training to LEAs. Expanding this best-practice solution across the state could have a profound impact on the APPS program. While the program has shown promising ability to reduce the number of prohibited individuals within their jurisdiction, some

GVRP participants fail to promptly send the statistics included in the “Gun Violence Reduction Program” section of this report, impeding DOJ’s ability to accurately assess their progress.

4. Move Toward Competitive Salaries: Improve the recruitment and retention of DOJ sworn personnel by offering compensation competitive with other LEAs.

- *Reason for recommendation:* Despite a 12% pay increase that took effect in September 2021, Special Agent pay at DOJ has not reached parity with comparable positions statewide. Consequently, DOJ struggles to recruit and retain qualified Special Agents.

5. Modernize the Database: Continue with the modernization process of the existing firearms databases.

- *Reason for recommendation:* Funding for Stages 1 and 2 of the modernization projects have been secured. However, additional resources will be required to fund Stages 3 and 4.

DOJ has proactively made efforts to implement four of the five recommendations outlined above. DOJ has (1) expanded its recruitment efforts and lowered vacancy rates by hiring Special Agent Trainees and recruiting new Special Agents with law enforcement experience from state and local law enforcement agencies; (2) worked diligently to create partnerships with local LEAs; (3) created partnerships and worked cases with federal LEAs; and (4) continued to provide data to IT professionals to make progress in the multi-year firearms database modernization project. However, fully implementing the remaining recommendations will require legislative support and additional resources. Further explanation of these recommendations can be found on page 33.

ANNUAL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE

The APPS and Legislative Reporting Requirements

This report presents a statistical summary of the Armed and Prohibited Persons (APPS) database, as mandated by SB 94, for the period of January 1, 2022 to December 31, 2022. The report also contains additional in-depth analyses of data through the history of the APPS database and statistics to contextualize the APPS database — particularly in light of the unprecedented COVID-19 pandemic — and the workload that flows in and out of that system.²

Penal Code section 30000, subdivision (a) requires DOJ to maintain a “Armed and Prohibited Persons System.” This file is generated from the larger APPS database, which records all known firearm owners in California. The system also monitors various other databases for prohibiting triggering events (PTE), such as a felony conviction or an active restraining order, to identify those persons within the system who are both armed and prohibited. The APPS program was created by legislation passed in 2001 (SB 950, Stat. 2001, ch. 944), then implemented in December 2006.

In 2013, the California Legislature passed SB 140, which appropriated \$24 million over a three-year period to DOJ to address the growing number of records in APPS. Additionally, SB 140 required DOJ to submit annual reports detailing the progress made in reducing the backlog.

The APPS reporting provisions as outlined in SB 140 expired on March 1, 2019. In 2019, the legislature passed SB 94, which provided updated requirements regarding the mandated reporting of the APPS database statistics. Prior to the passage of SB 94, DOJ communicated to the DOF that it did not have the technological capability to report on the new metrics required by SB 94 and would need funding to begin the planning analysis necessary to develop a system that could report on such metrics. Regardless, the new provisions went into effect on June 27, 2019, and are codified in Penal Code section 30012.

See Appendix B for additional legislative history relative to the APPS database.

Overview of the Mandated Categories for Statistical Reporting

Pursuant to Penal Code section 30012, no later than April 1, 2020, and no later than April 1 of each year thereafter, DOJ must report annually to the Joint Legislative Budget Committee the following information for the immediately preceding calendar year:

(1) The total number of individuals in the Armed and Prohibited Persons System (APPS) and the number of cases that are active and pending, as follows:

(A)(i) For active cases, DOJ shall report the status of each case for which DOJ has initiated an investigation. This information shall include, at a minimum, the number of cases that have not been actively investigated for 12 months or longer, along with a breakdown of the time period that has elapsed since a case was added to the system.

(ii) For purposes of this paragraph, “investigation” means any work conducted by sworn or non-sworn staff to determine whether a prohibited person possesses one or more firearms,

2 This report will use terms specific to the subject matter at hand. See Appendix A for the Relevant Key Terms and Definitions.

whether to remove the person from the database, or whether to shift the person to the pending caseload.

(B) For pending cases, DOJ shall separately report the number of cases that are unable to be cleared, unable to be located, related to out-of-state individuals, related to only federal firearms prohibitions, and related to incarcerated individuals.

(2) The number of individuals added to the APPS database.

(3) The number of individuals removed from the APPS database, including a breakdown of the basis on which they were removed. At a minimum, this information shall separately report those cases that were removed because the individual is deceased, had prohibitions expire or removed, or had their cases resolved as a result of department firearm seizure activities.

(4) The degree to which the backlog in the APPS has been reduced or eliminated. For purposes of this section, “backlog” means the number of cases for which DOJ did not initiate an investigation within six months of the case being added to the APPS or has not completed investigatory work within six months of initiating an investigation on the case.

(5) The number of individuals in the APPS before and after the relevant reporting period, including a breakdown of why each individual in the APPS is prohibited from possessing a firearm.

(6) The number of agents and other staff hired for enforcement of the APPS.

(7) The number of firearms recovered due to enforcement of the APPS.

(8) The number of contacts made during the APPS enforcement efforts.

(9) Information regarding task forces or collaboration with local law enforcement on reducing the APPS file or backlog.

This report serves two functions: (1) it addresses the SB 94 mandated reporting; and (2) it provides a comprehensive assessment of the APPS database and DOJ’s related enforcement activities.³ DOJ undertook this comprehensive assessment by: (1) analyzing historical information such as audit files of APPS data; (2) examining the APPS caseloads and workflow for the immediately preceding calendar year; and (3) reviewing other administrative information.

Overview of the APPS Database

The APPS database contains information on firearms either legally acquired or registered in California and the owners of those firearms. Consistent with legislative mandates, the database is the result of records and information originating in the Dealer Record of Sale (DROS) database and the AFS database. Combined, those records represent all individuals who purchased or transferred firearms legally and all known firearms associated with each individual.

Individuals are entered into the APPS database when they legally purchase or acquire a firearm. They are moved to the Armed and Prohibited Persons System within the database if they become prohibited. Prohibited persons are identified by running daily manual queries of the databases that cross-reference the population of known firearm owners against individuals who may have had a prohibiting triggering event (PTE) within the past 24 hours. New individuals are added daily, creating a constantly changing and growing dataset.

3 See Appendix C for a brief overview of the mandated statistical requirements.

Armed and prohibited individuals are the primary focus of DOJ's enforcement efforts. However, they are a subset representing less than 1% of the APPS database. As of January 1, 2023, there were 3,347,221 known firearm owners in the APPS database, of which 23,869 are prohibited from owning or possessing firearms in the Armed and Prohibited Persons System. In order for DOJ to identify those armed and prohibited individuals, DOJ must first identify individuals who have legally acquired a firearm(s) and then identify which of those individuals are also prohibited due to a PTE.

From 2013 and 2022,⁴ changing laws have introduced new offenses that prohibit firearm ownership and/or possession, placing a growing number of individuals into the Armed and Prohibited Persons System. Other factors such as ammunition eligibility checks, mandatory assault weapon registration, and increased firearm sales have also contributed to the surge of identified prohibited individuals. Prohibitions may be due to a felony conviction, domestic violence conviction, a qualifying misdemeanor conviction, mental health-based event, various types of civil or criminal restraining orders, and other prohibitory categories. See Appendix E for firearm prohibiting categories.

Within the Armed and Prohibited Persons System, cases are separated into two broad categories of "Active" and "Pending."

Active cases have not yet been investigated or are in the process of being investigated, but all investigative leads have not yet been exhausted.

Pending cases have been thoroughly analyzed and all investigative leads were exhausted. For a detailed definition of the "pending category" please see Appendix A, Relevant Key Terms and Definitions.

1. **Unable to Clear:** Cases that have been investigated by the Department's agents who have exhausted all investigative leads and remain unable to recover all firearms associated with the prohibited individual. If new information is identified, the case will be moved to Active status.
2. **Unable to Locate:** Cases where the Department's agents have made at least three attempts to contact the individual but have not been able to locate them, even after exhausting all leads.
3. **Out-of-State:** Cases where the Department's agents have determined that the prohibited person is no longer living in California.
4. **Federal Gun Control Act (Federal Brady Act Prohibition Only):** Cases where a person is prohibited only under federal law. State, county, and municipal law enforcement have no authority to enforce a prohibition based only on the Federal Brady Act. Persons who have both a statewide and federal prohibition are not listed in this group.
5. **Incarcerated:** Cases involving incarcerated individuals remain on the Pending list, but the Department still tracks and monitors them. Once released, they are moved to Active status.

DOJ regularly verifies new or updated information on all Pending cases. If additional information becomes available on an APPS case in Pending status (e.g., the firearm(s) associated with the APPS individual are located, records indicate a new address for the individual, or the individual is released from incarceration), the case is evaluated and transitioned back into the Active status.

The current system includes 11 databases that do not communicate with one another or may only have one-way communication with another firearms database.⁵ This requires a Crime Analyst to manually cross-reference records from one database to another while working to compile an individual package for investigation.

⁴ See Appendix B for a legislative history as related to APPS

⁵ See Appendix D for a relational diagram of DOJ's firearms databases.

Of the 11 databases, only five databases feed into the APPS database for firearm association and prohibition determinations. These databases include:

1. **Automated Criminal History System (ACHS):** Established in 1971, ACHS is the repository for state summary Criminal Offender Record Information (CORI).
2. **Wanted Persons System (WPS):** Established in 1971 as the first online system for the Department, WPS is a statewide computerized file of fugitives for whom arrest warrants have been issued.
3. **Automated Firearms System (AFS):** Created in 1980 to identify lost or stolen firearms and to associate firearms with individuals. AFS tracks the serial number of every firearm owned by government agencies, handled by law enforcement (seized, destroyed, held in evidence, reported stolen, recovered), voluntarily recorded, or handled by a firearms dealer through transactions. Prior to 2014, most entries in AFS were handguns. Since January 1, 2014, all new legally acquired firearms, both handguns and long guns, are entered into AFS.
4. **California Restraining and Protective Order System (CARPOS):** Created in 1991, CARPOS is a statewide database of individuals subject to restraining and protective orders. This system includes Domestic Violence Restraining Orders (DVRO), Gun Violence Restraining Orders (GVRO), and other types of restraining and protective orders.
5. **Mental Health Reporting System (MHRS):** Established in 2012, MHRS is a web-based application used by Mental Health Facilities, Superior Courts, Juvenile Courts, and LEAs to report firearm prohibiting events related to mental health to DOJ.

The APPS database is not an automated system that cross-references all firearms databases; therefore, prior to creating a complete case package for investigation, Crime Analysts must manually cross-check multiple additional databases. The system is extremely cumbersome to operate. When a user retrieves a single case, all information must be verified prior to action taken by agents. Such verification starts with confirming the individual's name, birth date, and driver's license number match across all systems. Then, using the Law Enforcement Agency Web (LEAWEB), the Crime Analyst will run a multiple query using the individual's driver's license number. LEAWEB is a California unique database that queries some of California's databases, including CARPOS, AFS, ACHS, MHRS, WPS, and the Supervised Release Files, as well as the databases of the California Department of Motor Vehicles (DMV). Each case is highly variable, and the circumstances and information pertinent to each case will determine how a Crime Analyst conducts their research. For example, an individual can be prohibited under multiple categories; the prohibiting category determines which databases a Crime Analyst must use to verify the prohibition is still current and that the case is workable by agents.

Firearms Information Technology Systems Modernization (FITSM) Project

DOJ initiated the FITSM in June 2020. Currently, the project is in Stage 2, the Alternative Analysis Planning stage. The project is conducting an analysis of all firearm business processes and supporting systems. This includes market research to ultimately determine a modern solution and the timeline for the implementation of the new firearms systems. DOJ's target submission of the Stage 2 Alternatives Analysis to the California Department of Technology for review and approval is scheduled for March 2023, and DOJ plans to select vendors to begin implementation of the FITSM by January 2024. The project is expected to identify many positive solutions to various firearms systems, including the APPS database.

The existing firearms systems utilized by DOJ, LEAs, and other firearm stakeholders lack the modern capabilities DOJ needs to comply with legislative mandates and fulfill its commitment to public safety.

The systems currently in use were built many years ago — dating as far back as 1980 — and have been modified piecemeal over the years in response to various legislative mandates. Each system uses different logic, meaning inputs cannot be easily transferred from one database to another, and modifications cannot be applied across multiple systems. These problems will persist and prevent the kind of automation to enhance efficiency, thus causing increased workloads and missed operational opportunities until DOJ can develop and implement the FITSM solution.

The complexity of the existing firearms systems can be seen even in the most straightforward of circumstances. In the case of an individual who has only one firearm and is prohibited only by one restraining order, the process would be as follows:

1. The Crime Analyst must confirm the restraining order is in effect and that the individual was served by either being present in court or was served by a processor.
2. Once this is verified, the Crime Analyst will try to pull the actual restraining order from an external database, the California Courts Protective Order Registry (CCPOR).
3. CCPOR is meant to be a centralized registry for restraining orders in California; unfortunately, it has not been implemented across all county courts in the state. For courts that do not use CCPOR, DOJ's Crime Analyst must contact the court directly to attempt to obtain a copy of the restraining order. Having an original copy can provide valuable additional information. For example, confirming when, where, and how the restraining order was served; the individual's last known address; and whether the individual has already surrendered their firearm.
4. Assuming the individual is still in possession of their firearm, the Crime Analyst must then pull descriptive information for the firearm associated with the individual and run the serial number of the firearm in the AFS to confirm the individual is still associated with that firearm. The Crime Analyst may also have to establish there are no extenuating circumstances, such as a situation where the individual is no longer in possession of the firearm, but the databases do not reflect the change. This is sometimes caused by a keying error where a serial number is off by one digit, but all other information coincides. A keying error traditionally happens from data entry made by a firearms dealer, by the public via online reporting, or by LEAs that seize firearms. In such circumstances, additional administrative work must be done by DOJ to remove the association of the firearm from the individual.
5. Although LEA WEB queries the DMV, the query does not automatically pull an individual's identification photo or associated vehicles. To obtain this information, the Crime Analyst must perform additional, separate steps to pull relevant information, such as the most recently reported place of residence, from DMV registries.
6. Once all information is confirmed, and assuming the information supports investigative efforts, the package is then ready for agents to conduct enforcement actions.

As noted, this outlined process is for the simplest case possible with one prohibition and one firearm. Most cases involve additional factors such as additional firearms, prohibitions, combined federal and state prohibitions and/or criminal history, which make a case package much more difficult to compile.

Planning efforts for the FITSM project include the replacement and modernization of the existing legacy infrastructure. While funding has been secured to begin Stage 2, which involves an analysis and planning of the required work to complete the effort, future additional funding will be required to begin Stages 3 and 4, to select a vendor and initiate the implementation activities which will bring this project to fruition.

Enforcement Teams

Crime Analysts: Each of the DOJ's Bureau offices has its own team of Special Agents for field operations. DOJ also employs Crime Analysts in each of their six offices throughout the state.⁶ The Crime Analysts access the APPS database daily and develop investigative packages of armed and prohibited people for each team of agents to contact. They are required to crosscheck several databases to confirm addresses, photos, arrest records, and the status of armed and prohibited individuals, among other relevant information. Using their knowledge and expertise, they translate vast amounts of data into actionable information which allows the agents to conduct their investigations efficiently and effectively. The work is time-intensive and requires great attention to detail as errors (typos, accidental variations, incorrect information, etc.) can lead to incorrect decisions or unnecessary investigative contacts. Modernizing the firearms IT systems will allow for greater accuracy, which will bolster the success of investigative operations by ensuring agents and other law enforcement partners are provided the most current information and avoid unnecessary contacts and risk.

Special Agents: Using these investigative packages, Special Agents attempt to locate the firearm(s) associated with each armed and prohibited individual via a consent search, probation or parole search, or a search warrant. Often, the armed and prohibited individual will be in possession of numerous firearms, many of which were not associated with that individual in the APPS database. This could be due to the individual having: long guns purchased before long gun reporting requirements in 2014, firearms loaned to them by another person, firearms imported into California from another state, antique firearms, illegally purchased firearms, ghost guns,⁷ or stolen firearms.

Partnerships with Local Law Enforcement Agencies (LEAs): Improving partnerships with local LEAs will help to improve operation efficiency. Often, agents contact an armed and prohibited individual only to find that local law enforcement has already seized the firearm(s) associated with that individual but neglected to enter the seized firearm into the AFS, as required by Penal Code sections 11108.2 and 11108.3. Entering that information would have removed the individual from the APPS database, allowing DOJ's agents to focus on another case. Currently, DOJ must reach out to the LEAs to request they update the AFS, or ask for the police report to cross-check the firearms seized and match the associated firearms in the APPS database. Unless the information matches and is verified, the individual cannot be removed from the APPS database. In 2023, many APPS investigations conducted by DOJ involved firearms already in local law enforcement custody. The cost of such oversight cannot be recovered, resulting in duplicative efforts by DOJ that reduce efficiency and waste resources. DOJ's proposed plan to increase collaboration would help ensure the timely and accurate input of data by local LEAs in statewide data systems.

Successful models of operations with local law enforcement have been a force multiplier for the APPS program. For instance, the Contra Costa County Anti-Violence Support Effort Task Force (CASE) is a collaboration between various state, local, and federal agencies. CASE conducted 98 firearms-related investigations and confiscated 19 firearms, five of which were APPS firearms.⁸ As outlined in the recommendations, DOJ encourages these types of collaborative partnership operations and relationships with local LEAs.

In an effort to increase these types of successful collaborative efforts, in December 2020, DOJ established management and supervision of the Tulare County Agencies Regional Gun Violence Enforcement Team, also known as the TARGET Task Force. This is a recent addition to DOJ task

6 See Appendix F for a map of the various Bureau regional office jurisdictions

7 Ghost guns are firearms made by an individual or group, without serial numbers or other identifying markings. Without a serial number, law enforcement cannot run a trace search on the firearm and the firearm does not have the legal requirements.

8 For more on the CASE and TARGET task forces, refer to page 26.

force model and supports the value established through previous task force efforts, including the aforementioned CASE Task Force. In 2022, state and local agencies working with TARGET conducted 277 firearms-related investigations and confiscated 149 firearms, 131 of which were APPS firearms. Like CASE, TARGET works collaboratively with local, state, and federal partners to conduct APPS investigations as well as other investigations to reduce gun violence.

Additional funding to expand this task force model would allow DOJ to amplify this collaborative work. DOJ has experienced the positive impact of working with local LEAs, allowing DOJ's agents to conduct more operations and remove additional firearms from prohibited armed persons more efficiently. DOJ stands ready to work with the Legislature and local, state, and federal law enforcement partners to replicate this success across the state.

Mandated Statistics and Analysis

Senate Bill 94 mandates the reporting of specific statistics for each calendar year. As the COVID-19 pandemic affected enforcement actions during 2020 and 2021, any inferences drawn from comparisons to these years should be made with caution. The mandated statistics for the current report include the following:

The Total Number of Individuals in the APPS Database

As of January 1, 2023, the APPS database contained 3,347,221 individuals, of which 23,869⁹ were prohibited from owning or possessing firearms.

Breakdown of the Status of Active APPS Cases

"Active cases" are those involving individuals believed to reside in the state of California, are prohibited from owning or possessing a firearm in the state for one or more reasons, and have not yet been investigated or are in the process of being investigated, but all investigative leads have not yet been exhausted.

Status of the APPS Database Backlog

As outlined above, the statutory mandate described in Penal Code section 30012, subdivision (a)(1)(A) (i) requires DOJ to report "the number of cases that have not been actively investigated for 12 months or longer, along with a breakdown of the time period that has elapsed since a case was added to the system." As stated previously, DOJ alerted DOF prior to the passage of SB 94 that it would be unable to provide these metrics without the necessary funding to update the current firearms databases. While the FITSM project is ongoing, this continues to be the case.

SB 94 defined "backlog" as the number of cases for which DOJ did not initiate an investigation within six months of the case being added to the APPS database or for which it has not completed investigatory work within six months of initiating an investigation on the case. Once DOJ receives full funding to complete the FITSM, the new system will be better able to accommodate reporting on the status of the backlog.

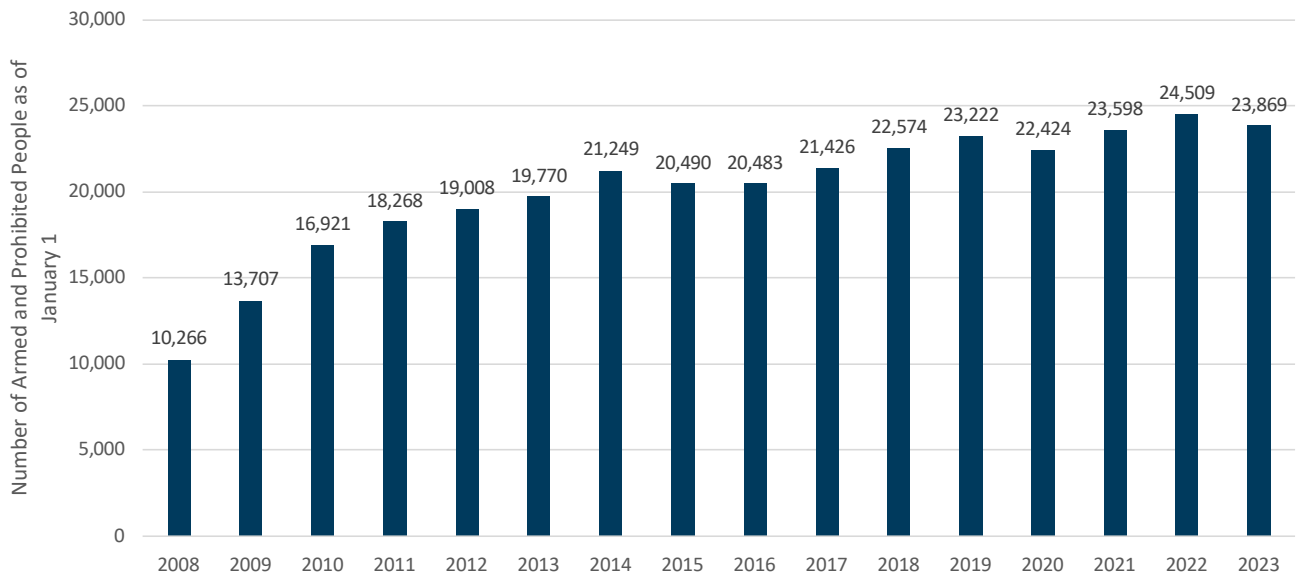
9 This number excludes individuals who are known to own firearms and are prohibited but are also known to be incarcerated for six months or more. While incarcerated individuals are technically in the Pending status, it is assumed that they are not in possession of firearms while in custody and are therefore treated as a separate population. DOJ receives state prison incarceration statuses nightly and individuals released from state custody are moved into the Active status.

Breakdown of Cases in the APPS Database

As of January 1, 2023, the APPS database contained 3,347,221 individuals, of which 23,869 were prohibited from owning or possessing firearms. This latter figure is further subcategorized into Active and Pending cases. “Active” cases are those for which DOJ has not yet begun investigations or is in the process of investigating but has not yet exhausted all investigative leads. “Pending” cases are those investigations that DOJ has thoroughly analyzed and exhausted all investigative leads or determined that the person is not within DOJ’s jurisdiction. As of January 1, 2023, there were 9,294 Active cases and 14,575 Pending cases. In addition to the pending category, there are 1,159 incarcerated individuals. While technically in a pending status, incarcerated individuals represent a unique population that cannot be investigated until released from incarceration and moved to Active status. Therefore, incarcerated individuals are counted separately for the purposes of this report, and are not figured in the Pending case statistics that follow.

Figure 1 shows the number of people in the Armed and Prohibited Persons System within the APPS database each year. The number armed and prohibited persons decreased as of January 1, 2023 in comparison to January 1, 2022. Substantial decreases have only occurred twice previously: between the 2014 and 2015 reporting years, and again between the 2019 and 2020 reporting years (Figure 1. 2015 & 2020). The reason for the overall decrease as of 2023 is potentially due to the reduced severity of the COVID-19 pandemic, increased cooperation with local LEAs through the Gun Violence Reduction Program (GVRP), and APPS enforcement sweeps during the year. APPS enforcement sweeps are multi-day operations in which DOJ works together with allied LEAs in a certain jurisdiction of the state. For more information on APPS enforcement sweeps, please see page 28 of this report.

Figure 1. The number of prohibited people in the APPS database as of January 1 each year



Breakdown of the Status of Pending APPS Cases

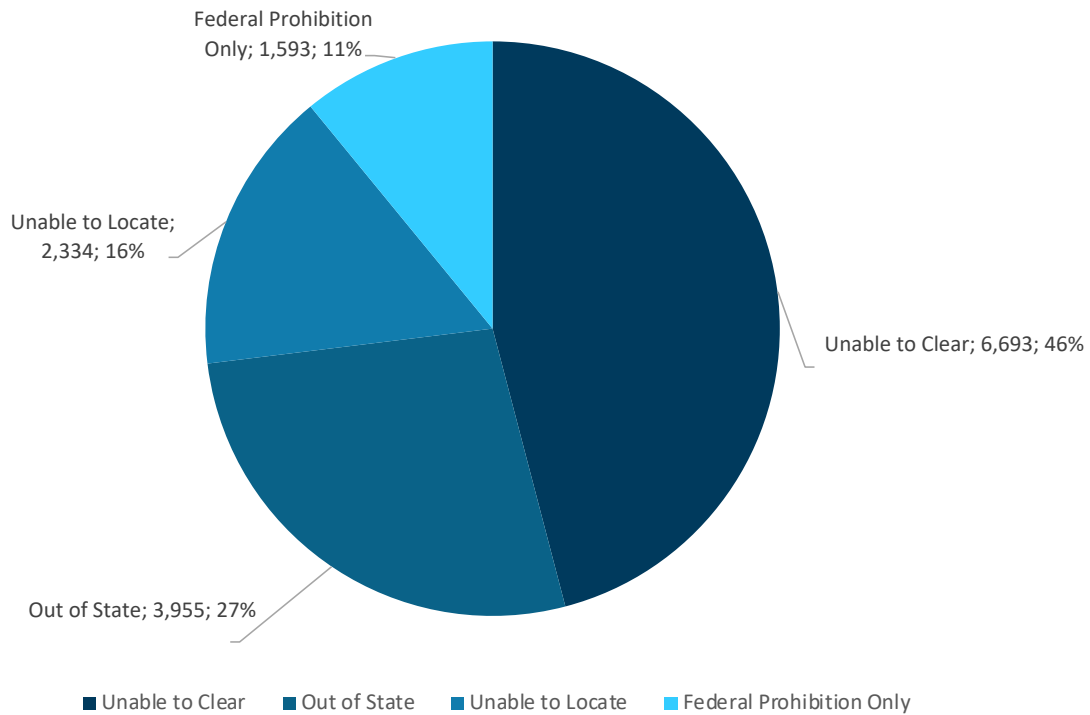
Prohibited individuals in the APPS database may be assigned a Pending status for one of four reasons:

- 1. Unable to Clear (UTC):** The prohibited person has been investigated and all leads have been exhausted, but agents have been unable to disassociate the individual from all known firearms.

2. **Unable to Locate (UTL):** Agents have made at least three attempts to contact the prohibited individual but have not been able to locate them, even after exhausting all leads.
3. **Out of State:** The prohibited individual has moved out of California.
4. **Federal Brady Act Prohibition Only:** The prohibited individual is prohibited due to a Federal Brady Act prohibition (18 U.S.C. §§ 921, 922) alone and DOJ does not have the jurisdiction to investigate them.

Of the 14,575 Pending cases, 6,693 (46%) were unable to be cleared, 2,334 (16%) were unable to be located, 3,955 (27%) moved out of state, and 1,593 (11%) were prohibited under Federal Brady Act prohibitions only (Figure 2).

Figure 2. Pending APPS cases separated by category as of January 1, 2023



Breakdown of the Number of Individuals Removed from the APPS Database

In 2022, 9,917 armed and prohibited people were removed from the APPS database. Removals from the Armed and Prohibited Persons System occur for one of three reasons:

1. **Prohibition Expired:** An individual’s prohibition expired, which could result from the expiration of restraining orders, the end of a 10-year prohibition that resulted from a qualifying misdemeanor conviction, or the end of a 5-year prohibition that resulted from a mental health event.
2. **Disassociated from All Known Firearms:** The prohibited person has all of their known firearms disassociated from them, meaning each firearm attributed to them within the APPS database has been accounted for by DOJ and disassociated from the prohibited person.
3. **Deceased:** The prohibited person is deceased.

Table 1. Individuals removed from the APPS database in 2022 separated by reasons for removal

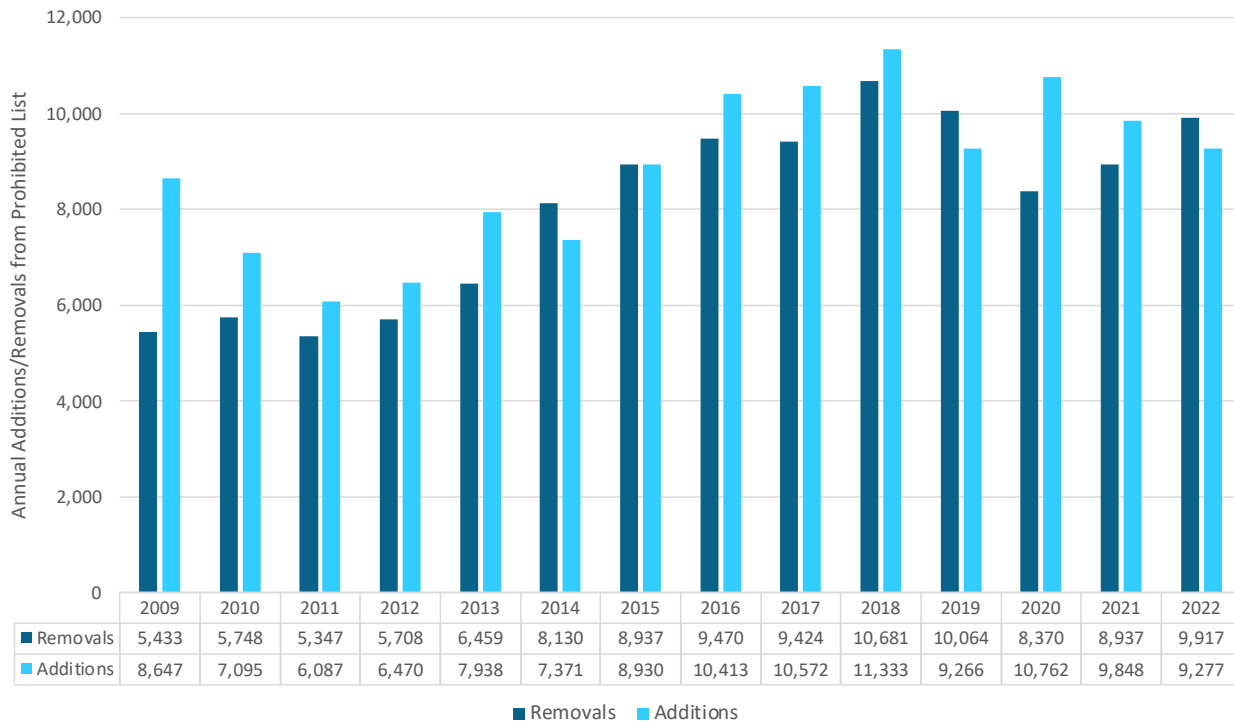
Reason for Removal	Number of Individuals Removed
Prohibition expired/no longer prohibited	5,940
Disassociated from all known firearms	3,598
Deceased	379

If DOJ is unable to locate the prohibited person or disassociate all known firearms from the prohibited person, despite having exhausted all leads, DOJ cannot remove the individual from the APPS database and must instead assign them to the Pending category. This often results from the inherent difficulty of confiscating firearms from individuals who are unwilling to surrender their firearms regardless of their prohibited status.

Of the 9,917 prohibited people removed from the APPS database this year, 3,598 removals were the result of enforcement efforts¹⁰ – 377 more removals compared to 2021, an increase of almost 12%. The monthly average number of individuals disassociated from their known firearms was approximately 300, with a standard deviation of approximately 41 individuals from month to month.

Agents removed a higher number of prohibited individuals in the first half of the year, with an average of 311 removals per month from January through June, compared to an average 289 removals per month from July through December. The most productive month was March, with 375 prohibited individuals disassociated from all known firearms.

Figure 3. The yearly removals and additions from the APPS list as of January 1, 2023



10 Note that not all 3,598 individuals who were disassociated from their firearms resulted in firearm seizures by DOJ. In some cases, DOJ investigations determined that local law enforcement agencies already seized the firearms but failed to record the recovery, the individual attempted to report the firearm lost/stolen, or the individual is in the process of lawfully selling or gifting the firearm to a friend or relative. For a breakdown of prohibition categories as a percentage of prohibited people see Figure 4 below.

DOJ has experienced an increase in the past few years of prohibited individuals with Gun Violence Restraining Orders (GVROs) being entered into the APPS database. In 2016, with the implementation of Assembly Bill (AB) 1014, California became one of the first states to enact a red flag law. The law initially allowed law enforcement officers and family members of a person they believed was a danger to themselves or others to petition the court to prohibit that person from possessing firearms under a GVRO. In 2020, Assembly Bill (AB) 61 expanded authorization to petition the court for a GVRO to employers, coworkers, and school employees.

GVROs assist LEAs in recovering firearms from individuals who have shown a probability to commit violence with a firearm or to prevent those individuals from obtaining firearms. DOJ GVROs are a critical tool that saves lives, and DOJ prioritizes GVRO-related APPS subjects for investigation. LEAs are increasingly implementing GVROs as they recognize the positive impact on public safety. DOJ applauds these efforts to enhance public safety through the GVRO process.

DOJ improved the method of calculation and developed a new, more accurate method of determining the number of prohibited individuals with restraining orders whose prohibitions expired in 2022¹¹. The new method uses audit dates to track individuals' statuses as they change in the APPS database. This allows for a more accurate count of people who remain within the system.

Of the 3,598 individuals who were disassociated from all known firearms in 2022, 2,047 (57%) were prohibited, at least in part, due to restraining orders. Meanwhile, of the 5,940 people who had their prohibitions expire in 2022, 4,065 (68%) individuals were prohibited, at least in part, due to restraining orders. Similarly, of the 379 people who became deceased in 2022, 51 (13%) were prohibited, at least in part, due to restraining orders.

As of January 1, 2023, 1,449 (10%) people who were prohibited due to restraining orders were designated "Pending" in comparison to the 2,047 (57%) people prohibited due to restraining orders who were disassociated with all known firearms. The data suggests that if individuals' firearms were disassociated at the time of them being served a restraining order, DOJ may be able to fully disassociate firearms from a significant proportion of the 4,065 individuals whose restraining orders expired in 2022.

The Number of People in the APPS Database Before and After the Relevant Reporting Period

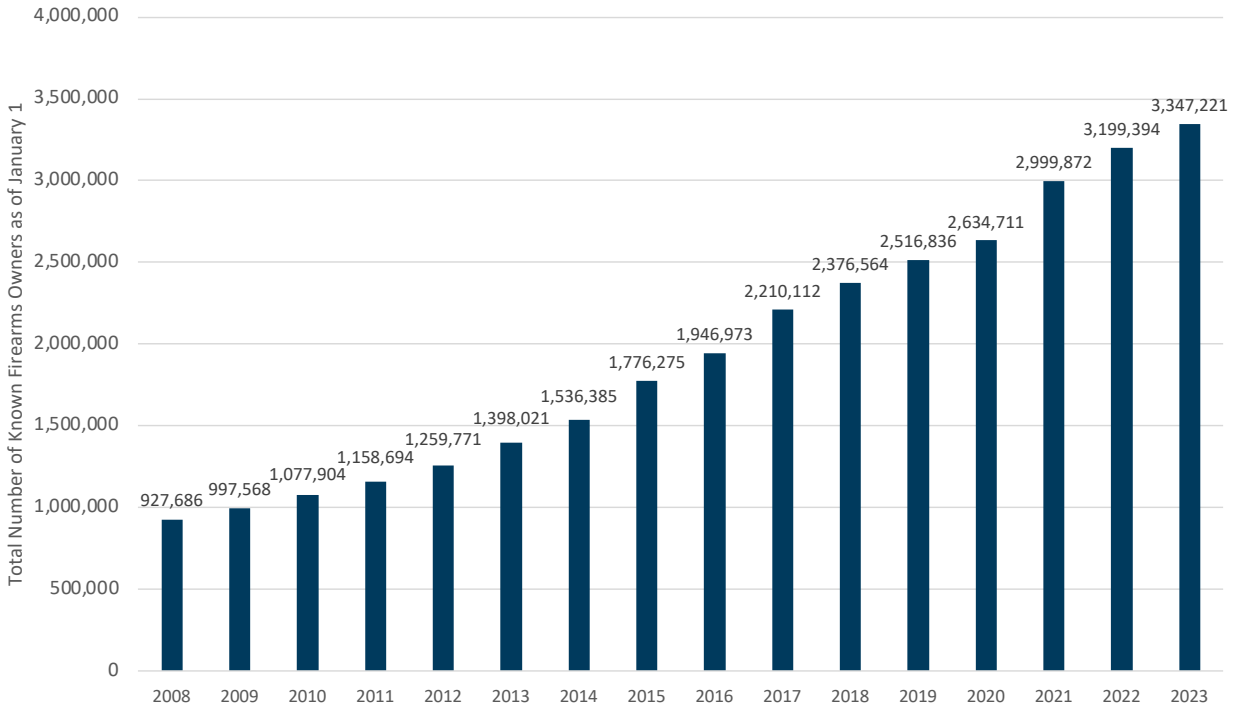
The relevant reporting period runs from January 1, 2022 through December 31, 2022. The APPS database is a compiled list of all individuals who legally purchased or were transferred a firearm in California. It further categorizes individuals as either persons armed but not prohibited, persons armed and prohibited, or persons incarcerated and known to have possessed a firearm prior to incarceration. To account for late additions or removals from the system, the state of the APPS database was analyzed as of 1:30 a.m. Pacific Standard Time on January 1, 2023. At that time, the APPS database system contained 3,347,221 individuals, including 3,322,193 armed and not prohibited individuals, 23,869 armed and prohibited individuals, and 1,159 incarcerated individuals

The number of people in the APPS database grew by 147,827 in 2022. In other words, 147,827 individuals became registered firearm owners living in California at some point during 2022, either through purchasing a firearm or reporting a firearm in their possession. This number does not reflect existing firearm owners who acquired new firearms in 2022. The addition of 147,827 to the APPS database represents the median increase between 2019 and 2022. That annual growth is slightly lower than the average annual increase of the last five years, which was 194,131. The APPS database is highly

11 The new method uses audit dates to track individuals' statuses as they change in the APPS database. This allows for a more accurate count of people who remain within the system.

dynamic, and newly armed and prohibited people continue to be added as many others are removed. This increase represents both prohibited and non-prohibited persons in the APPS database.

Figure 4. The total number of people in the APPS database per year



Breakdown of Why Each Person in the APPS Database is Prohibited from Possession of a Firearm

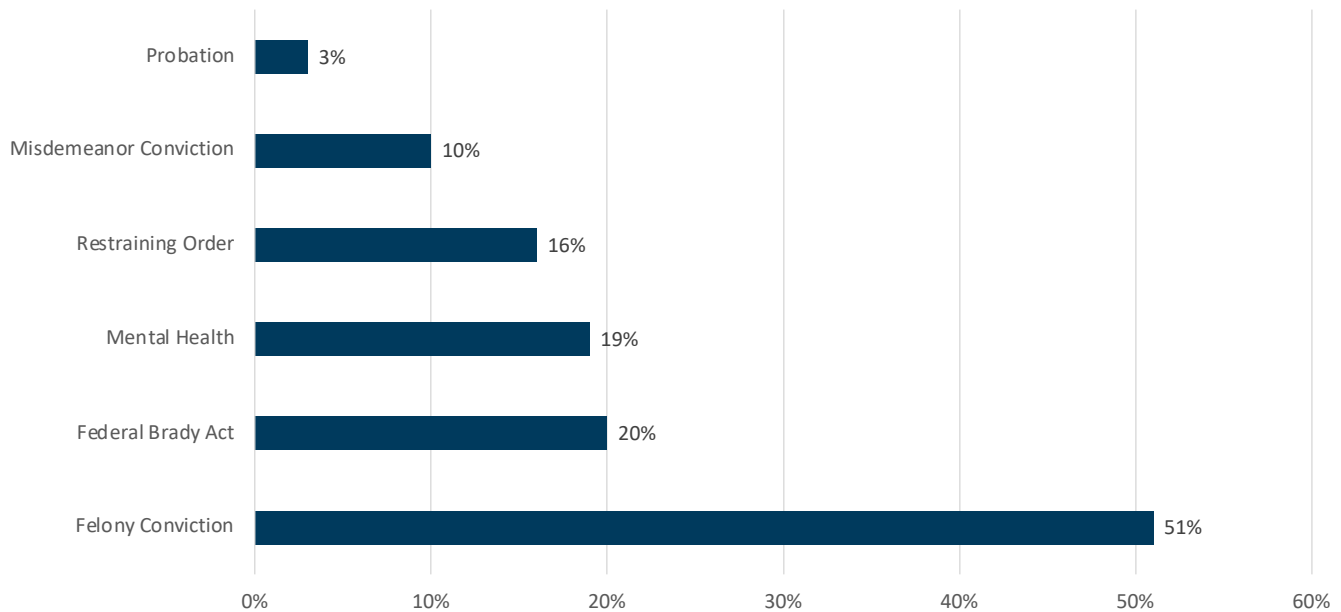
Persons become prohibited in the APPS database for several reasons. The following categories are the typical events, or PTEs, which can trigger a firearm prohibition.

- An individual may become prohibited under the Federal Brady Act. Note, some individuals prohibited under the Federal Brady Act may not be prohibited under California state law (e.g., a dishonorable discharge in the military).
- An individual may be prohibited from owning or possessing a firearm as a condition of their probation.
- Individuals with felony convictions are prohibited from owning firearms.
- A juvenile who becomes a ward of the court may be prohibited.
- Mental health crises involving involuntary commitment may trigger a temporary prohibition.
- Some misdemeanor convictions may prohibit owning a firearm.
- Individuals may be temporarily prohibited due to restraining orders.
- Individuals may be temporarily prohibited due to a felony warrant.
- Individuals may be temporarily prohibited due to a misdemeanor warrant.
- Individuals may be prohibited due to offenses or triggering events occurring in other states.

Many individuals are prohibited under several categories (Figure 5). The following is a breakdown by category as of January 1, 2023:

- 12,745 people prohibited due to a felony conviction, representing 51% of all active, pending, and incarcerated individuals in APPS.
- 4,985 (20%) are prohibited due to the Federal Brady Act¹²
- 4,099 (16%) prohibited due to restraining orders
- 4,837 (19%) prohibited due to mental health prohibitions
- 2,415 (10%) prohibited due to a qualifying misdemeanor conviction
- 768 (3%) prohibited due to terms of their probation
- 361 (1%) prohibited due to a felony warrant
- 118 (<1%) prohibited due to misdemeanor warrants
- 12 (<1%) prohibited due to juvenile prohibitions
- 52 (<1%) prohibited due to other reasons.¹³

Figure 5. Prohibition categories as a percentage of prohibited people¹⁴



The distribution among these categories is largely consistent with that in 2021. Overall, the categories with the greatest change between 2021 and 2022 were: probation prohibition, accounting for 2% fewer prohibitions than in 2021; restraining orders, which accounted for 3% fewer prohibitions than in 2021; and felony convictions, which accounted for 1% more prohibitions than in 2021. All other categories,

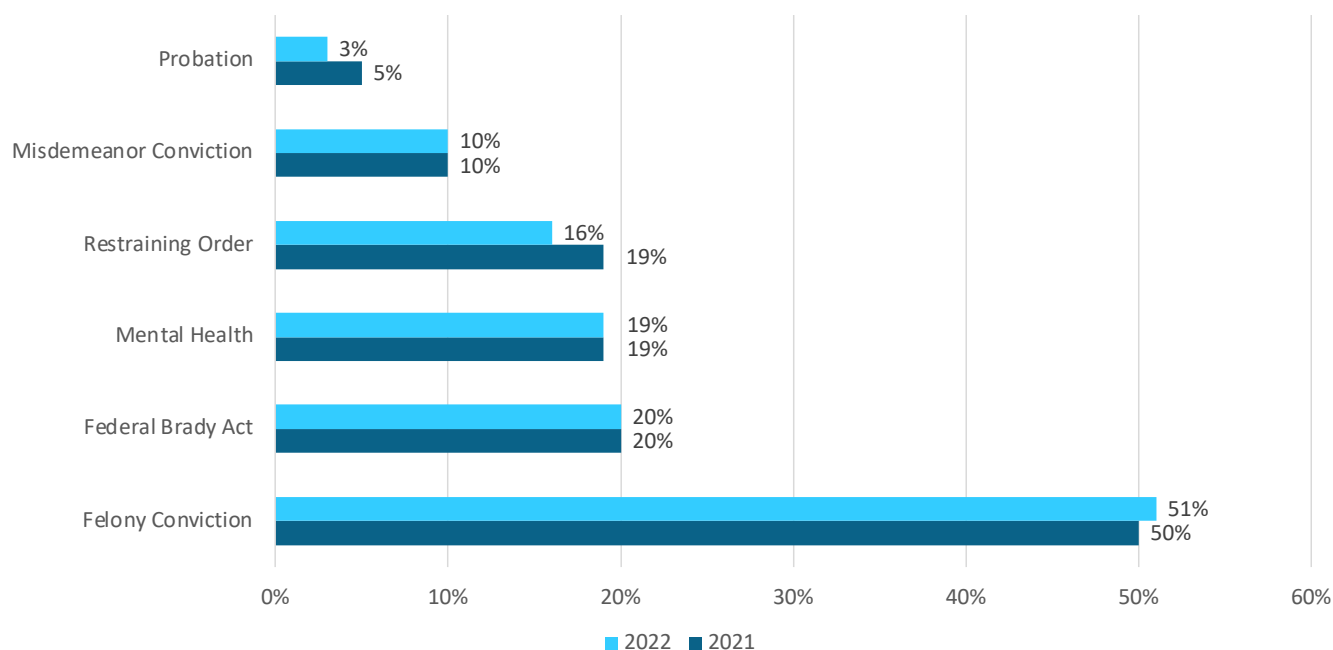
12 This figure includes individuals who may be prohibited under more than one category, including a Federal Brady Act prohibition. These are not solely Federal Brady Act cases.

13 See Appendix E for a list of Firearm Prohibiting Categories.

14 Many cases have more than one prohibition, which is why these numbers do not equal 100%.

including misdemeanors, felonies, mental health, and federal prohibitions remained unchanged. See Figure 6 for a complete comparison¹⁵.

Figure 6. Prohibition categories as a percentage of prohibited people in 2021 and 2022



Number of Agents and Other Staff Hired for Enforcement of the APPS

As of January 1 2022, DOJ had 76 authorized permanent Special Agent Trainee, Special Agent, Special Agent Supervisor and Special Agent in Charge positions. Of those positions, 53 were filled and 23 were vacant. By December 2022, DOJ continued to have 76 authorized permanent positions, of which 64 were filled and 13 were vacant. As Table 2 shows, the number of filled and vacant positions fluctuates throughout the year, reflecting the quick turnover rate of these positions. This illustrates DOJ’s challenges hiring and retaining agents, despite having authorized positions to fill. In an effort to address the ongoing challenges with staffing, specifically recruitment at the Special Agent and Special Agent Supervisor classifications, DOJ has continued recruiting Special Agent Trainees. While this approach may ultimately benefit DOJ by increasing the total number of Special Agents, it can be challenging in the short term due to the time and resources required to educate and train a Special Agent Trainee to perform at the level of a Special Agent.

In December 2021, DOJ had 36 filled Special Agent positions (not including Special Agent Trainees). In 2022, DOJ hired seven Special Agents and 10 Special Agent Trainees. Four sworn personnel left DOJ due to inter-departmental transfers and/or promotions, and one Special Agent was promoted from within DOJ to a Special Agent Supervisor.¹⁶ Due to the unique demands placed on APPS team members, Special Agent Trainees are required to meet high standards before promotion to Special Agent. While these high standards ensure a competent and seasoned task force, they present an obstacle for recruitment and retention. For example, between January 1, 2022, and December 1, 2022, there was a decrease of nine authorized Special Agent Trainees. In order to fill these positions while maintaining the high standards

15 Percentages for the Felony Conviction, Federal Brady, Restraining Order, and Probation categories were misprinted in the 2021 report. Their correct percentages are reported in Figure 5 above.

16 Agent staffing temporarily fell in 2022, as the Department’s Division of Law Enforcement took on significant, additional statutorily-mandated workload.

for training, DOJ temporarily reclassified several “Special Agent” positions to “Special Agent Trainee” positions while the current agents finish their trainings.¹⁷

A number of enforcement support staff assist Special Agents; these individuals are a significant asset to DOJ. In 2022, three support staff separated from the enforcement teams. DOJ is actively recruiting to fill these positions.

The fluctuation in Special Agent staffing levels due to transfers and promotions affected the quantity of agents able to initiate and complete enforcement work in 2022.

Table 2: DOJ authorized positions for the relevant reporting period

Bureau Positions	1/1/2022			7/1/2022			1/1/2023		
	Filled	Vacant	Total Authorized	Filled	Vacant	Total Authorized	Filled	Vacant	Total Authorized
Special Agent	36	19	55	34	15	49	35	13	48
Special Agent Supervisor	14	1	15	15	0	15	12	3	15
Special Agent-in-Charge	2	1	3	2	1	3	2	1	3
Special Agent Trainee	1	2	3	8	1	9	9	1	10
Total	53	23	76	59	17	76	58	18	76

DOJ expects it will continue to face challenges in recruiting Special Agents as long as its compensation is not competitive with compensation packages offered by other LEAs.

While the 12% pay increase for Special Agents that went into effect on September 1, 2021, was a step in the right direction, Special Agent monthly base salary at DOJ continues to lag behind comparable positions at other LEAs.

Although DOJ had five retirements of sworn personnel in 2022, it expects in forthcoming years the Division of Law Enforcement (which includes DOJ), will face a substantial staffing shortfall as a result of projected retirements (see Table 3).

¹⁷ Due to AB 2699, DOJ was given one additional Special Agent position to investigate illegal firearms transactions.

Table 3: Projection of Retirement Eligibility within the Division of Law Enforcement¹⁸

Division of Law Enforcement - SA/SAS/SAC Retirement Eligible Counts			
Fiscal Year	Classification	Employees Eligible to Retire	Cumulative Fiscal Year Total
21-22	Special Agent	12	20
	Special Agent Supervisor	6	
	Special Agent in Charge	2	
22-23	Special Agent	16	26
	Special Agent Supervisor	8	
	Special Agent in Charge	2	
23-24	Special Agent	21	37
	Special Agent Supervisor	9	
	Special Agent in Charge	7	
24-25	Special Agent	25	47
	Special Agent Supervisor	15	
	Special Agent in Charge	7	
25-26	Special Agent	27	54
	Special Agent Supervisor	20	
	Special Agent in Charge	7	
26-27	Special Agent	36	67
	Special Agent Supervisor	24	
	Special Agent in Charge	7	

Until salaries are increased to competitive levels, either through additional amendments to bargaining unit contracts or by way of another change, as requested in the “Recommendations” section, DOJ can expect to continue to face challenges recruiting agents to fill DOJ’s authorized positions.

Number of Contacts Made During APPS Enforcement Efforts

DOJ’s agents and Crime Analysts are continuously working to research and develop viable APPS investigations to determine which leads will potentially provide the greatest possible number of positive results. Cases are pursued until all investigative leads are exhausted. Individuals are then either: (1) disassociated from all of their firearms and removed from the APPS database; or (2) moved to the Pending category due to the existence of no further leads and are labeled “unable to clear.”

During the course of an investigation, Bureau agents may need to make repeated contacts with a prohibited individual to close a case. These repeated contacts occur because the APPS individual may (1) not be home at the time of the initial contact; (2) have moved and failed to update their address with the DMV; (3) have moved out of state; (4) claim the firearm(s) was already seized by local law enforcement or has been reported as lost or stolen; (5) be uncooperative and not forthcoming with

18 The data in Table 3 was provided on January 30, 2023 by DOJ’s Office of Human Resources Data Analytics Unit and is based on vacancies and headcounts as of January 30 2023. The projected cumulative fiscal year totals increase each year as additional employees become retirement eligible, and the projection assumes the prior years’ employees have not yet retired.

information about the firearm(s), requiring further interviews and contacts; and (6) claim to have given their firearm(s) to another person outside of the legal firearms transfer process, requiring agents to track down the firearm(s) and/or verify the provided information.

In total, agents made nearly 24,000 contacts in 2022. With an average of 35 Special Agents (not including supervisors or agents in training) employed during 2022, which represents an average of 57 contacts per month per agent.¹⁹ Overall, the monthly average number of contacts per agent in 2022 remained comparable to 2021. As in previous years, agents required an average of three separate contacts, which consisted of in-person interviews, to close one APPS case.

Special Agent Supervisors are not included in these calculations because, although supervisors are involved in all field operations, their work focuses on being vigilant and available to make quick decisions for the safety of the team. Agents in training are likewise not included in these calculations because they accompany special agents during investigations. In the course of an investigation, special agents take the lead on investigations and contacts. Supervisors ensure their teams adhere to Department policy, follow officer safety protocols, and use proper investigative methods so that no violations of constitutional rights occur in the course of the investigation.

Number of Firearms Recovered

In 2022, DOJ's Special Agents seized a total of 1,437 firearms. Of these firearms 916 (64%) were firearms listed in APPS, and 521 (36%) were firearms not listed in the system (non-APPS). See Figures 7 and 8 for a breakdown of the type of APPS and non-APPS firearms recovered. Together, APPS and non-APPS firearms resulted in 1,437 total firearm seizures (Figure 9). DOJ agents closed 7,946 APPS investigations due to enforcement efforts in 2022.²⁰ This number does not reflect the number of times DOJ agents attempted to locate an APPS individual or were required to visit third-party residences; it only captures the total number of closed cases.²¹ The following graphs detail the number of firearms seized due to APPS enforcement in 2022, categorized by the type of firearms seized.

-
- 19 DOJ provides this number to illustrate the workload for each agent and compare year-to-year contacts per agent. However, agents always work in teams and will never contact a person in the Armed and Prohibited Persons System alone.
- 20 Not all cases closed are removed from APPS. They may remain in the Pending category.
- 21 Cases can also be closed when 1) agents or criminal analysts find the individual is deceased, 2) the individual has moved out of state and out of DOJ's jurisdiction, 3) a criminal analyst corrects a data discrepancy, and the individual is cleared.

Figure 7. APPS firearms seized in 2022

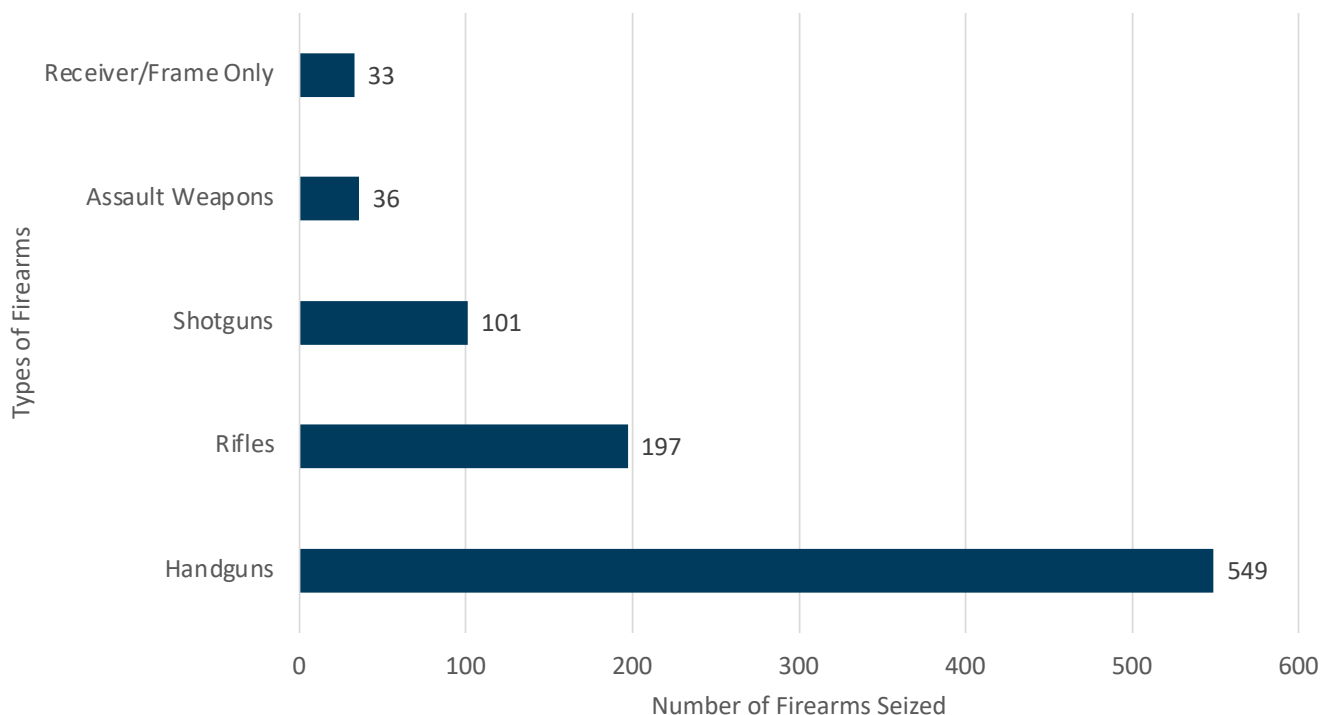


Figure 8. Non-APPS firearms seized in 2022

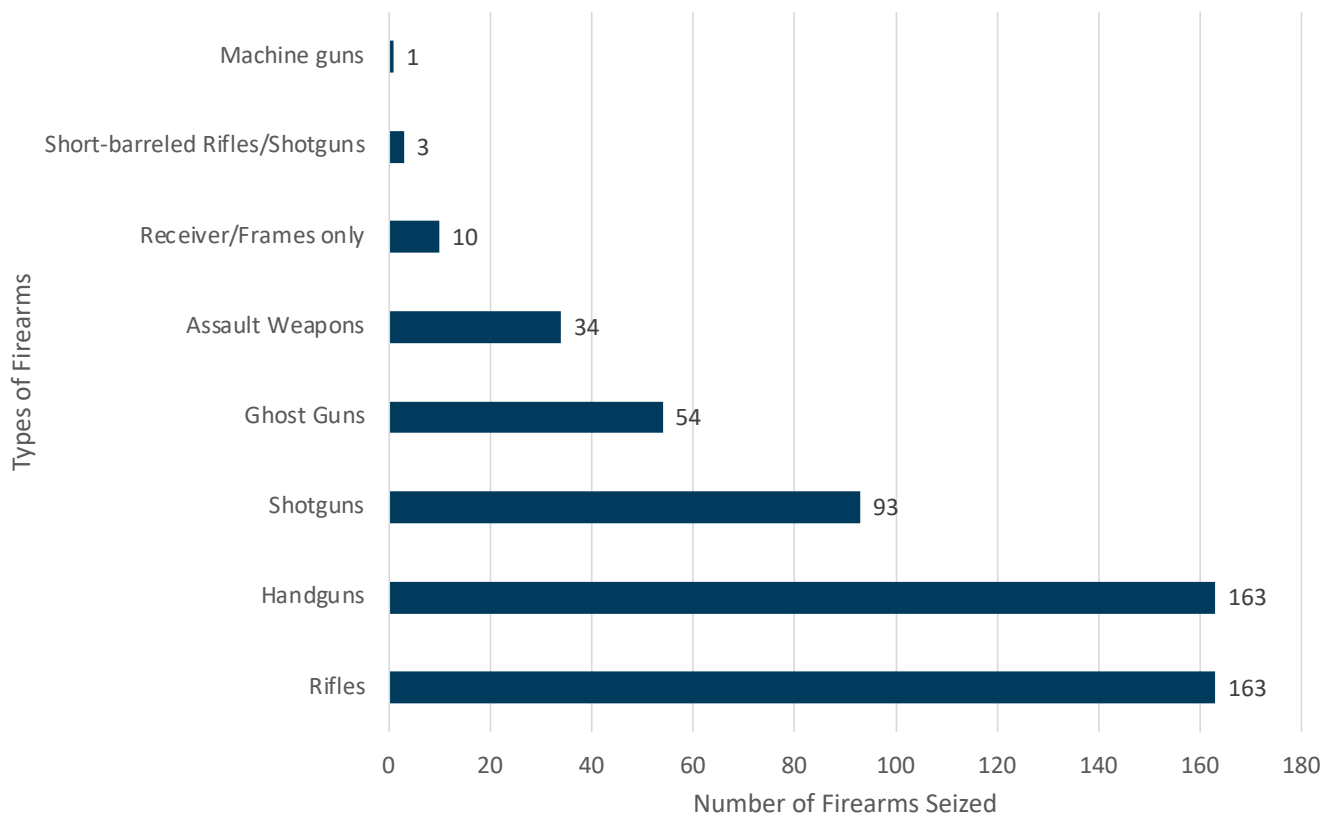
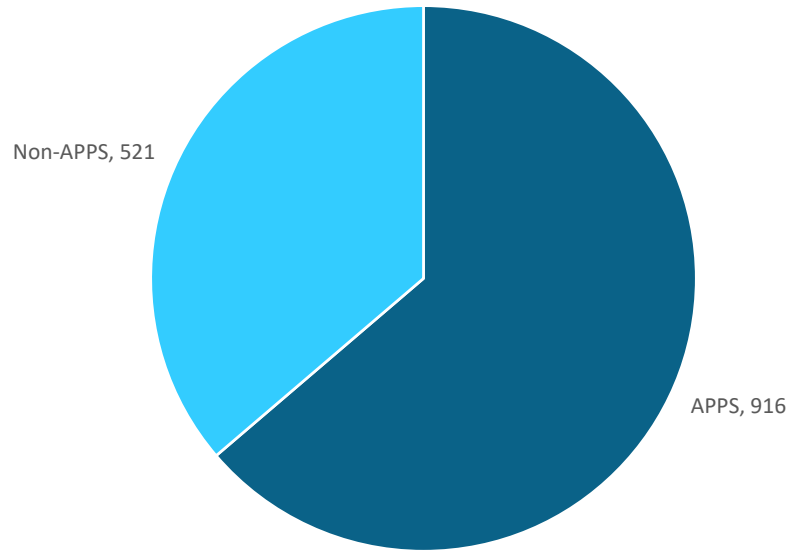


Figure 9. The 1,437 firearms seized in 2022 separated by APPS type



Number of Ghost Guns Recovered

Ghost guns are firearms constructed by private citizens that do not have a serial number, which means they are not registered. By definition, ghost guns do not appear in the APPS database and cannot be tracked by law enforcement. DOJ’s agents seized a total of 54 ghost guns in 2022, a 38% increase compared to the 39 ghost guns seized during 2021 APPS investigations.

The increase in the number of seized ghost guns in 2022 indicated the effectiveness of the two sweeps conducted during the year (see “Task Forces and Collaboration with Local Law Enforcement” for more information on DOJ’s 2022 Sweeps). Of the 54 ghost guns seized in 2022, eight were seized during DOJ’s two sweeps. These eight ghost guns account for approximately 15% of all ghost guns seized overall.

When looking at data from the Unique Serial Number Application (USNA) process, which shows how many California residents have applied to legally make personally manufactured firearms, there has been a slight decline in applications since 2018 (see Figure 11). However, the number of illegal ghost guns seized by law enforcement agencies continues to rise, as evidenced by figure 11. This contrast demonstrates illegal ghost guns remain difficult to track and represent a persistent threat to public safety. DOJ continues to actively investigate illegal manufacturing and possession of ghost guns.

In response to the overall increase in ghost gun seizures across the state, DOJ will be expanding its investigative efforts focused on ghost guns. DOJ is actively working with law enforcement partners to establish collaborative investigative efforts aimed at addressing ghost gun activity.

Figure 10. Unique Serial Number Application (USNA) submissions granted serial numbers from 2018-2022

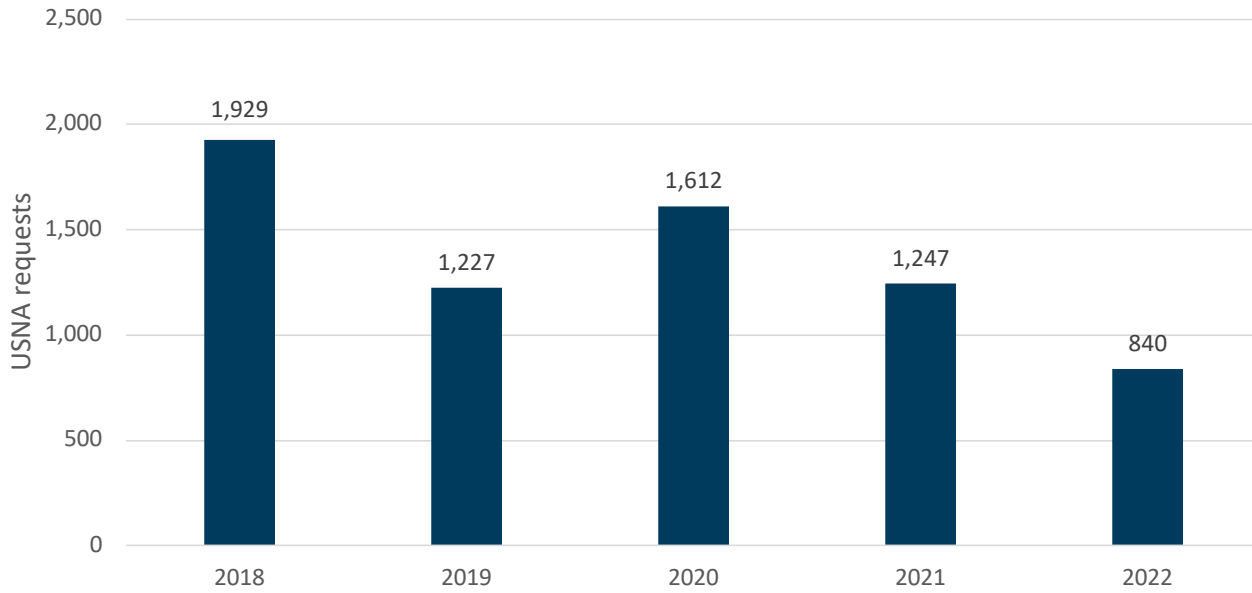
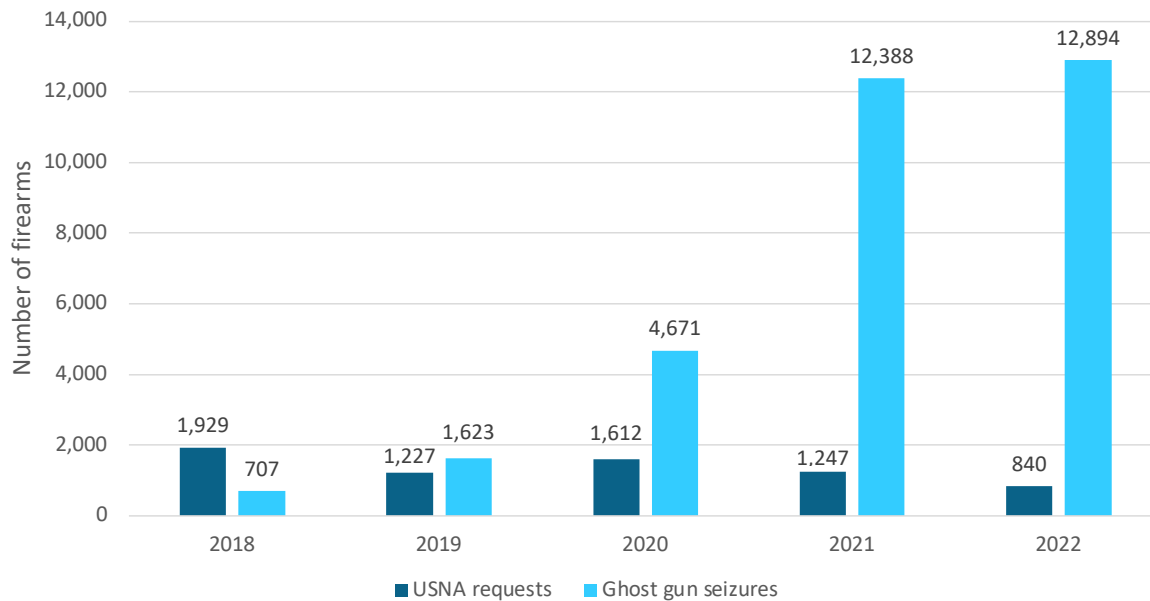


Figure 11. The number of unique serial number applications and ghost guns seized 2018-2022²²



Additionally, effective July 1, 2022, California became the first state to require a background check for the purchase of a firearm precursor part, which includes unfinished receivers and unfinished handgun frames. Senate Bill (SB) 118 (Stats. 2020, ch. 29) and Assembly Bill (AB) 879 (Stats. 2019, ch. 730) also created a new licensing structure for vendors to sell firearm precursor parts. In concurrence with the Legislature and the Governor, DOJ anticipates this law will further help keep firearms out of the hands of people prohibited from owning or possessing them.

22 This represents the total number of ghost guns seized by law enforcement in California. Law enforcement agencies are required to report ghost gun seizures to DOJ per California Penal Code section 11108.2.

Ammunition Recovered

In 2022, DOJ agents recovered 308 large-capacity magazines, 2,123 standard capacity magazines, and 281,299 rounds of ammunition.

Ammunition Purchase Eligibility Check Program

Proposition 63 (The Safety for All Act), as amended by Senate Bill (SB) 1235 (Stats. 2016, ch. 55), was approved by voters in 2016. The intent of Proposition 63 and SB 1235 was primarily to keep prohibited persons from acquiring ammunition in an effort to prevent gun violence. Under the new laws, ammunition must be purchased from or transferred by a licensed California Ammunition Vendor in a face-to-face transaction. Effective July 1, 2019, the law required California Ammunition Vendors to submit eligibility checks for prospective purchasers to DOJ and obtain approval prior to selling or transferring ammunition. Thereafter, California Ammunition Vendors are required to submit ammunition purchase details to DOJ. The eligibility checks ensure purchasers are not prohibited from owning or possessing ammunition due to a felony and/or violent misdemeanor conviction/warrant, domestic violence restraining order, or mental health issue.

On July 1, 2019, DOJ successfully deployed enhancements to the Dealer Record of Sale (DROS) Entry System, which allowed California Ammunition Vendors to submit eligibility checks, and subsequently report ammunition purchases in compliance with Proposition 63.

Monitoring denied ammunition purchases is an effective strategy because the attempted ammunition purchases signal to DOJ agents that a prohibited person still possesses and may be actively using a firearm. Additionally, it often provides more current addresses than those previously available in the APPS database. While the use of ammunition denial data is ancillary to regular APPS investigations, nearly every investigation results in a seizure of firearms and/or ammunition from a prohibited person.

In 2022, DOJ received reports of 194 armed and prohibited individuals who attempted to purchase ammunition and were denied through the ammunition eligibility check process. DOJ agents used the intelligence gathered through the ammunition purchase denials to investigate 194 individuals and close 141 of these cases. These investigations resulted in the seizure of 56 firearms, 39 APPS firearms (21 handguns, one receiver/frame only, 13 rifles, and four shotguns), 17 non-APPS firearms (three handguns, seven rifles, two short-barrel shotguns, and five shotguns), four large-capacity magazines, 55 standard magazines, and 6,621 rounds of ammunition. The remainder of the denial cases are under investigation. All seizures resulting from these ammunition purchase eligibility check denials are included in the overall APPS statistics provided in the “number of firearms recovered” section of this report.

Task Forces and Collaboration with Local Law Enforcement

As discussed in the “Recommendations” section, these are the types of programs DOJ would like to expand. Receiving additional funding to reimburse local LEAs working with DOJ in coordinated APPS enforcement activities would make this work possible.

Contra Costa County Anti-Violence Support Effort Task Force

DOJ currently manages the Contra Costa County Anti-Violence Support Effort (CASE) Task Force. The primary mission of CASE is to conduct complex firearms investigations and to seize firearms from prohibited and violent individuals in the Bay Area. This Task Force consists of representatives from the following agencies:

- California Department of Justice, Bureau of Firearms
- Contra Costa County Probation Department
- Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives
- San Francisco District Attorney's Office
- California Department of Corrections and Rehabilitation
- California Highway Patrol

The CASE Task Force is a stand-alone task force dedicated to reducing firearm related crimes, identifying and apprehending persons prohibited persons, and assisting LEAs with specific firearm and crime related investigations. In 2022, it conducted 98 firearms-related investigations, of which 29 were APPS-related. During these investigations, they conducted 57 probation or parole searches and executed six search warrants. As a result of these investigations, the CASE Task Force arrested 29 armed individuals for firearms-related offenses and seized 19 firearms, of which five were APPS firearms (three rifle/shotguns, two handguns). The seizure of these five APPS firearms is reported with the overall APPS statistics. The 14 firearms seized during non-APPS investigations are not included in seizure totals for this report. Because not all firearms crimes in any county are committed by people in the APPS database, this task force focuses on investigating a broad range of subjects involved in firearms-related crimes — including those in the APPS database.

Tulare County Agencies Regional Gun Violence Enforcement Team

In December 2020, DOJ assumed management of the Tulare County Agencies Regional Gun Violence Enforcement Team, also known as the TARGET Task Force. Due to funding issues, management of this task force was redirected from DOJ's Bureau of Investigation. The primary mission mirrors that of the CASE Task Force as the team is designed to investigate crimes involving gun violence and to seize firearms from prohibited individuals in the Tulare County region. Through this task force, DOJ has increased collaborative efforts and support of local and state law enforcement in the region. This task force consists of representatives from the following agencies:

- California DOJ, Bureau of Firearms
- California Department of Corrections and Rehabilitation
- Porterville Police Department
- Tulare County Sheriff's Department
- Visalia Police Department

In 2022, the TARGET Task Force conducted 277 firearms-related investigations, of which 131 were APPS investigations. During these investigations, they conducted 76 probation/parole searches and executed 34 search warrants. As a result of these investigations, the TARGET Task Force arrested 53 armed individuals for firearms-related offenses and seized 149 firearms, of which 33 were APPS

firearms (two assault weapon, 19 handguns, 10 rifles/shotguns, two receiver/frame only). The seizure of these 33 APPS firearms is reported with the overall APPS statistics.

The 116 firearms seized during non-APPS investigations are not included in seizure totals for this report. Because not all firearms crimes in any county are committed by people in the APPS database, this task force focuses on investigating a broad range of subjects involved in firearms-related crimes — including those in the APPS database. Like CASE, TARGET represents an efficient and effective model for collaboration with local, state, and federal LEAs on both APPS and non-APPS-related firearms investigations and affords a proactive approach to combating firearm violence.

Joint Sweep Investigations

In addition to participating in the CASE Task Force and TARGET Task Force, DOJ also conducts collaborative APPS sweeps throughout the state upon request of a local or county LEA. These sweeps consist of Bureau personnel working together with allied LEAs in a certain jurisdiction of the state for a period of multiple days conducting APPS investigations. DOJ conducted two regional sweeps in 2022.

During these regional sweeps, Special Agents collaborated with local LEAs in a partnership to safely conduct APPS investigations. Although many LEAs were unable to participate in the sweeps due to staffing issues, DOJ still received assistance from multiple agencies throughout the state. Local patrol officers can act as a force multiplier to benefit APPS enforcement by providing additional information regarding the location of APPS subjects, and can assist with marked patrol vehicles. Local officers can also help expedite the transport and booking process of arrested subjects due to their familiarity with individual county processes. If the subject reports a missing or stolen firearm, the local law enforcement agency can work with the subject to promptly report that information into AFS, which may result in the removal of the subject from the APPS database.

These sweeps throughout the state increased APPS investigations while strengthening partnerships with local LEAs.

In 2022, two regional sweeps cumulatively investigated 777 cases, resulting in 21 arrests, and produced 141 firearm seizures, including 92 APPS firearms, 23 non-APPS firearms, eight ghost guns, and 18 assault weapons.²³

DOJ worked jointly with the following agencies on 2022 APPS investigations:

- San Francisco District Attorney's Office,
- Santa Clara District Attorney's Office Inspector
- CASE Task Force
- Los Angeles Sheriff's Office
- Los Angeles Police Department
- Pomona Police Department
- Pasadena Police Department
- Azusa Police Department

²³ These statistics are included in the total 2021 statewide seizure numbers.

- Los Angeles Probation Department
- TARGET Task Force

Looking forward, DOJ expects to foster more partnerships for collaborative sweeps in 2023, particularly as the Gun Violence Reduction Program grant allows more local agencies to fund positions that can assist DOJ in APPS enforcement.

Bay Area Sweep

On January 10, 2022, APPS agents from throughout the state consolidated their investigative efforts in the Bay Area. Together with local and federal law enforcement, they engaged in a four-day sweep to remove firearms from individuals legally barred from possessing them. The teams thoroughly analyzed and exhausted their leads in 338 cases in the counties of Alameda, Contra Costa, Marin, Napa, Sacramento, San Francisco, Santa Clara, San Mateo, Sonoma, and Solano. The investigation resulted in the seizure of 27 firearms and eight arrests.

The operation was a joint effort with San Francisco District Attorney, Santa Clara District Attorney Inspector, and CASE Task Force.

Los Angeles Sweep

On February 14, 2022, APPS agents from throughout the state consolidated their investigative efforts in the Los Angeles County Area. Together with local and federal law enforcement, they engaged in a five-day sweep to remove firearms from individuals legally barred from possessing them. The teams thoroughly analyzed and exhausted their leads in 439 cases. The investigation resulted in the seizure of 113 firearms and 13 arrests.

The operation was a joint effort with the Los Angeles Sheriff's Department, Los Angeles Police Department, Pomona Police Department, Pasadena Police Department, Azusa Police Department, and Los Angeles Probation Department.

Gun Violence Reduction Program

Assembly Bill (AB) 74 provided grant funding to the Board of State and Community Corrections (BSCC) for statewide Gun Violence Prevention Programs. In 2019, funds were disbursed by the BSCC to four counties: Alameda, San Diego, Santa Cruz and Ventura to investigate and close APPS cases. Owing to its success, the legislature expanded the scope of the Gun Violence Reduction Pilot Program (GVRPP) by creating the Gun Violence Reduction Program (GVRP) through Senate Bill (SB) 129.

SB 129 allocated \$10.3 million for two years for the GVRP. Unlike the GVRPP, which was operated by the BSCC, the GVRP is operated by DOJ. Under the program, DOJ awarded grants to county sheriff's departments to support seizures of firearms and ammunition from prohibited individuals. This program was designed to increase collaboration with local law enforcement across the state to enhance public safety by removing firearms and ammunition from prohibited persons. Collaboration between DOJ and local LEAs has proven a successful model which streamlines APPS enforcement efficiencies.

Pursuant to SB 129, DOJ made \$10 million available over two grant cycles. Approximately \$5 million was awarded by January 1, 2022, and nearly \$3 million was awarded by January 1, 2023. Following the grant criteria outlined in SB 129, grant applicants were asked to provide clearly defined and measurable objectives for closing APPS cases and reducing the number of prohibited persons in possession of firearms. The sheriff's departments were also required to explain how the grants would enhance

existing law enforcement activities and also how the funds would be used for new activities, including innovative techniques and approaches toward APPS enforcement.

Pursuant to the parameters for grantee selection outlined in SB 129, DOJ prioritized counties with the highest per capita population of armed and prohibited persons that also lacked a DOJ field office. Grant priority was also given to departments that proposed innovative techniques and approaches to APPS enforcement, integrated APPS enforcement into existing operations, and presented a plan with the greatest likelihood of success.

In the first grant cycle, 10 county sheriff's departments were awarded grants to support activities related to seizing firearms and ammunition from individuals prohibited from owning or possessing them. The sheriff's departments and offices of Contra Costa, Lake, Los Angeles, Orange, Sacramento, San Francisco, Santa Barbara, Santa Clara, Santa Cruz, and Ventura counties received grant funding through the first cycle of DOJ's GVRP. The second grant cycle included the sheriff's departments and offices of Kings, Lassen, San Joaquin, Stanislaus, and Ventura. The results of the second round of GVRP grant funding will be included in next year's report. For more information on awards, see Appendix H.

The grantees listed below reported statistical information regarding the enforcement of this grant funding to DOJ by February 1, 2023. The statistical information demonstrated that most counties worked APPS cases throughout the year and provided DOJ with adequate data to analyze their progress during 2022. The requested statistical information included the number of individual cases investigated, the outcome of those investigations, and the number of prohibited APPS individuals before and after the reporting period.

DOJ then cross-referenced records provided by the grantee counties to data within the APPS database to verify that the county's reported cases exist in DOJ's APPS database. In some instances, records could not be verified because the grantee provided different identifying information than what is in the APPS database. These remain on the active list until DOJ or an LEA is able to conduct further investigations. In the meantime, only verified cases are included in GVRP analyses in this report. The results reported below detail the records DOJ could find and their status as of January 1, 2023.

Contra Costa County Sheriff's Office

The Contra Costa County Sheriff's Office received \$332,205 in GVRP funding and reported working 17 APPS cases. DOJ verified 16 of the 17 reported cases. These 16 cases included one removed from the APPS prohibited list, six cases that are still labeled as active as of January 1, 2023, and nine as pending cases. The one removed individual was disassociated from all known firearms. Of the nine pending cases, three people were prohibited due to Brady prohibitions, two were unable to be closed, and four could not be located. By the end of their reporting period, Contra Costa County reported 27 fewer prohibited individuals in APPS within their jurisdiction.

Lake County Sheriff's Office

The Lake County Sheriff's Office received \$277,373 in GVRP funding and reported working 30 APPS cases but did not report the reduction of prohibited persons in APPS within the county in 2022. DOJ verified 13 out of the 30 reported cases. These 13 cases included one individual disassociated from all firearms, one individual who could not be located, one incarcerated individual, eight individuals who were active as of January 1 2023, and two who were not prohibited in APPS.

Los Angeles County Sheriff's Department

The Los Angeles County Sheriff's Department received \$843,630 in GVRP funding and reported working 162 cases but did not report the reduction of prohibited persons in APPS within the county to DOJ in 2022. DOJ verified 155 out of the 162 cases. These 155 cases included 46 individuals removed from the APPS prohibited list, 62 individuals still labeled as active as of January 1, 2023, 33 individuals still labeled as pending cases, and one incarcerated individual. There were a further five individuals removed from APPS prior to 2022 and eight reported individuals who were not prohibited from possessing firearms. Of the 46 removed cases, 37 were disassociated from all known firearms, eight had their prohibitions expire, and one was deceased. Of the 33 pending cases, 13 were unable to be closed, 17 were unable to be located, one had moved out of California, and two were prohibited only due to Federal Brady prohibitions.

Orange County Sheriff's Department

The Orange County Sheriff's Department received \$316,285 and reported working 178 cases. DOJ verified 175 of the 178 cases. These 175 cases included 60 individuals removed from the APPS prohibited list, 113 individuals still labeled as active as of January 1, 2023 and two individuals labeled as pending cases. Of the 60 removed cases, 35 were disassociated from all known firearms and 25 had their prohibitions expire. Of the two pending cases, one was unable to be located and one had moved out of California. By the end of their reporting period, the Orange County Sheriff's Department reported 25 fewer prohibited persons in APPS within their jurisdiction.

Sacramento County Sheriff's Office

The Sacramento County Sheriff's Office received \$887,275 in GVRP funding. The county reported working 59 cases and did not report the reduction of prohibited individuals in APPS within the county to DOJ in 2022. DOJ verified 58 of the 59 cases. These 59 cases included 18 individuals removed from the APPS prohibited list, 18 individuals still labeled as active as of January 1, 2023, and 19 individuals labeled as pending cases. Of the 18 removed cases, 15 were disassociated from all known firearms and three individuals were deceased. Of the 19 pending cases, four were unable to be located, 13 were unable to be closed, and one had moved out of California. There were an additional four individuals who were either not prohibited or removed from APPS in previous years.

San Francisco County Sheriff's Department

The San Francisco County Sheriff's Department received \$301,554 in GVRP funding and reported working 328 cases but did not report the reduction of prohibited persons in APPS within the county to DOJ in 2022. Due to extensive missing and improperly recorded data, DOJ was able to verify only five of the 328 cases. Of the five cases, two individuals were disassociated from all known firearms and three did not ever appear as prohibited in APPS. Due to significant gaps in data reporting, these results should not be afforded much weight.

Santa Barbara County Sheriff's Office

The Santa Barbara County Sheriff's Office received \$539,600 in GVRP funding and reported working 187 cases. DOJ verified all 187 cases. These 187 cases included 45 individuals removed from the APPS prohibited list, 28 individuals still labeled as active as of January 1, 2023, 102 cases labeled as pending cases, and 11 incarcerated individuals. Another individual who was reported was not prohibited in APPS. Of the 45 individuals removed from the APPS prohibited list, 20 were disassociated from all known firearms, four were deceased, and 21 had their prohibitions expire. Of the 102 pending cases, 15 individuals were prohibited only due to federal prohibitions, two had moved out of California, 56 were unable to be closed after exhausting all leads, 29 were unable to be located after exhausting all leads. By the end of their reporting period, the Santa Barbara County Sheriff's Office reported 24 fewer prohibited people in APPS within their jurisdiction.

Santa Clara County Sheriff's Office

The Santa Clara County Sheriff's Office received \$512,255 in GVRP funding and reported working 19 cases. DOJ verified 14 of 19 cases. These 14 cases included 10 individuals removed from the APPS database, two individuals still labeled as active as of January 1, 2023 and two individuals labeled as incarcerated. Of the ten removed individuals, eight were disassociated from all known firearms and two had their prohibitions expire. By the end of their reporting period, the Santa Clara County Sheriff's Office reported 26 fewer prohibited individuals in APPS within their jurisdiction.

Santa Cruz County Sheriff's Office

The Santa Cruz County Sheriff's Office received \$291,596 in GVRP funding and reported working 49 cases. DOJ verified 47 of 48 cases. These 47 cases included 30 individuals removed from the APPS database, 14 individuals still labeled as active as of January 1, 2023, and three individuals labeled as pending cases. Of the 30 removed individuals, 14 were disassociated from all known firearms, and 15 had their prohibitions expire. The three pending individuals could not be closed due to unaccounted for firearms after exhausting all leads. By the end of their reporting period, the Santa Cruz County Sheriff's Office reported 16 fewer prohibited individuals in APPS within the county to DOJ in 2022 within their jurisdiction.

Ventura County Sheriff's Office

The Ventura County Sheriff's Office received \$652,575 in GVRP funding. The county reported working 110 cases and did not report the number of prohibited individuals in APPS removed from APPS in 2022. DOJ verified 85 of 110 cases. These 85 cases included 42 individuals removed from the APPS database, 12 individuals still labeled as active as of January 1, 2023, 13 individuals labeled as pending cases and five individuals who were incarcerated. Of the 42 removed individuals, 19 were disassociated from all known firearms, five individuals were deceased, and 18 had their prohibitions expire. Of the 13 pending cases, eight individuals could not be closed due to unaccounted for firearms after exhausting all leads, two could not be located after three separate attempts, two had moved out of California, and one was prohibited only due to federal prohibitions. A further 13 reported individuals were not prohibited in APPS.

Firearms & Removal Reporting

While most counties provided clear records on individuals investigated throughout the year, the firearm data and final status of individuals showed discrepancies between the information counties reported and information in DOJ's records. Counties often report firearms as being "cleared" or "recovered," and individuals as being "suspended" or "removed" from APPS, but DOJ's data contradicts these reports.

In order to better track prohibited persons and their firearms at the local level, DOJ will bolster its outreach efforts by conducting trainings and providing the GVRP grantee agencies with more specific exemplar statistical reporting documents.

APPS Report Detailed Recommendations

DOJ greatly appreciates Governor Gavin Newsom's and the Legislature's interest in sensible firearms regulation and enforcement, and additional financial support toward this effort. As noted throughout this report, the recommendations proposed by DOJ would help to report the information mandated under Penal Code section 30012 and would also improve the efficiency and efficacy of the APPS program. To that end, DOJ recommends the following:

1. Continue to fund courts and probation departments so that they can confiscate or enforce the transfer or legal storage of known firearms at the time of conviction, when an individual is prohibited due to a felony or qualifying misdemeanor. Fund law-enforcement agencies to seize firearms that are not relinquished at or immediately after the time of prohibition. Pursuant to Proposition 63 (2016), the courts, probation departments, and local law enforcement agencies should focus on ordering firearms relinquishment and obtaining firearms from armed and prohibited persons on the front-end of the process. When an individual's conviction for a crime renders them prohibited, they are supposed to be notified at the time of conviction that they are prohibited from owning and possessing any firearms as well as how to turn over any firearms they have in their possession. This is the best opportunity to ensure prohibited persons are being disarmed. Felons and persons prohibited from possessing firearms by qualifying misdemeanors, account for 61% of the Armed and Prohibited Persons System in the APPS database, or 14,559 individuals. Recognizing the need for local governments to remove firearms from prohibited persons immediately post-conviction, the California Legislature allocated \$40,000,000 to the Judicial Council in the 2022 budget to support a court-based firearm relinquishment program. This program was established "to ensure the consistent and safe removal of firearms from individuals who become prohibited from owning or possessing firearms and ammunition pursuant to court order" (AB 178, 2022 Biennium, 2022 Reg. Sess. (Cal. 2022)). This new grant represents a promising step toward alleviating DOJ's APPS workload and minimizing the threat posed by prohibited persons.
2. Develop and fund a similar county-level firearm confiscation system where firearms are confiscated from the individual at the time they are served with a restraining order(s). Currently, all individuals who are served restraining orders and are in possession of a firearm at the time they are served end up in the APPS database unless local LEAs seize the firearms from them. If local LEAs could seize the firearms from these individuals upon service of the various types of restraining orders, it could limit new additions to the Armed and Prohibited Persons System in the APPS database by up to 17 percent.
3. Improve the recruitment of Special Agents by making their compensation competitive with other LEAs. Traditionally, proof of graduation from a police academy training program constitutes the main requirement for applicants seeking positions in law enforcement. However, DOJ's special agent requirements are significantly more rigorous. In addition to graduating from a police academy, Special Agents are required to have spent one to two years in law enforcement and, in many cases, have attended or graduated from college. However, entry-level Special Agents are paid less than those in LEAs that do not have these same requirements. While the 12% pay increase for Special Agents that went into effect on September 1, 2021 was a step in the right direction, Special Agent monthly base pay at DOJ continues to lag behind comparable positions at other LEAs. Seizing firearms from prohibited persons is dangerous and difficult work that requires quick decision-making and superior analytical thinking. In order to recruit and maintain the caliber of individual necessary to perform this work, BOF must be able to offer competitive pay. Moreover, the agents who do this work should be competitively compensated for their efforts. DOJ has moved to a more aggressive hiring model in an attempt at filling Special Agent and Special Agent Supervisor positions at a quicker rate and keep pace with agent attrition.

However, receiving additional funding and contracting for salary increases would greatly improve recruitment of agents for DOJ's currently authorized positions.

4. Continue to improve coordination and cooperation with local LEAs by establishing joint task forces and expanding GVRP eligibility beyond Sheriff's offices to other agencies tasked with firearm relinquishment, such as municipal law agencies and probation departments. Funds would be managed and disbursed for the purpose of reimbursing local agency overtime for working with DOJ on the APPS workload. Reimbursement would go toward personnel time and other applicable expenses incurred as a direct result of the involved agency's participation in the joint operations through the execution of a memorandum of understanding with DOJ. A memorandum of understanding would also include administrative assistance efforts to help identify and reduce APPS firearms in locally managed evidence systems. All participating agencies would be required to assess firearms in their possession and develop a plan approved by DOJ to ensure all the required entries into the AFS are made in accordance with current state law. This would be a force multiplier for DOJ that would ensure a statewide coordinated effort and maintain recordkeeping standards to ensure that the data in the APPS database is as current as possible. Expansion of the GVRP grant program is expected to bolster existing APPS enforcement by law enforcement agencies. Additionally, the participating law enforcement agencies would be required to report all data in a manner prescribed by DOJ or as required by law as it relates to the seizure of firearms, ammunition, arrests, and all other information relevant to maintain adequate accountability for the APPS database.
5. Modernize the existing firearms databases and automate many of the manual processes to improve overall efficiency, risk mitigation, and stabilization of employee resources. As communicated to the DOF when the Legislature implemented SB 94's current reporting requirements under Penal Code section 30012, DOJ cannot fulfill this obligation until it modernizes the firearms databases.

The following systems support the regulation, and enforcement actions relating to the manufacture, sale, ownership, safety training, and transfer of firearms.

- Ammo Processor
- Armed and Prohibited Persons System (APPS)
- Automated Firearms System (AFS)
- California Firearms Information Gateway (CFIG)
- California Firearms Licensee Check (CFLC)
- Carry Concealed Weapons (CCW)
- Centralized List (CL)
- Consolidated Firearms Information System (CFIS)
- Dealer Record of Sale (DROS)
- DROS Entry System (DES)
- California Firearms Application Reporting System (CFARS)
- Firearms Certificate System (FCS)
- Assault Weapons Registration (AWR)

- Firearms Employment Application File (FEAF)
- Mental Health Reporting System (MHRS)
- Mental Health Firearms Prohibition System (MHFPS)
- Prohibited Applicant (PA)

This network of systems is incredibly complex and cumbersome to operate and navigate. Despite this monumental challenge, DOJ has been able to meet legislative reporting mandates using these outdated databases. These databases are not flexible and were not designed to be adaptable to meet additional demands. DOJ has been able to partially adapt and circumvent issues despite using technology that is not equipped with automated processes to meet the specified conditions. Consequently, most, if not all queries must be pulled and cross-checked manually from database to database, hindering efficiency and introducing increased opportunities for error. Working to modify or maintain these legacy systems is no longer cost-effective or a technologically viable option as the databases have become outdated and no longer meet the demands of the Legislature and DOJ.

DOJ received initial funding to pursue Stage 2 of this effort and is exploring modernization options to find a dynamic solution that would meet existing needs and be adaptable to evolving statutory mandates. However, additional funding will be required to begin Stages 3 and 4 and fully implement this project.

APPENDICES

APPENDIX A: Relevant Key Terms and Definitions

This section provides definitions to key terms used throughout this report.

Armed and Prohibited Persons System (APPS). The APPS database, housed at the California Department of Justice (DOJ), which contains a list of all individuals who are both armed (DOJ is aware of their ownership of one or more firearms) and prohibited (for one or more reasons they have been designated as not being permitted to own or possess firearms).

Automated Criminal History System (ACHS). The repository for the state summary Criminal Offender Record Information (CORI). In addition, DOJ transmits CORI to the Federal Bureau of Investigation (FBI).

Automated Firearms System (AFS). This system was created in 1980 to identify lost or stolen firearms and connect firearms with persons. The system tracks serial numbers of every firearm owned by government agencies, handled by law enforcement (seized, destroyed, held in evidence, reported stolen, recovered), voluntarily recorded in AFS, or handled by a firearms dealer through transactions. Prior to 2014, most entries in AFS were handguns. Now, all newly acquired firearms, both handguns and long guns, are entered into AFS.

Backlog. The number of cases for which DOJ did not initiate an investigation within six months of the case being added to the APPS database or has not completed investigatory work within six months of initiating an investigation on the case.

Brady Handgun Violence Prevention Act. The Federal Brady Act, codified at 18 U.S.C. § 922(g), makes it unlawful for certain categories of persons to ship, transport, receive, or possess firearms or ammunition, to include any person:

- Convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- Who is a fugitive from justice;
- Who is an unlawful user of or addicted to any controlled substance (as defined in Section 102 of the Controlled Substances Act, codified at 21 U.S.C. § 802);
- Who has been adjudicated as a mental defective or has been committed to any mental institution;
- Who is an illegal alien;
- Who has been discharged from the Armed Forces under dishonorable conditions;
- Who has renounced his or her United States citizenship;
- Who is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; or
- Who has been convicted of a misdemeanor crime of domestic violence.

Under 18 U.S.C. § 992(n), it is also unlawful for any person under indictment for a crime punishable by imprisonment for a term exceeding one year to ship, transport, or receive firearms or ammunition. Further, 18 U.S.C. § 922(d) makes it unlawful to sell or otherwise dispose of firearms or ammunition to any person who is prohibited from shipping, transporting, receiving, or possessing firearms or ammunition. DOJ refers to these prohibitions as Federal Brady Act prohibitions. Since these individuals are only prohibited due to federal law, DOJ lacks jurisdictional authority to investigate these individuals, unless

they also have a California prohibition. On January 1, 2023, there were 23,869 armed and prohibited persons in the APPS database (9,294 active and 14,575 pending). Of the 14,575 pending cases, 1,593 are Federal Brady only cases.

Bullet Button. A product requiring a tool to remove an ammunition feeding device or magazine by depressing a recessed button or lever shielded by a magazine lock.

Bullet Button Weapon. A semiautomatic, centerfire or rim fire pistol with an ammunition feeding device that can be readily removed from the firearm with the use of a tool that has one or more specified features identified in Penal Code section 30515 and is included in the category of firearms that must be registered.

California Restraining and Protective Order System (CARPOS). A statewide database of individuals subject to a restraining order.

Cleared. All cases in which the individual has died, the prohibition has expired or been reduced (e.g., the expiration of a temporary restraining order), or the individual has been disassociated from the firearm(s) such as selling, transferring, or turning over their firearm(s).

Closed. Any investigation that has been fully investigated and the individual has been cleared from APPS, or all investigative leads are exhausted and the individual remains in APPS with a pending status (see definition of pending and sub-statuses definitions).

Consolidated Firearms Information System (CFIS). This system consolidates numerous internal firearm applications within the California Justice Information Services Division (CJIS), the technology division within DOJ. These applications include the Armed and Prohibited Persons System (APPS), Assault Weapon Registration (AWR), Centralized List (CL), Carry Concealed Weapon (CCW), Dealers' Record of Sale (DROS), and Prohibited Applicant (PA).

Contacts. An attempt to locate an APPS individual at a potential current address. During face-to-face contact, agents will attempt a consent search if there are no search conditions due to parole or probation status. Sometimes consent is denied, and agents will leave the premises. If probable cause is developed at the scene, a search warrant will be requested and served that day.

Dealers' Record of Sale (DROS). This application is completed by firearms purchasers in California and is sent to DOJ by licensed firearms dealers, which initiates the 10-day waiting period. DOJ uses this information for a background check and the documentation of firearms ownership.

Ghost Gun. Ghost guns are firearms made by an individual, without serial numbers or other identifying markings.

Mental Health Reporting System (MHRS). This is a web-based application used by Mental Health Facilities, Superior Courts, Juvenile Courts, and LEAs to report firearm-prohibiting events related to mental health to DOJ.

Statuses:

Active. Individuals believed to reside in California who are prohibited (state, federally, or a combination of state and federally prohibited) from owning or possessing firearms, and have not yet been investigated or are in the process of being investigated, but all investigative leads have not yet been exhausted.

Pending. Individuals previously investigated, but that cannot be currently investigated for one or more reasons. The cases are those that have been thoroughly analyzed and all investigative leads have been exhausted. These individuals fall into one of the following sub-categories:

Incarcerated. These individuals are in state or federal prison. While they are incarcerated, these individuals are not in Active status. Although technically under Pending status, incarcerated individuals are treated as a separate population for the purposes of this report because it is assumed that they are not in possession of firearms while in custody and cannot be investigated until they are released. Once DOJ has received notification that they have been released, the individual is moved to the Active status.

No Longer Residing in California (Out-of-State). Individuals who were a resident of California, but now no longer live in this state.

Unable to Clear (UTC). These cases have previously been investigated by Bureau Special Agents and all investigative leads have been exhausted. The individual still has one or more firearms associated with them. If new information is identified, the case will be moved to Active status.

Unable to Locate (UTL). These cases have previously been investigated by a Bureau Special Agent, but the agent is unable to locate the individual. It could be that the individual no longer lives at the address on file, family and friends are not able to provide useful location information, etc. If new location information is identified, the case will be moved to active status.

Federal Brady Act Prohibition Only. Cases where a person is prohibited only under federal law. State, county, and municipal law enforcement have no authority to enforce a prohibition based only on the Federal Brady Act (see definition for Brady Handgun Violence Prevention Act for a list of federal prohibitions). Persons who have both a statewide and federal prohibition are not listed in this group.

Individuals Having Both State and Federal Prohibitions. If APPS database individuals have a combination of state and federal firearm prohibitions, then DOJ has jurisdictional authority to investigate the matter related to the state prohibitions (e.g., felons, individuals with California restraining orders, qualifying misdemeanor convictions, and California mental health prohibitions).

Wanted Persons System (WPS). This system was established in 1971 as the first online system for DOJ. It is a statewide computerized file of fugitives for whom arrest warrants have been issued.

APPENDIX B: Legislative History Relative to APPS

The following provides a brief overview of the legislative history affecting DOJ's Armed and Prohibited Person program from 1999 to present. These legislative changes have exponentially increased the volume of prohibited individuals as the Legislature continues to increase the type and length of prohibitions. Other legislative changes with a substantial impact include evolving statutory and legal definitions as well as increases in the overall regulation of the various types of firearms, ammunition, and parts.

1999: APPS was conceptualized by the Legislature as a result of the proliferation of gun violence across the state and the nation.

2001: APPS was created in 2001 by Senate Bill (SB) 950 in response to high-profile murder cases involving people prohibited from owning firearms.

2006: The APPS database went into effect.

2013: SB 140 passed the Legislature and appropriated \$24,000,000 from the Dealer Record of Sale Special Fund to DOJ for three years to reduce the volume of pending APPS investigations.

2014: Effective January 1, 2014, a new California law (Assembly Bill 809, Stats. 2011, ch. 745) mandated DOJ collect and retain firearm transaction information for all types of firearms, including long guns.

2015: After a 2013 audit by the Bureau of State Audits, DOJ finished manually inputting all of the cases into the APPS database.

2016: SB 140 funding expired. Effective January 1, 2016, AB 1014 created the new prohibitory category of the Gun Violence Restraining Order.

2018: Effective January 1, 2018, AB 785 added Penal Code section 422.6 (Criminal Threats) to the list of prohibiting misdemeanors. Effective July 1, 2018, AB 857 required DOJ to begin issuing serial numbers for firearms manufactured by unlicensed individuals after a successful background check of the owner. The background checks associated with this process identified additional prohibited persons.

2019: Effective July 1, 2019, SB 1235 and Proposition 63 required ammunition to be sold only to an individual whose information matches an entry in the Automated Firearms System and who is eligible to possess ammunition, with some exceptions. It also required ammunition vendors to electronically submit to a database known as the Ammunition Purchase Records File, and thus to DOJ, information regarding all ammunition sales and transfers.

Additionally, AB 3129 prohibited a person from ever possessing a firearm if that person is convicted of a misdemeanor violation of Penal Code Section 273.5 regarding the willful infliction of corporal injury resulting in a traumatic condition upon a spouse, cohabitant or other specified person. SB 746 required new California residents to, within 60 days of becoming a resident, apply for a unique serial number or other identifying mark for any unserialized firearm the resident manufactured or otherwise owns and intends to possess in California. SB 1100 prohibited the sale, supplying, delivery or giving possession or control of any firearm by a licensed dealer, with some exceptions, to any person under 21 years of age. SB 1200 expanded the definition of ammunition for the purposes of the Gun Violence Restraining Order law.

SB 94 provided updated requirements regarding the mandated reporting of the APPS database statistics. It required DOJ to report no later than April 1, 2020, and no later than April 1 of each year

thereafter, to the Joint Legislative Budget Committee and the fiscal committees of each house of the Legislature on information related to the APPS database, as listed in Penal Code section 30012.

2020: Effective January 1, 2020, AB 1968 subjected individuals who have been taken into custody, assessed and admitted to a designated mental health facility twice within a one-year period, because they are a danger to self or others as a result of a mental health disorder, to a lifetime firearms prohibition subject to a petition for, and hearing on, a reinstatement of firearm ownership rights.

Additionally, AB 164 prohibited a person from possessing a firearm if that person is prohibited in another state and allows DOJ, partners from other state agencies, and local LEAs to investigate and pursue these cases. AB 12 increased the maximum duration of a gun violence restraining order from one year to between one and five years. It also allows for law enforcement officers to file a petition for gun violence restraining orders in the name of the law enforcement agency in which they are employed. AB 61 expanded the list of individuals who may request a gun violence restraining order.

2022: AB 178 allocated \$40 million to the Judicial Council to support a court-based firearm relinquishment program to ensure the consistent and safe removal of firearms from individuals who become prohibited from owning or possessing firearms and ammunition pursuant to court order. The funding is available until June 30, 2025. The first round of funding was distributed in January 2023.

APPENDIX C: Mandated Statistics – At a Glance²⁴

[1] The Total Number of Individuals in the APPS Database and the Number of Cases which Are Active and Pending: APPS has 3,347,221 individuals as of January 1, 2023. Of those individuals, 23,869 are prohibited from owning or possessing firearms, with 9,294 Active cases and 14,575 Pending cases.

[A][i] For Active Cases, the Number of Cases That Have Not Been Actively Investigated for 12 Months or Longer, Along with a Breakdown of the Time Period That Has Elapsed since a Case Was Added to the System: The APPS database is an outdated system that does not have the capability to track the time elapsed between a case entering the APPS database to when a case was last worked. As a result, DOJ does not have the ability to gather and report the requested information.

[B] For Pending Cases, DOJ Shall Separately Report the Number of Cases That Are Unable to Be Cleared, Unable to Be Located, Related to Out-of-State Individuals, Related to Only Federal Firearms Prohibitions, and Related to Incarcerated Individuals.: Of the 14,575 prohibited persons designated as Pending cases, 6,693 (46%) were unable to be cleared, 2,334 (16%) were unable to be located, 3,955 (27%) moved out of state, and 1,593 (11%) were prohibited under federal prohibitions only. Additionally, there are 1,159 incarcerated individuals.

[2] The Number of Individuals Added to the APPS Database: Between January 1, 2022 and January 1, 2023, there were 9,277 additional known firearm owners who became prohibited. In the same time period, there were 9,917 individuals removed from the prohibited category. This resulted in the total number of armed and prohibited individuals decreasing by 640.

[3] The Number of Individuals Removed from the APPS Database, including a Breakdown of the Basis on Which They Were Removed:

Table 1: Removals of Prohibited Persons in 2022 Separated by Reason for Removal

Reason for Removal	Number of Individuals Removed
Prohibition expired/no longer prohibited	5,940
Disassociated from all known firearms	3,598
Deceased	379

[4] The Degree to Which the Backlog in the APPS Has Been Reduced or Eliminated: Penal Code section 30012, subdivision(a)(4) defines “backlog” as being cases for which DOJ did not initiate an investigation within six months of the case being added to the APPS database or has not completed investigatory work within six months of initiating an investigation on the case. The APPS database does not have the technological capability of tracking the amount of time a case has been in the system. Gathering this information would require that a Crime Analyst review each individual APPS entry, one-by-one and review the notes in each file. Lacking a more efficient way of gathering this information, DOJ will be unable to provide these statistics until upgrades are made to the APPS database.

²⁴ The numbers and letters below correspond to the subdivision number in Penal Code section 30012.

[5] The Number of Individuals in the APPS before and after the Relevant Reporting Period:

Table 2: The Total number of Individuals in APPS Before and After the Reporting Period Separated by Status

Status	Before Reporting Period	After Reporting Period
Armed and Not Prohibited	3,173,755	3,322,193
Armed and Prohibited	24,509	23,869
Incarcerated	1,130	1,159

[6] The Number of Agents and Other Staff Hired for Enforcement of the APPS:

In 2022, DOJ hired seven Special Agents, nine Special Agent Trainee and two support staff for APPS enforcement. No existing Special Agent Trainees were promoted into the Special Agent ranks. DOJ also saw the separation of four Special Agents during 2022 due to inter-departmental transfer and/or promotion and had one Special Agent promote from within to Special Agent Supervisor position, leaving DOJ with a net increase of 10 filled Special Agent positions. DOJ also saw the separation of one support staff for APPS enforcement and one internal promotion resulting in a net change of one in support staff.

[7] The Number of Firearms Recovered Due to Enforcement of the APPS:

In 2022, Bureau Agents recovered 916 (64%) APPS firearms (i.e., firearms known in the APPS database), and 521 (36%) non-APPS firearms not associated with APPS individuals, for a total of 1,437 firearms recovered.

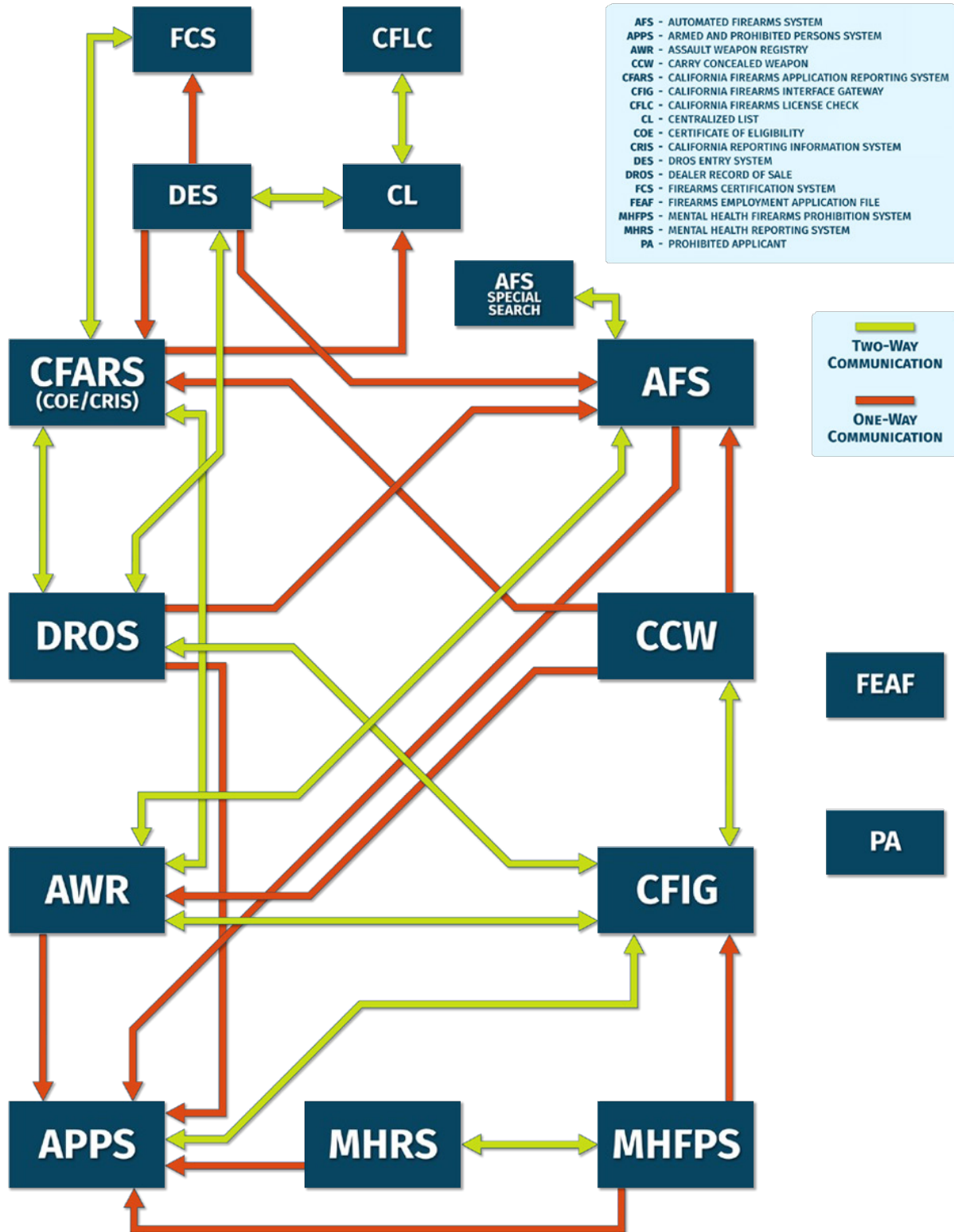
[8] The Number of Contacts Made during the APPS Enforcement Efforts:

In 2022, agents made nearly 24,000 contacts based on an average of three contacts per individual per case while working APPS investigations.

[9] Information regarding Task Forces or Collaboration with Local Law Enforcement on Reducing the APPS File or Backlog:

DOJ takes pride in its collaborative efforts with law enforcement partners. These efforts include leading the CASE Task Force along with the recent addition of the TARGET Task Force, its partnership with the Los Angeles County Sheriff’s Department on Dual Force operations, joint APPS sweeps with specific jurisdictions based on workload, and most recently the GVRP in which DOJ has awarded grant funding to county sheriff’s departments to support activities related to conducting APPS investigations.

APPENDIX D: Relational Diagram of DOJ's Bureau of Firearms Databases



APPENDIX E: Firearms Prohibiting Categories

STATE OF CALIFORNIA
PROHIBITING CATEGORIES (Rev. 03/2023)

DEPARTMENT OF JUSTICE
PAGE 1 of 5



CALIFORNIA DEPARTMENT OF JUSTICE BUREAU OF FIREARMS FIREARM PROHIBITING CATEGORIES



Persons who fall into the following categories are prohibited from owning and/or possessing firearms under California and/or federal law for the time periods described below. Please note that the Department of Justice provides this document for informational purposes only. This list may not be inclusive of all firearm prohibitions. For specific legal advice, please consult with an attorney.

Lifetime Prohibitions

Convictions

- Any person who has been convicted of, or has an outstanding warrant and knowledge of the same for, a felony under the laws of the United States, the State of California, or any other state, government, or country. (Cal. Penal Code § 29800(a)(1), (a)(3); 18 U.S.C. § 922(g)(1).)
- Any person who has been convicted of a "violent offense" listed in California Penal Code section 29905. (Cal. Penal Code § 29900(a)(1).)
- Any person with two or more convictions for exhibiting any firearm in a rude, angry, or threatening manner in the presence of another person, except in self-defense, in violation of Penal Code section 417, subdivision (a)(2). (Cal. Penal Code § 29800(a)(2).)
- Any person convicted of a misdemeanor violation of the following offenses:
 - Assault with a firearm. (Cal. Penal Code §§ 29800(a)(1), 23515(a), 245(a)(2).)
 - Assault with a machinegun, assault weapon, or .50 BMG rifle. (Cal. Penal Code §§ 29800(a)(1), 23515(a), 245(a)(3).)
 - Shooting at an inhabited dwelling house, housecar, or camper, or at an occupied building, vehicle, or aircraft. (Cal. Penal Code §§ 29800(a)(1), 23515(b), 246.)
 - Exhibiting any firearm in a rude, angry, or threatening manner in the presence of a peace officer. (Cal. Penal Code §§ 29800(a)(1), 23515(d), 417(c).)
 - Inflicting corporal injury on a spouse or significant other under California Penal Code section 273.5, if convicted on or after January 1, 2019. (Cal. Penal Code § 29805(b).)
- Any person who has been convicted in any court of a misdemeanor crime of domestic violence. (18 U.S.C. § 922(g)(9).)

Mental Health

- Any person who is found by a court of any state to be a danger to others because of a mental disorder or mental illness. (Cal. Welf. & Inst. Code § 8103(a).)
- Any person who is found by a court of any state to be a mentally disordered sex offender. (Cal. Welf. & Inst. Code § 8103(a).)
- Any person who is found by a state or federal court to be not guilty by reason of insanity. (Cal. Welf. & Inst. Code § 8103(b), (c).)
- Any person who is found by a state or federal court to be mentally incompetent to stand trial. (Cal. Welf. & Inst. Code § 8103(d).)
- Any person who, within one year, is taken into custody two or more times as a danger to self or others under Welfare and Institutions Code section 5150 and assessed and admitted to a mental health facility. (Cal. Welf. & Inst. Code § 8103(f)(1)(B).)
- Any person who has been adjudicated as a mental defective or who has been committed to a mental institution. (18 U.S.C. § 922(g)(4).)

Miscellaneous

- Any person who is a fugitive from justice. (18 U.S.C. § 922(g)(2).)
- Any person who is an alien illegally or unlawfully in the United States, or admitted to the United States under a nonimmigrant visa (subject to certain exceptions). (18 U.S.C. § 922(g)(5).)
- Any person who has been discharged from the military under dishonorable conditions. (18 U.S.C. § 922(g)(6).)
- Any person who has renounced his or her United States citizenship. (18 U.S.C. § 922(g)(7).)



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10-Year Prohibitions

When a person has been convicted of, or has an outstanding warrant and knowledge of the same for, a misdemeanor violation of any of the offenses listed below (Cal. Penal Code § 29805(a), (c), (d)):

- Threatening public officers, employees, and school officials. (Cal. Penal Code § 71.)
- Threatening certain public officers, appointees, judges, staff or their families with the intent and apparent ability to carry out the threat. (Cal. Penal Code § 76.)
- Intimidating witnesses or victims. (Cal. Penal Code § 136.1.)
- Possessing a deadly weapon with the intent to intimidate a witness or victim. (Cal. Penal Code § 136.5.)
- Using force or threatening to use force against a witness, victim, or informant. (Cal. Penal Code § 140.)
- Attempting to remove or take a firearm from the person or immediate presence of a public or peace officer. (Cal. Penal Code § 148(d).)
- Knowingly making a false report to a peace officer that a firearm has been lost or stolen. (Cal. Penal Code § 148.5(f).)
- Unauthorized possession of a weapon in a courtroom, courthouse, or court building, or at a public meeting. (Cal. Penal Code § 171b.)
- Bringing into or possessing a loaded firearm within the State Capitol, any legislative office, any legislative hearing room, or any office of the Governor or any other constitutional officer. (Cal. Penal Code § 171c(a)(1).)
- Bringing onto the grounds a loaded firearm, or possessing a loaded firearm within, the Governor's Mansion or residence of any other constitutional officer. (Cal. Penal Code § 171d.)
- Knowingly supplying, selling, or giving possession of a firearm to a person to commit a felony while actively participating in a criminal street gang. (Cal. Penal Code § 186.28.)
- Assault. (Cal. Penal Code §§ 240, 241.)
- Battery. (Cal. Penal Code §§ 242, 243.)
- Sexual Battery. (Cal. Penal Code § 243.4.)
- Assault with a stun gun or taser weapon. (Cal. Penal Code § 244.5.)
- Assault with a deadly weapon other than a firearm, or assault with force likely to produce great bodily injury. (Cal. Penal Code § 245(a)(1), (4).)
- When the victim is a school employee engaged in performance of duties, assault with a firearm, assault with a deadly weapon or instrument, assault by any means likely to produce great bodily injury, or assault with a stun gun or taser. (Cal. Penal Code § 245.5.)
- Discharging a firearm or BB gun in a grossly negligent manner. (Cal. Penal Code § 246.3.)
- Shooting at an unoccupied aircraft or motor vehicle, or at an uninhabited building or dwelling house. (Cal. Penal Code § 247.)
- Inflicting corporal injury on a spouse or significant other, if convicted before January 1, 2019. (Cal. Penal Code § 273.5.)
- Intentionally and knowingly violating a protective or restraining order. (Cal. Penal Code § 273.6.)
- Exhibiting any deadly weapon or firearm in a rude, angry, or threatening manner in the presence of another person, except in self-defense. (Cal. Penal Code § 417.)
- Intentionally inflicting serious bodily injury as a result of exhibiting a deadly weapon or firearm in the presence of another person. (Cal. Penal Code § 417.6.)
- Making threats to commit a crime which will result in death of, or great bodily injury to, another person. (Cal. Penal Code § 422.)
- Interference with the exercise of civil rights because of actual or perceived characteristics of the victim. (Cal. Penal Code § 422.6.)



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- Possessing a firearm in a place the person knows or reasonably should know is a school zone. (Cal. Penal Code § 626.9.)
- Stalking. (Cal. Penal Code § 646.9.)
- Wearing a peace officer uniform while engaged in picketing or other public informational activities relating to a concerted refusal to work. (Cal. Penal Code §§ 830.95.)
- Possessing a deadly weapon with the intent to commit an assault. (Cal. Penal Code § 17500.)
- Carrying a concealed firearm, loaded firearm, or other deadly weapon while engaged in picketing or other public informational activities relating to a concerted refusal to work. (Cal. Penal Code § 17510.)
- Carrying a firearm in a public place or on a public street while masked. (Cal. Penal Code § 25300.)
- Carrying a loaded firearm with the intent to commit a felony. (Cal. Penal Code § 25800.)
- Possession of handgun ammunition designed primarily to penetrate metal or armor. (Cal. Penal Code § 30315.)
- Unauthorized possession or knowing transportation of a machinegun. (Cal. Penal Code § 32625.)
- As the driver or owner of any vehicle, knowingly permitting another person to discharge a firearm from the vehicle, or any person who willfully and maliciously discharges a firearm from a motor vehicle. (Cal. Penal Code § 26100(b), (d).)
- A firearms dealer who sells, transfers, or gives possession of a handgun, semiautomatic centerfire rifle, completed frame or receiver, or firearm precursor part to a person under 21 years of age, when no exception applies. (Cal. Penal Code § 27510.)
- Purchase, possession, or receipt of a firearm or deadly weapon by a person receiving in-patient treatment for a mental disorder while a danger to self or others, or by a person who has communicated to a licensed psychotherapist a serious threat of physical violence against an identifiable victim. (Welf. & Inst. Code § 8100.)
- Knowingly providing a deadly weapon or firearm to a person described in Welfare and Institutions Code sections 8100 or 8103. (Cal. Welf. & Inst. Code § 8101.)
- Purchase, possession, or receipt of a firearm or deadly weapon by a person who has been found by a court to be a danger to others because of a mental disorder or mental illness, to be a mentally disordered sex offender, to be not guilty by reason of insanity, or to be mentally incompetent to stand trial. (Cal. Welf. & Inst. Code § 8103(a), (b), (c), (d).)
- Purchase, possession, or receipt of a firearm by a person placed under a conservatorship for specified reasons, by a person taken into custody as a danger to self or others under Welfare and Institutions Code section 5150 and assessed and admitted to a mental health facility, or by a person certified for intensive treatment under Welfare and Institutions Code sections 5250, 5260, or 5270.15. (Cal. Welf. & Inst. Code § 8103(e), (f)(1)(A), (g).)
- Knowingly bringing a firearm into, or knowingly possessing a firearm in, a juvenile facility. (Cal. Welf. & Inst. Code § 871.5.)
- Knowingly bringing a firearm into, or knowingly possessing a firearm in, a Youth Authority institution or camp. (Cal. Welf. & Inst. Code § 1001.5.)
- Grand theft of a firearm. (Cal. Penal Code § 487.)
- Various violations involving sales and transfers of firearms. (Cal. Penal Code § 27590(c).)
- Storing a firearm knowing that a child or person prohibited from possessing firearms is likely to gain access to the firearm, if convicted on or after January 1, 2020. (Cal. Penal Code § 25100.)
- While residing with a person prohibited from possessing firearms, failing to keep the firearm secure in the residence in one of the specified manners, if convicted on or after January 1, 2020. (Cal. Penal Code § 25135.)
- Storing a firearm knowing that a child or person prohibited from possessing firearms is likely to gain access to the firearm, and the child or prohibited person accesses the firearm and carries it off-premises, if convicted on or after January 1, 2020. (Cal. Penal Code § 25200.)
- Willfully harming, injuring, or endangering the health of a child, if convicted on or after January 1, 2023. (Cal. Penal Code § 273a.)
- Willfully harming, injuring, or endangering the health of an elder or dependent adult, or falsely imprisoning an elder or dependent adult, if convicted on or after January 1, 2023. (Cal. Penal Code § 368(b), (c), (f).)



**CALIFORNIA DEPARTMENT OF JUSTICE
 BUREAU OF FIREARMS
 FIREARM PROHIBITING CATEGORIES**



- Knowingly helping a person prohibited from possessing firearms to manufacture a firearm, or knowingly manufacturing a firearm without a valid state or federal serial number, if convicted on or after January 1, 2023. (Cal. Penal Code § 29180(e), (f).)

Juvenile Prohibitions

- Until 30 years of age or older, any person who is adjudged a ward of the juvenile court under Welfare and Institutions Code section 602 because the person committed an offense listed below (Cal. Penal Code § 29820):
 - An offense listed in Welfare and Institutions Code section 707(b);
 - An offense listed in Penal Code section 29805;
 - A controlled substance offense listed in paragraphs (B), (C), (D), (E), or (F) of Penal Code section 29820(a)(1);
 - Carrying a loaded firearm in public under Penal Code section 25850;
 - Carrying a concealed firearm under Penal Code section 25400(a); or
 - As the driver or owner of a motor vehicle, knowingly permitting another person to bring a firearm into the vehicle, under Penal Code section 26100(a).

Non-Lifetime Mental Health Prohibitions

- For the period of admittance until discharge from a mental health facility, any person who is receiving in-patient treatment at a mental health facility for a mental disorder and is a danger to self or others. (Cal. Welf. & Inst. Code § 8100(a).)
- For the period of the conservatorship, any person who is placed under a conservatorship by a state or federal court because he or she is gravely disabled from a mental disorder or chronic alcoholism and the court finds that possession of a firearm would endanger the person or others. (Cal. Welf. & Inst. Code § 8103(e).)
- For a period of 5 years from the date that a licensed psychotherapist reports to a local law enforcement agency, any person who communicates a serious threat of physical violence to a licensed psychotherapist against a reasonably identifiable victim and the psychotherapist reports the threat to law enforcement. (Cal. Welf. & Inst. Code § 8100(b).)
- For a period of 5 years after being released from a mental health facility, any person who is taken into custody as a danger to self or others under Welfare and Institutions Code section 5150, assessed, and admitted to a mental health facility. (Cal. Welf. & Inst. Code § 8103(f).)
- For a period of 5 years, any person certified for intensive treatment under Welfare and Institutions Code sections 5250, 5260, or 5270.15. (Cal. Welf. & Inst. Code § 8103(g).)

Non-Lifetime Court-Ordered Prohibitions

- For the period of probation, any person who is ordered to not possess firearms as a condition of probation. (Cal. Penal Code § 29815.)
- For the period that a court order is in effect, any person who is subject to one of the following orders that includes a prohibition from owning or possessing a firearm (Cal. Penal Code § 29825):
 - A civil harassment temporary restraining order under Code of Civil Procedure section 527.6;
 - A workplace violence temporary restraining order under Code of Civil Procedure section 527.8;
 - A private postsecondary school violence temporary restraining order under Code of Civil Procedure section 527.85;
 - A domestic violence protective order under Family Code section 6218;
 - A criminal protective order under Penal Code section 136.2;
 - A stalking protective order under Penal Code section 646.91;
 - An elder or dependent adult abuse temporary restraining order under Welfare and Institutions Code section 15657.03; or
 - A valid order issued by an out-of-state jurisdiction that is similar or equivalent to a temporary restraining order, injunction, or protective order, as specified in Penal Code section 29825.



**CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF FIREARMS
FIREARM PROHIBITING CATEGORIES**



- For a period of 21 days, any person subject to a temporary emergency Gun Violence Restraining Order (GVRO) or subject to an ex parte GVRO. (Cal. Penal Code §§ 18148, 18165.)
- For a period of 1 to 5 years, any person subject to a GVRO after notice and hearing. (Cal. Penal Code § 18170.)
- For a period of 5 years after an existing GVRO expires, any person who possesses a firearm or ammunition while knowingly subject to a GVRO prohibiting the person from doing so and is convicted for such possession. (Cal. Penal Code § 18205.)
- Any person who is subject to a court order that meets certain requirements and restrains the person from harassing, threatening, stalking, or threatening an intimate partner or child. (18 U.S.C. § 922(g)(8).)

Miscellaneous Prohibitions

- Any person who is addicted to the use of any narcotic drug. (Cal. Penal Code § 29800(a)(1).)
- Any person who is an unlawful user of or addicted to any controlled substance. (18 U.S.C. § 922(g)(3).)

APPENDIX F: Bureau of Firearms Regional and Field Offices



APPENDIX G: Case Studies

Prohibited APPS Subject Found in Possession of Machine Guns

In October 2022, the Bureau identified an individual who owned a firearm, despite the fact that he was prohibited from owning and possessing firearms or ammunition due to a felony conviction. Agents conducted investigative follow-up and subsequently obtained a search warrant for the individual's residence in Elk Grove, California. Special Agents with the assistance of the Elk Grove Police Department Special Weapons and Tactics (SWAT) Team, served a search warrant at the subject's residence. As a result of the search warrant, agents seized one AR-15 style rifle machine gun, one AR-15 style pistol machine gun, one Polymer 80 handgun (ghost gun) with a auto switch attached, one stolen handgun, one complete Polymer 80 handgun (ghost gun), three suppressors, 15 ghost gun receivers/frames, 15 large capacity magazines, and approximately 1,200 rounds of ammunition. Special Agents also located ten 3D-printed handgun receivers and frames, two 3D printers, and filament for the printers. The subject was arrested and his criminal case is pending with the court.



Intercepted Russian Imported Packages Lead to Seizure of Machine Guns from San Luis Obispo Subject

In June of 2022, the Homeland Security Investigations, in coordination with the U.S. Customs and Border Protection, contacted Department special agents regarding a subject receiving machine gun parts from Russia. A total of four packages were intercepted with one package containing two AK style machine gun lower receivers with no serial numbers and stamped "Made in Russia." Based on the above information coupled with investigative follow up, agents secured a search warrant for the individual's residence in San Luis Obispo, California. In October of 2022, Special Agents served the search warrant at the individual's residence. A search of the residence resulted in the seizure of 16 unregistered assault weapons, five unserialized AK style machine guns, 45 AK style unserialized machine gun kits (several stamped "Made in Russia"), two silencers, one unregistered .50 caliber BMG rifle, 420 large capacity magazines, and approximately 150 rounds of ammunition. The subject was arrested, with criminal cases pending in court.



Ammunition Eligibility Check Identifies Prohibited Individual in Redlands

In November of 2022, an individual attempted to purchase ammunition and was flagged as prohibited through the ammunition eligibility check process. Special Agents reviewed the case and found the individual was prohibited from owning and possessing firearms due to a misdemeanor conviction for willful discharge of a firearm. The individual had four firearms registered in his name in APPS. Agents subsequently obtained a search warrant for the subject’s residence in Redlands, California. The search resulted in two handguns, seven rifles (including an unregistered assault weapon and a short barrel rifle), two shotguns, 11 magazines, and approximately 1,200 rounds of ammunition. The subject was arrested, with criminal cases pending in court.



Riverside County APPS Subject Arrested for Being in Possession of Numerous Firearms while Prohibited Due to a Mental Health Commitment

In August of 2022, the Bureau identified a subject who resided in Menifee, California and was prohibited from owning or possessing firearms due to a mental health condition. It was determined the subject had several firearms recorded in his name, two of which were assault weapons. Agents conducted a preliminary investigation and found that the Menifee Police Department had responded to the subject's residence in January of 2022. During the January 2022 incident, the subject fired one of his firearms into his bedroom closet, believing someone was hiding there. At the time of that incident, Menifee Police Department seized the subject's firearm. Agents, believing the subject could potentially have additional firearms obtained and served a search warrant at the subject's residence. Agents subsequently located 54 firearms located throughout the house, including two AR-15 style assault rifles, two UZI assault weapons, 35 handguns, 15 rifles, 157 magazines and approximately 2,200 rounds of miscellaneous caliber ammunition. The subject was arrested and booked into Riverside County Jail.



Glendora Subject Arrested for Being in Possession of Numerous Assault Weapons while Prohibited Due to a Criminal Protective Order

In February of 2022, the Bureau identified a subject who resided in Glendora as being prohibited from owning or possessing firearms due to having a criminal protective order issued to him. Agents attempted to contact the subject at his residence, but were unable to locate him. A short time later, agents were able to contact the subject's wife and subsequently obtained a search warrant for the residence. While agents were conducting the search of the residence they were able to contact the prohibited person. Their search of the residence resulted in the seizure of: one short barrel rifle, five assault weapons, one rifle, four shotguns, one rifle lower, six handguns, 33 miscellaneous caliber magazines, and approximately 10,336 rounds of ammunition. The subject was arrested and his criminal case is pending with the court.



Gun Show Investigation Results in the Seizure of Numerous Ghost Gun Assault Weapons

In October of 2022, agents conducted an enforcement action at a gun show located in the Ontario Convention Center. During the operation, agents observed an individual, who they determined to be a convicted felon, purchase a rifle stock, a bolt barrier, and an upper receiver for an AR style rifle. Agents conducted additional investigative follow up, and obtained a search warrant for the subject's residence in Ventura.

Agents subsequently served the search warrant at the residence and seized the following items: one short barrel rifle, eight assault weapons (all ghost guns), two machine guns, six rifles, 12 lower receiver frames, seven handguns (three were ghost guns), two shotguns, 43 miscellaneous caliber large capacity magazines, 120 miscellaneous caliber standard capacity magazines, approximately 80,000 rounds of ammunition, a 3D printer, and miscellaneous gun/ammo manufacturing parts. The subject was arrested, with a criminal case pending in court.



Gun Show Investigation Results in the Seizure of Assault Weapons

In August of 2022, Special Agents, with the assistance of the Sacramento County Sheriff’s deputies, conducted an enforcement operation at a gun show in Red Bluff, California. Inside the gun show, Special Agents observed a firearms dealer selling two assault weapons. The dealer did not possess the proper permits to sell or possess the assault weapons. Agents contacted the dealer and seized two assault weapons and four magazines. They then searched his residential dealership. The subject was arrested and his criminal cases are pending with the court.



APPENDIX H: Gun Violence Reduction Program Awards



GUN VIOLENCE REDUCTION PROGRAM FISCAL YEAR 2022-23

APPLICANT	SUMMARY OF AWARD	AWARD
Kings County Sheriff's Office	Investigate and bring resolution to 67 APPS subjects in Kings County. Research and eliminate firearm transfers that were not completed properly. Collaborate with courts, District Attorney, Probation Department and Parole Offices on subjects navigating through the court system that will become prohibited in the near future.	\$355,686
Lassen County Sheriff's Office	Reduce the number of APPS cases in Lassen County through APPS related investigations as well as general law enforcement investigations. Increase the number of cases filed and convictions obtained in armed prohibited person cases. Reduce the number of stolen firearms in possession of prohibited persons. Work with the courts, District Attorney, Public Defender and Probation Department on identifying persons likely to become prohibited and help in educating the person(s) on their options available to them for legally disposing of or transferring their firearm(s).	\$322,249
San Joaquin County Sheriff's Office	Create a Gun Violence Prevention Team focusing first on subjects from APPS that pose the most risk to the public (e.g., gang affiliations, domestic violence restraining orders, etc.). Determine level of threat of subjects and resources needed (e.g., Veterans Affairs, mental health clinicians, Probation Department, etc.). Work with local entities to address new subjects added to APPS timely.	\$987,072
Stanislaus County Sheriff's Office	Reduce the 1,008 firearms associated with 413 armed prohibited persons in Stanislaus County. Contact mental health prohibited persons regarding firearm possession. Utilize the National Integrated Ballistic Information Network to seek out new offenders that are matched from ballistic data.	\$568,604
Ventura County Sheriff's Office	Reduce the number of individuals in APPS through intensive investigation and focus on recovery of firearms. Improve and make additions to the APPS investigation case management system that tracks, stores and combines data from a variety of sources regarding APPS subjects and investigations. Development of a Pre-APPS program that will allow for the legal removal of firearms from individuals with a qualifying incident (e.g., restraining order, 5150 commitment, etc.) before they are placed in APPS. Check range records, intelligence reports and social media investigation information to help identify prohibited persons in possession of firearms.	\$555,876



GUN VIOLENCE REDUCTION PROGRAM
 FISCAL YEAR 2022-23

APPLICANT	SUMMARY OF AWARD	AWARD
Kings County Sheriff's Office	Investigate and bring resolution to 67 APPS subjects in Kings County. Research and eliminate firearm transfers that were not completed properly. Collaborate with courts, District Attorney, Probation Department and Parole Offices on subjects navigating through the court system that will become prohibited in the near future.	\$355,686
Lassen County Sheriff's Office	Reduce the number of APPS cases in Lassen County through APPS related investigations as well as general law enforcement investigations. Increase the number of cases filed and convictions obtained in armed prohibited person cases. Reduce the number of stolen firearms in possession of prohibited persons. Work with the courts, District Attorney, Public Defender and Probation Department on identifying persons likely to become prohibited and help in educating the person(s) on their options available to them for legally disposing of or transferring their firearm(s).	\$322,249
San Joaquin County Sheriff's Office	Create a Gun Violence Prevention Team focusing first on subjects from APPS that pose the most risk to the public (e.g., gang affiliations, domestic violence restraining orders, etc.). Determine level of threat of subjects and resources needed (e.g., Veterans Affairs, mental health clinicians, Probation Department, etc.). Work with local entities to address new subjects added to APPS timely.	\$987,072
Stanislaus County Sheriff's Office	Reduce the 1,008 firearms associated with 413 armed prohibited persons in Stanislaus County. Contact mental health prohibited persons regarding firearm possession. Utilize the National Integrated Ballistic Information Network to seek out new offenders that are matched from ballistic data.	\$568,604
Ventura County Sheriff's Office	Reduce the number of individuals in APPS through intensive investigation and focus on recovery of firearms. Improve and make additions to the APPS investigation case management system that tracks, stores and combines data from a variety of sources regarding APPS subjects and investigations. Development of a Pre-APPS program that will allow for the legal removal of firearms from individuals with a qualifying incident (e.g., restraining order, 5150 commitment, etc.) before they are placed in APPS. Check range records, intelligence reports and social media investigation information to help identify prohibited persons in possession of firearms.	\$555,876

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KIM RHODE, et al., <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> ROB BONTA, in his official capacity as Attorney General of the State of California, <p style="text-align: center;">Defendant.</p>		Case No.: 18-cv-802-BEN <p style="text-align: center;">ORDER SETTING HEARING</p>
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A hearing on Plaintiffs’ Motion for Preliminary Injunction (Dkt #32, filed 7/22/2019) will take place on **Monday, July 17, 2023 at 2:00 p.m. in Courtroom**

5A.

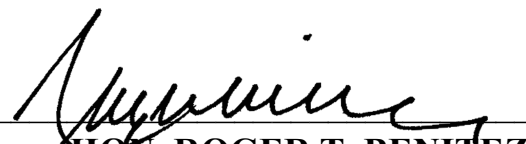
Pursuant to F.R.C.P. 65(a)(2), the Court intends to consolidate the hearing on the motion for preliminary injunction with a trial on the merits. At or prior to the hearing, the parties should be prepared to address, among other things:

- a. The Plaintiffs’ continuing Article III standing;
- b. Whether Plaintiffs’ conduct is covered by the text of the Second Amendment;

- 1 c. Relevant historical analogues;
- 2 d. Applicability of footnote 9 in *New York State Rifle and Pistol Association*
- 3 *v. Bruen*, 142 S. Ct. 2111 (2022);
- 4
- 5 e. The Dormant Commerce Clause (First Claim for Relief);
- 6 f. Preemption by 18 U.S.C. § 926A (Ninth Claim for Relief);
- 7
- 8 g. Whether judicial deference is owed to laws produced by ballot measure
- 9 Proposition 63;
- 10 Whether additional discovery is necessary, and if so, the specific discovery
- 11 needed.
- 12

13 IT IS SO ORDERED.

14
15 DATED: June 30, 2023

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17 HON. ROGER T. BENITEZ
18 United States District Judge
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Supervising Deputy Attorney General
3 ANTHONY P. O'BRIEN
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8 *Attorneys for Defendant Rob Bonta, in his*
official capacity as California Attorney
9 *General*

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

12
13 **KIM RHODE, et al.,**

14 Plaintiffs,

15 v.

16 **ROB BONTA, in his official capacity**
as Attorney General of the State of
17 **California,**

18 Defendant.

Case No. 3:18-cv-00802-BEN-JLB

DECLARATION OF JOHN D.
ECHEVERRIA RE SUBMISSION
OF SURVEYS IN RESPONSE TO
THE COURT'S ORDER ENTERED
ON DECEMBER 15, 2022

Dept: 5A
Judge: Hon. Roger T. Benitez

Action Filed: May 17, 2017

19
20 I, John D. Echeverria, declare as follows:

21 1. I am a Deputy Attorney General with the California Department of
22 Justice and serve as counsel to Defendant Rob Bonta, in his official capacity as
23 Attorney General of the State of California ("Defendant"), in the above-captioned
24 matter. Except as otherwise stated, I have personal knowledge of the facts set forth
25 in this declaration, and if called upon as a witness I could testify competently as to
26 those facts.

27 2. On December 15, 2022, the Court entered an Order providing that
28 "[t]he state defendants shall create, and the plaintiffs shall meet and confer

1 regarding, a survey or spreadsheet of relevant statutes, laws, or regulations in
2 chronological order.” Dkt. 77. The Order provides:

3 The listing shall begin at the time of the adoption of the Second
4 Amendment and continue through twenty years after the Fourteenth
5 Amendment. For each cited statute/law/regulation, the survey shall
6 provide: (a) the date of enactment; (b) the enacting state, territory, or
7 locality; (c) a description of what was restricted (e.g., dirks, daggers,
8 metal knuckles, storage of gunpowder or cartridges, or use regulations);
9 (d) what it was that the law or regulation restricted; (e) what type of
10 weapon was being restricted (e.g., knife, Bowie Knife, stiletto, metal
11 knuckles, pistols, rifles); (f) if and when the law was repealed and
12 whether it was replaced; (g) whether the regulation was reviewed by a
13 court and the outcome of the courts review (with case citation).
14 Defendants may create a second survey covering a time period following
15 that of the first list. If opposing parties cannot agree on the inclusion of a
16 particular entry on the survey, the disagreement shall be indicated and
17 described on a separate list.

18 3. The parties have met and conferred by email, as required by the
19 December 15 Order. In compliance with the Court’s Order, Defendant is hereby
20 submitting Defendant’s two surveys of relevant laws with a separate list of
21 Plaintiffs’ disagreements about the relevance of those laws.

22 4. Attached hereto as **Exhibit 1** is a true and correct copy of Defendant’s
23 Survey of Relevant Statutes (Pre-Founding – 1888).

24 5. Attached hereto as **Exhibit 2** is a true and correct copy of Defendant’s
25 Survey of Relevant Statutes (1889 – 1930s).

26 6. Attached hereto as **Exhibit 3** is a separate list of Plaintiffs’
27 Disagreements re Defendant’s Survey of Relevant Statutes (Pre-Founding – 1930s).

28 7. The surveys have been filed in compliance with the Court’s Order
directing the parties to identify all relevant laws, statutes, and regulations from the
time of the Second Amendment to twenty years after adoption of the Fourteenth
Amendment. In compliance with that Order and in recognition of the historical
inquiry mandated by *Bruen*, the spreadsheets identify hundreds of relevant firearms
laws, some of which were drafted well before the Thirteenth Amendment’s
abolition of slavery and the Fourteenth Amendment’s Equal Protection
Clause. While our subsequent briefing, as ordered by the Court, will explain in

1 more detail the historical context and relevance of such laws, the Attorney General
2 emphasizes his strong disagreement with racial and other improper discrimination
3 that existed in some such laws, and which stand in stark contrast to California's
4 commonsense firearm laws, which are designed to justly and equitably protect all
5 Californians. The listing of such racist and discriminatory statutes should in no
6 way be construed as an endorsement of such laws by the Attorney General or his
7 counsel in this matter.

8 I declare under penalty of perjury under the laws of the United States of
9 America that the foregoing is true and correct. Executed on January 11, 2023, at
10 San Francisco, California.

11 *s/ John D. Echeverria*

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13 John D. Echeverria
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Rhode v. Bonta, No. 3:18-cv-00802-BEN-JLB
Defendant’s Survey of Relevant Statutes (Pre-Founding–1888)^{1, 2}

No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
1	1403	England	4 Hen 4, c.29	Prohibited the use of armor or arms in sensitive places by people not allowed by the King.	Arms; Armor		
2	1619	Virginia	1619: Laws enacted by the First General Assembly of Virginia 70, reprinted in H. R. McIlwaine and John P. Kennedy, eds., Journals of the House of Burgesses of Virginia, vol. 1 (Richmond, 1905), 9-14	Prohibited selling or giving “Indians” arms or ammunition. Punishable by hanging.	Piece; Shot; Powder; Arms	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
3	1633	Massachusetts	The Charters and General Laws of the Colony and Province of Massachusetts 133 (1814)	Prohibited the possession, trade, sale, and repair of guns, ammunition, armor, and weapons generally for “any Indian” enforced by fine.	Gun; Powder; Bullets; Shot; Lead; Armour; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
4	1633	Virginia	1633 Va. Acts 219, Acts Made by the Grand Assembly, Holden at James City, August	Prohibited the sale of firearms, powder, shot, or	Gun; Powder; Shot;	Unconstitutional under the Thirteenth and/or Fourteenth	

¹ In compliance with the Court’s Order dated December 15, 2022 (Dkt. 77), Defendant created this survey of statutes, laws, and regulations that Defendant has determined are relevant to this action. Plaintiffs disagree that nearly all of those statutes, laws, and regulations are relevant to the historical analysis required in this case, and in compliance with the Court’s December 15 Order, the chart reflects Plaintiffs’ position regarding the relevance of each law.

² The surveys have been filed in compliance with the Court’s Order directing the parties to identify all relevant laws, statutes, and regulations from the time of the Second Amendment to twenty years after adoption of the Fourteenth Amendment. In compliance with that Order and in recognition of the historical inquiry mandated by *Bruen*, the spreadsheets identify hundreds of relevant firearms laws, some of which were drafted well before the Thirteenth Amendment’s abolition of slavery and the Fourteenth Amendment’s Equal Protection Clause. While our subsequent briefing, as ordered by the Court, will explain in more detail the historical context and relevance of such laws, the Attorney General emphasizes his strong disagreement with racial and other improper discrimination that existed in some such laws, and which stand in stark contrast to California’s commonsense firearm laws, which are designed to justly and equitably protect all Californians. The listing of such racist and discriminatory statutes should in no way be construed as an endorsement of such laws by the Attorney General or his counsel in this matter.

**Rhode v. Bonta, No. 3:18-cv-00802-BEN-JLB
Defendant’s Survey of Relevant Statutes (Pre-Founding–1888)**

No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			21st, 1633, An Act that No Arms or Ammunition Be Sold to the Indians, Act X	ammunition to “any Indians.”	Arms; Ammunition	Amendments to the U.S. Constitution	
5	1639	New Jersey	1639 N.J. Laws 18, Ordinance of the Director and Council of New Netherland, Prohibiting the Sale of Firearms . . . to Indians	Prohibited the sale of firearms, and ammunition to “Indians” punishable by death. Informants of violations eligible for monetary reward.	Gun; Powder; Lead	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
6	1639	Virginia	1639 Va. Acts 226, Acts of January 6th, 1639, Act X	Prohibited “negroes” from being provided with arms and ammunition, punishable by fine.	Arms; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
7	1639	Virginia	1639 Va. Acts 224, Acts of January 6th, 1639, Act XVII	Prohibited bartering with “the Indians” for arms and ammunition.	Firearms; Arms; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
8	1642	Virginia	1642 Va. Acts 255, Acts of March 2nd, 1642, Act XXII	Prohibited the sale of piece, powder and shot to “any Indian” punishable by imprisonment or fine.	Piece; Powder; Shot	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
9	1645	New York	1645 N.Y. Laws 47, By the Director and Council of New Netherland Further Prohibiting the Sale of Firearms, etc., to Indians	Prohibited the selling and bartering of firearms and ammunition with “the Indians.”	Gun; Powder; Lead; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
10	1647	Massachusetts	1647: Laws and Liberties of Massachusetts, reprinted in <i>The Laws and Liberties of</i>	Prohibited the repairing, selling, and giving of “any Indian” a gun, ammunition,	Firearms;	Unconstitutional under the Thirteenth and/or Fourteenth	

**Rhode v. Bonta, No. 3:18-cv-00802-BEN-JLB
Defendant’s Survey of Relevant Statutes (Pre-Founding–1888)**

No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			<i>Massachusetts</i> 28 (Harvard Univ. Press 1929)	or armour, punishable by fine.	Guns; Ammunition; Armour	Amendments to the U.S. Constitution	
11	1647	Rhode Island	1647 Acts & Orders 39	Prohibited the giving, selling, repairing guns, ammunition, or weapons to or for “the Indians.”	Powder; Shot; Lead; Gun; Pistol; Sword; Dagger; Halberd; Pike	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
12	1656	New York	Laws and Ordinances of New Netherland, 1638–74, 234–35 (1868)	Prohibited “any Indians” with guns from entering houses.	Gun	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
13	1657	Virginia	William Waller Hening, 1 The Statutes at Large; Being a Collection of All the Laws of Virginia 441 (1808)	Prohibited the giving or selling piece, powder, or shot to “any Indian,” subject to imprisonment and seizure of property.	Piece; Powder; Shot	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
14	1662	England	1662 Militia Act, 8 Danby Pickering, The Statutes at Large, from the Twelfth Year of King Charles II, to the Last Year of King James II 40 (1763)	Ordered the king’s agents to search for and seize all arms in the custody or possession of any person “judge[d] dangerous to the peace of the kingdom.”	Arms		
15	1662	England	14 Car. II c.3 (1662)	Ordered deputy lieutenants to seize arms from any person “judge[d] dangerous	Arms		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
				to the Peace of the Kingdom.”			
16	1663	Massachusetts	Ch. 58, § 2 (1633), Charters and General Laws of the Colony and Province of Massachusetts Bay 132, 133 (1814)	Prohibited the sale or barter of guns and ammunition to “any Indian.”	Gun; Powder; Bullets; Shot; Lead; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
17	1664	New York	2 The Colonial Laws of New York from the Year 1664 to the Revolution 687 (James B. Lyon ed., 1894)	Prohibited “any slave” from possessing or using any gun, pistol, sword, club, or any other kind of dangerous weapon not in the presence of their master.	Gun; Pistol; Sword; Club; Weapon	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
18	1665	Connecticut	The Public Records of the Colony of Connecticut, Prior to the Union with New Haven Colony, May, 1665 (1850)	Prohibited the repairing, selling, and giving “any Indian” a gun or ammunition, punishable by fine.	Gun; Gunpowder; Shot; Lead; Mold; Military Weapons; Armor; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
19	1665	Connecticut	The Public Records of the Colony of Connecticut, Prior to the Union with New Haven Colony, May, 1665 (1850)	Prohibited the selling of a gun, pistol, or any instrument of war to any “Dutch or French men.”	Guns; Pistols; Instrument of war		
20	1671	England	22 & 23 Car. 2, ch. 25 (1671)	Prohibited any person “not having Lands and Tenements of the clear yearly value of One	Gun		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
				hundred pounds” from firearm possession.			
21	1676	Massachusetts	Records of The Colony of New Plymouth in New England 173 (1856)	Prohibited the selling, bartering, and giving of arms or ammunition to “any Indian,” punishable by death.	Gun; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
22	1676	Pennsylvania	Charter to William Penn, And Laws of the Province of Pennsylvania, Passed Between the Years 1682 and 1700 32 (1879)	Prohibited the giving, selling, or bartering guns, ammunition, armour, or boats and the repair of guns to “any Indian,” punishable by fine.	Gun; Powder; Bullet; Shot; Lead; Armor; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
23	1677	Rhode Island	Records of the Colony of Rhode Island and Providence Plantations, in New England 561 (1857)	Required seizure of guns and ammunition from “any Indian.”	Gun; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
24	1680	New York	The Colonial Laws of New York from the Year 1664 to the Revolution . . . , at 40-41 (1896)	Prohibited the giving or selling to, or bartering with, “any Indian,” or repairing guns and ammunition of “any Indian,” punishable by fine.	Gun; Powder; Bullet; Shot; Lead; Armor; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
25	1689	England	English Bill of Rights of 1689, 1 Wm. & Mary ch. 2, § 7	Provided a right for Protestants to have “Arms for their Defence suitable to their conditions and as allowed by law.”	N/A		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
26	1689	England	An Act for the Better Securing the Government by Disarming Papists and Reputed Papists, 1 W. & M., Sess. 1, ch. 15 (Eng. 1688)	Prohibition on Catholics from possessing firearms and ammunition unless an oath renouncing their faith was taken.	Firearms; Arms; Weapons; Gunpowder; Ammunition		
27	1694	New Jersey	The Grants, Concessions, and Original Constitutions of the Province of New Jersey 341 (1881)	Prohibition on “slaves” from carrying a firearm into the woods, punishable by fine.	Gun; Pistol; Dog	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
28	1700	Delaware	“Chapter XLIII An Act for the trial of Negroes, Section 6,” Laws of the State of Delaware 104	Prohibited “any Negro or Mulatto slave” from carrying weapons without the master’s license.	Gun; Sword; Pistol; Fowling-piece; Club; Arms; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
29	1712	New York	“An Act for Preventing, Suppressing, and Punishing the Conspiracy and Insurrection of Negroes, and other Slaves,” Acts of Assembly, Passed in the Province of New York, From 1691, to 1718, at 144 (London, 1719)	Prohibition on “any Negro, Indian, Mulatto Slave” from having or using any gun or pistol outside of their master’s presence.	Gun; Pistol	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
30	1713	Maryland	“Laws of Maryland, 1713; Ch. 44, Sect. 32,” The Black Code of the District of Columbia in Force September 1st, 1848, at 11 (New York, 1848)	Prohibition on “Negro or other slave” from carrying a gun or offensive weapon of their master’s land.	Gun; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
31	1715	Maryland	1715 Md. Laws 117, An Act for the Speedy Trial of Criminals, and Ascertaining Their Punishment in the County Courts When Prosecuted There, and For Payment of Fees Due From Criminal Persons, ch. 26, § 32	Prohibited “any negro or other slave” from carrying any gun or offensive weapon off their master’s land without a ticket.	Gun; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
32	1723	Connecticut	Acts and Laws Passed by the General Court or Assembly of His Majesties Colony of Connecticut in New-England 292	Prohibited the prosecution of “any Indian” for gun or ammunition except by a particular Court, requiring the guns be forfeited.	Firearms; Guns; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
33	1723	Connecticut	1723 Conn. Acts 292, An Act for Preventing Lending Guns, Ammunition etc. to the Indians	Prohibited giving or selling “any Indian” guns and ammunition.	Gun; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
34	1729	North Carolina	1715-55 N.C. Sess. Laws 36, An Additional Act to an Act for Appointing Toll-Books, and for Preventing People from Driving Horses, Cattle, or Hogs to Other Persons’ Lands, ch. 5, § 7	Prohibited “slaves” to hunt on any person’s land besides their master’s with any weapon.	Gun; Dog; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
35	1739	South Carolina	Acts Passed by the General Assembly of South Carolina, An Act for the better Ordering and Governing Negroes and Other Slaves in this Province 11-12	Required any “Negro of Slave” to have a ticket to use a firearm that must be renewed every month.	Firearms; Weapon	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
36	1740	South Carolina	1731-43 S.C. Acts 168, § 23	Prohibited any “negro or slave” from possessing or using firearms or weapons without a ticket or license from their master, punishable by seizure of weapons.	Firearms; Gun; Weapons; Cutlass; Pistol	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
37	1750	New Jersey	1750-1756 N.J. Laws 444, An Act Regulating Taverns, Ordinaries, Inn Keepers and Retailers of Strong Liquors, ch. 112, § 4	Prohibited “any Negro or Mulatto Slave” from being off their master’s property with a gun on the Lord’s Day after nine in the evening.	Gun	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
38	1755	Georgia	The Colonial Records of the State of Georgia Vol. XVIII, Statutes Enacted by the Royal Legislature of Georgia from its First Session in 1754 to 1768 117-18 (Allen D. Candler eds., 1910)	Requirement that “any Slave” have a ticket to use a firearm that must be renewed every month, subject to seizure.	Firearms; Arms; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
39	1756	South Carolina	Statutes at Large of South Carolina 31	Prohibited “Acadians” from using a firearm or other offensive weapon and allowed people to seize such weapons.	Firearms; Weapons	Unconstitutional under the Fourteenth Amendment to the U.S. Constitution	
40	1756	Virginia	7 William Waller Hening, The Statutes at Large; a Collection of all the Laws of Virginia 35 (1820)	Prohibited Catholics from being armed and requiring oaths of allegiance and supremacy in front of justices of the peace.	Arms	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
41	1763	Maryland	1757-68 Md. Acts 53, An Act for Prohibiting All Trade with	Prohibited the selling and giving to “any Indian	Gunpowder; Shot;	Unconstitutional under the Thirteenth	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			the Indians, for the Time Therein Mentioned, ch. 4, § 3	Woman” any gunpowder or to “any Indian Man” more than one pound of gunpowder, punishable by fine.	Lead	and/or Fourteenth Amendments to the U.S. Constitution	
42	1763	Pennsylvania	Ch. 506, § 1, 1763 Pa. Laws at 319–20	Prohibited the giving, selling, bartering guns, ammunition, or warlike equipment to “any Indian,” punishable by fine or imprisonment.	Gun; Gunpowder; Shot; Bullets; Lead; War-like stores	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
43	1765	Georgia	The Colonial Records of the State of Georgia Vol. XVIII, Statutes Enacted by the Royal Legislature of Georgia from its First Session in 1754 to 1768, An Act for the Better Ordering and Governing Negroes 668. (Allen D. Candler eds., 1910)	Required that “any Slave” have a ticket to use a firearm that must be renewed every month.	Firearms; Arms; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
44	1768	Georgia	A Digest of the Laws of the State of Georgia. From Its First Establishment as a British Province Down to the Year 1798 . . . , at 153-54 (1800)	Prohibited “any slave” from possessing firearms, ammunition, or weapons without a ticket from their master or a white person over the age of sixteen present and any time after sunset on Saturday but before sunrise Monday morning.	Firearms; Gun; Cutlass; Pistol; Ammunition; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
45	1769	England	1 Blackstone ch. 1 (1769)	Recognized the “fifth and last auxiliary right,” which provided that Protestant	N/A		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
				subjects had the right to “arms for their defence, suitable to their condition and degree, and such as are allowed by law.”			
46	1769	Massachusetts	A Collection of Original Papers Relative to The History of the Colony of Massachusetts-Bay 492 (1769)	Prohibited the selling or bartering guns, ammunition, and swords to “any Indian,” punishable by fine.	Firearms; Gun; Ammunition; Sword; Powder; Shot	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
47	1776	Massachusetts	Act of Mar. 14, 1776, ch. VII, 1775-76 Mass. Act 31–32, 35	Recommended the disarming of persons who are “notoriously disaffected to the cause of America, or who refuse to associate to defend by arms the United American Colonies.”	Firearms; Arms; Ammunition		
48	1776	Pennsylvania	1776 Pa. Laws 11, An Ordinance Respecting the Arms of Non-Associators, § 1	Authorized officers to collect all arms in the hands of “non-associators”.	Firearms; Arms		
49	1776	South Carolina	An Act to Prevent Sedition, and Punish Insurgents and Disturbers of the Public Peace, 4 Statutes at Large of South Carolina 343-44 (Columbia 1838)	Prohibited any person to “take up arms with a hostile intent.”	Arms		
50	1777	Pennsylvania	1777 Pa. Laws 61 An Act, obliging the male white inhabitants of this state to give assurances of allegiance to the same, and for other purposes	Required an oath of allegiance; refusal of which punishable by disarming.	Firearms; Arms; Ammunition		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			therein mentioned, ch. XXI, §§ 2, 4				
51	1777	Virginia	Act of May 5, 1777, ch. 3, in 9 Hening’s Statute at Large 281, 281-82 (1821)	Required any “free male inhabitants of this state above a certain age” to take an oath of allegiance to the state.	Firearms; Arms; Ammunition		
52	1778	Pennsylvania	1778 Pa. Laws 123, An act for the further security of the government, ch. LXI, §§ 1–3, 5, 10	Required an oath of allegiance; refusal of which punishable by disarming.	Firearms; Arms; Ammunition		
53	1779	Pennsylvania	The Acts of the General Assembly of the Commonwealth of Pennsylvania 193 (1782); 1779 Pa. Laws 193, An Act . . . for Disarming Persons Who Shall Not Have Given Attestations of Allegiance and Fidelity to this State, §§ 4-5	Prohibited firearm possession for people “disaffected to the liberty and independence” of the state, empowered officers to disarm any person who did not take an oath.	Firearms; Ammunition		
54	1787	Massachusetts	Act of Feb. 16, 1787, ch. VI, 1787 Mass. Acts 555	Required persons against the Government to deliver their arms to a justice of the peace and “subscribe the oath of allegiance to this Commonwealth.”	Arms		
55	1792	Virginia	Collection of All Such Acts of the General Assembly of Virginia, of a Public and Permanent Nature, as Are Now in Force . . . , at 187 (1803)	Prohibited any “negro or mulatto” from possessing any gun, ammunition.	Firearms; Guns; Ammunition; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
56	1797	Delaware	1797 Del. Laws 104, An Act for the Trial of Negroes, ch. 43, § 6	Prohibited “any Negro or Mulatto slave” from possessing any gun, ammunition, or weapon without their master’s license.	Firearms; Guns; Swords; Clubs; Weapons; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
57	1798	Kentucky	1798 Ky. Acts 106, § 5	Prohibited any “Negro, mulatto, or Indian” from possessing any gun, ammunition.	Firearms; Guns; Clubs; Ammunition; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
58	1798	New Jersey	Charles Nettleton, Laws of the State of New-Jersey, at 370-71 (1821)	Prohibited “any negro or other slave” from hunting or carrying a gun on the first day of the week, or Sunday subject to imprisonment.	Firearms; Guns	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
59	1799	Mississippi [Territory]	1799 Miss. Laws 113, A Law for the Regulation of Slaves	Prohibited any “negro or mulatto” from possessing or carrying firearms, guns, ammunition or weapons.	Firearms; Guns; Ammunition; Weapon	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
60	1801	District of Columbia	“Ordinances of the Corporation of Georgetown, 1801, October 24th, Sect. 2”, The Black Code of the District of Columbia in Force September 1st, 1848 50 (New York, 1848)	Prohibited “any servant or slave” from shooting any gun or other firearms.	Firearms; Gun	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
61	1804	Indiana [Territory]	1804 Ind. Acts 108, A Law Entitled a Law Respecting Slaves, § 4	Prohibited “any slave or mulatto” from keeping or carrying any gun, powder,	Gun; Powder; Shot;	Unconstitutional under the Thirteenth and/or Fourteenth	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
				shot, club, or any other weapon or ammunition.	Club; Weapons; Ammunition	Amendments to the U.S. Constitution	
62	1804	Mississippi [Territory]	1804 Miss. Laws 90-91, An Act Respecting Slaves, § 4	Prohibited any “Slave” from keeping or carrying any gun, powder, shot, club, weapon, or ammunition.	Gun; Powder; Shot; Club; Weapons; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
63	1805	Alabama [Territory]	Harry Toulmin, A Digest of the Laws of the State of Alabama . . . 627 (1823)	Prohibited any “slave” from keeping or carrying any gun, powder, shot, club, weapon, or ammunition.	Gun; Powder; Shot; Club; Weapons; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
64	1805	Virginia	1805 Va. Acts 51, An Act Concerning Free Negroes and Mulatoes	Prohibited any “free negro or mulato” from carrying a firelock of any kind without a license from the court.	Firelock	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
65	1806	Louisiana [Territory]	An Act prescribing the rules and conduct to be observed with respect to Negroes and other Slaves of this territory, in A General Digest of the Acts of the Legislature of Louisiana, Passed from the Year 1804 to 1827, . . . (1828)	Prohibited any person who keeps “slaves for the purpose of hunting” from delivering to any “slaves” any firearm for the purpose of hunting without permission.	Firearms	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
66	1806	Maryland	1806 Md. Laws 44, An Act to Restrain the Evil Practices Arising From Negroes Keeping Dogs, and to Prohibit	Prohibited “any negro or mulatto” from keeping a dog or gun, except any “free negro or mulatto”	Gun; Dog; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			Them From Carrying Guns or Offensive Weapons, ch. 81	who has a license for such purpose.		Amendments to the U.S. Constitution	
67	1806	Virginia	1806 Va. Acts 51, ch. 94	Required any “free negro or mulatto” to obtain a license to keep or carry any kind of firelock, military weapon, powder, or lead.	Firelock; Military weapons; Powder; Lead	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
68	1807	Mississippi [Territory]	Harry Toulmin, The Statutes of Mississippi Territory, Revised and Digested by the Authority of the General Assembly 593 (Natchez, 1807)	Prohibition for people to purchase and trade guns and hunting articles with “any Indian.”	Gun; Article commonly used in hunting; Any instrument of husbandry; Cooking utensil	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
69	1818	Missouri [Territory]	Henry S. Geyer, A Digest of the Laws of Missouri Territory. Comprising: An Elucidation of the Title of the United States to Louisiana 374 (1818)	Prohibition on any “slave or mulatto” from owning or carrying a gun, powder, shot, club, or other weapons.	Gun; Powder; Shot; Club; Weapons; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
70	1819	Iowa – Borough of Vincennes [Territory]	Ordinances of the Borough of Vincennes, with the Act of Incorporation and Supplement Thereto Prefixed 54-55 (1820)	Prohibited “any negro or mulatto” from possessing “deadly weapons.”	Weapons; Belt; Butcher-knife; Dirk; Sword; Pistol	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
71	1819	Virginia	Ch. 111 §§ 7 & 8, 1 Va. Code 423 (1819)	Prohibited “free negro or mulatto” from keeping or carrying any kind of firelock, military weapon, powder, or lead without a license from a court.	Firelock; Military weapons; Powder; Lead	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
72	1827	Delaware	1827 Del. Laws 153, An Act Concerning Crimes and Offenses Committed by Slaves, And For, The Security of Slaves Properly Demeaning Themselves, ch. 6, § 8	Prohibited “any negro or mulatto slave” from carrying any gun, pistol, sword, dirk, or unusual or dangerous weapons or arms without special permission.	Gun; Pistol; Sword; Dirk; Unusual or dangerous weapons; Arms;	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
73	1828	Florida [Territory]	An Act relating to Crimes and Misdemeanors Committed by Slaves, Free Negroes, and Mulattoes, in Compilation of the Public Acts of the Legislative Council of the Territory of Florida, Passed Prior to 1840, at 227 (John P. Duval ed., 1839)	Prohibited “any slave” from willfully or maliciously shooting any free white person with a gun.	Gun; Instrument	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
74	1831	Tennessee	Acts 1741, c. 24, in 1 Statute Laws of the State of Tennessee of a Public & General Nature, 314 (1831)	Prohibited any “slave” from being armed with a gun, sword, club, or other weapon without a certificate from a court.	Gun; Sword; Club; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
75	1831	Tennessee	Tenn. Const., Art. I, § 26 (1834)	Establishes the right to keep and bear arms for the “free white men of this State.”	Arms	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
76	1832	Delaware	1832 Del. Laws 208, A Supplement to an Act to Prevent the Use of Firearms by Free Negroes and Free	Prohibited “free negroes and free mulattoes” from having, owning, keeping, or possessing any gun, pistol, sword, or warlike	Gun; Pistol; Sword; Warlike instruments	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			Mulattoes, and for Other Purposes, ch. 176, § 1	instrument without permission of five or more citizens of the neighborhood.			
77	1833	Alabama	Digest of the Laws of the State of Ala. 391-92 (1833)	Prohibited any “slave” from keeping or carrying any gun or ammunition without permission from a justice of the peace.	Gun; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
78	1833	Florida [Territory]	An Act concerning patrols, in Compilation of the Public Acts of the Legislative Council of the Territory of Florida, Passed Prior to 1840, at 65 (John P. Duval ed., 1839)	Prohibited “any slave, free negro, or mulatto” from keeping any firearm in the home.	Firearms; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
79	1833	Georgia	1833 Ga. Laws 226, 228, § 7	Prohibition for “any free person of colour” to own, use, or carry any firearms.	Firearms	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
80	1835	Arkansas [Territory]	Slaves, in Laws of the Arkansas Territory 521 (J. Steele & J. M’Campbell, Eds., 1835)	Prohibited any “slave or mulatto” from possessing or carrying a gun, ammunition, or weapon.	Firearms; Guns; Ammunition; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
81	1835	South Carolina	William Rice, <i>A Digested Index of the Statute Law of South Carolina From the Earliest Period to the Year 1836, Inclusive</i> 356 (Charleston 1838)	Prohibited any “free negro or other free person of color” from carry firearms without a ticket.	Firearms	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
82	1835	Tennessee	1835-36 Tenn. Pub. Acts 168, An Act to Amend the Penal Laws of the State, ch. 58, § 1	Prohibited any “free person” from selling, loaning, or giving any gun, pistol, sword, or dirk to “any slave.”	Firearms; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
83	1836	Arkansas	Ark. Const., Art. II, § 21 (1836)	Establishes the right to keep and bear arms for “the free white men of this State.”	Arms	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
84	1837	Arkansas	Revised Statutes of the State of Arkansas, Adopted at the October Session of the General Assembly of Said State 733-34 (1838)	Prohibited “any slave” from possessing any gun or weapon without written permission from their master.	Firearms; Guns; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
85	1838	Arkansas	Revised Statutes of the State of Arkansas, Adopted at the October Session of the General Assembly of Said State, A.D. 1837, at 733-34 (1838)	Prohibited any “free negro” from possessing or carrying a gun, ammunition, or weapon of any kind without a license.	Firearms; Guns; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
86	1838	Florida [Territory]	Fla. Const., Art. I, § 21 (1838)	Provided a right to keep and bear arms for “the free white men of this State.”	Arms	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
87	1839	Texas [Republic of Texas]	1839 Tex. Gen. Laws 172, An Act Concerning Slaves, § 6	Prohibited any “slave” from carrying firearms or weapons without the consent of his master.	Firearms; Guns; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
88	1840	North Carolina	James Iredell, A Digested Manual of the Acts of the	Prohibited “any free negro, mulatto, or free person of	Shotgun; Musket;	Unconstitutional under the Thirteenth	<i>State v. Newsom</i>

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			General Assembly of North Carolina, from the Year 1838 to the Year 1846 . . . 73 (1847)	color” from carrying or possessing any shotgun, musket, rifle, pistol, sword, dagger, or bowie knife without a license from the Court of Pleas and Quarter Sessions of his or her country.	Rifle; Pistol; Sword; Dagger; Bowie knife	and/or Fourteenth Amendments to the U.S. Constitution	(N.C. 1844) (upheld)
89	1840	Texas [Republic of Texas]	2 The Laws of Texas 1822-1897 . . . 172 (1898)	Prohibition on any “slave” from carrying a gun or other deadly weapon without the permission of their master.	Gun; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
90	1841	Delaware	1841 Del. Laws 430, An Act Concerning Fees, ch. 368, § 1	Set payment for Justices of the Peace to receive 25 cents for each license issued to “negroes” to keep a firearm.	Gun	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
91	1843	Delaware	A Further Supplement to an Act Entitled “An Act to Prevent the Use of Fire-arms by Free Negroes and Free Mulattoes and for Other Purposes, § 1, 9 Del. Laws 552 (1843)	Repealed laws allowing the Justice of the Peace to license or permit a “free negro or free mulatto” to have, use, or possess a gun or fowling piece.	Gun; Fowling piece	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
92	1846	North Carolina	James Iredell, A Digested Manual of the Acts of the General Assembly of North Carolina, from the Year 1838 to the Year 1846 . . . 75 (1847)	Prohibited selling or delivering firearms and weapons to “any slave, or slaves, any gun cotton, fire arms, swords, dirks or other side arms.”	Gun; Firearms; Sword; Dirk; Sidearms	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
93	1848	Louisiana – Parish of East Feliciana	John C. White, Digest of the Laws and Ordinances of the Parish of East Feliciana, Adopted by the Police Jury of the Parish 68 (1848)	Prohibited any “slave” from carrying a gun off the plantation without the permission.	Gun	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
94	1850	Kentucky	1851 Ky. Acts 296, Of Dealing With Slaves and Suffering Them to go at Large, § 12	Prohibited “any negro” from keeping or carrying a gun, weapon, powder, or shot.	Gun; Weapons; Powder; Shot	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
95	1853	Kentucky – City of Louisville	Oliver H. Strattan, City Clerk A Collection of the State and Municipal Laws, in Force, and Applicable to the City of Louisville, Ky. . . . 175 (1857)	Prohibited the sale of gunpowder to minors under 15 years of age, “free colored persons,” or “slaves” without permission from a parent, guardian, or master.	Gunpowder	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
96	1853	Oregon [Territory]	Act of Jan. 16, 1854, § 1, 1854 Or. Laws 257	Prohibited any “white citizen” to sell, barter, or give any kind of firearm or ammunition to “an Indian.”	Firearms; Gun; Rifle; Pistol; Powder; Lead; Percussion caps; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
97	1854	Missouri	1854 Mo. Laws 1094, An Act Concerning Free Negroes and Mulattoes, ch. 114, §§ 2-3	Prohibited any “free negro or mulatto” from possessing or carrying any firelock, or weapon of any kind, or any ammunition without license from a Justice of the Peace.	Gun; Firelock; Weapons; Ammunition	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	

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Defendant’s Survey of Relevant Statutes (Pre-Founding–1888)**

No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
98	1858	New Mexico [Territory]	1858-1859 N.M. Laws 68, An Act to Provide for the Protection of Property in Slaves in this Territory, ch. 26, § 7	Prohibited any person to transfer to “any slave any sword, dirk, bowie-knife, gun, pistol or other fire arms, or any other kind of deadly weapon of offence, or any ammunition of any kind suitable for fire arms.”	Firearms; Sword; Dirk; Bowie knife; Gun; Pistol	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
99	1859	Kentucky	1859 Ky. Acts 245, An Act to Amend an Act Entitled “An Act to Reduce to One of the Several Acts in Relation to the Town of Harrodsburg,” § 23	Prohibited “any slave or free person of color, any gun, pistol, bowie knife, slung shot, sword cane, or other weapon used for the purpose of offence or defence.”	Pistol; Dirk; Bowie knife; Brass knuckles; Slungshot; Colt; Cane-gun; Weapons; Concealed weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
100	1860	Georgia	1860 Ga. Laws 56, An Act to add an additional Section to the 13th Division of the Penal Code, making it Penal to Sell to or Furnish Slaves or Free Persons of Color, with Weapons of Offence and Defence; and for other Purposes therein mentioned, § 1	Prohibited any person from selling or furnishing to any “minor, or slave, or free negro” “any pistol, dirk, bowie-knife, brass-knucks, slungshot, colt, cane-gun, or other deadly weapon, which is carried concealed.”	Gun; Pistol; Bowie knife; Slungshot; Sword; Cane; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
101	1860	Kentucky	1860 Ky. Acts 245, An Act to amend an act, entitled “An act to reduce into one the several	Prohibited any person from selling or furnishing to any “minor, or slave, or free negro” “any pistol, dirk,	Firearms; Weapons; Concealable Weapons	Unconstitutional under the Thirteenth and/or Fourteenth	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			acts in relation to the town of Harrodsburg, ch. 33, § 23	bowie-knife, brass-knucks, slungshot, colt, cane-gun, or other deadly weapon, which is carried concealed.”		Amendments to the U.S. Constitution	
102	1860	North Carolina	1860-1861 N.C. Sess. Laws 68, Pub. Laws, An Act to Amend Chapter 107, Section 66, of the Revised Code, Relating to Free Negroes Having Arms, ch. 34, § 1	Prohibited “any free negro” from wearing or carrying or keeping in his house any “any shot gun, musket, rifle, pistol, sword, sword cane, dagger, bowie knife, powder or shot.”	Shotgun; Musket; Rifle; Pistol; Sword; Cane; Dagger; Bowie knife; Powder; Shot	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
103	1863	Delaware	1863 Del. Laws 332, An Act in Relation to Free Negroes and Mulattoes, ch. 305, § 7	Prohibited any “free negroes and free mulattoes” from possessing a gun, pistol, sword, or any other warlike instrument, punishable by fine or imprisonment.	Firearms; Guns; Weapons	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
104	1865	Mississippi	<i>Laws of the State of Mississippi</i> (Jackson, Miss: J.J. Shannon & Sons, 1866), at 82-86, 91, 165	Prohibited any “freedman, free negro or mulatto” from keeping or carrying any firearms, ammunition, dirk, or bowie knife.	Firearms; Ammunition; Dirk; Bowie knife	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	
105	1865	South Carolina	Acts of the General Assembly of the State of South Carolina (Columbia, SC: Julian A. Selby, 1866), at 14-15, 34-44	Prohibited any “[p]ersons of color” from being a part of the militia and from keeping a firearm, sword,	Firearm; Sword; Military weapon	Unconstitutional under the Thirteenth and/or Fourteenth Amendments to the U.S. Constitution	

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
				or other military weapon without permission.			
106	1868	Kansas	1 General Statutes of the State of Kansas 329 (1876)	Prohibited possession of any firearm by “[a]ny person who is not engaged in any legitimate business, any person under the influence of intoxicating drink, and any person who has ever borne arms against the government of the United States.”	Deadly weapons		
107	1881	Florida	1881 Fla. Laws 87, An Act to Prevent the Selling, Hiring, Bartering, Lending or Giving to Minors Under Sixteen Years of Age, or to any Person of Unsound Mind, Certain Fire-arms or other Dangerous Weapons, ch.. 3285, § 1-2	Prohibition for persons to sell or give a pistol or firearm to a minor under 16 years of age or persons of unsound mind.	Pistol; Dirk; Arms; Weapons		

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Defendant’s Survey of Relevant Statutes (1889–1930s)^{1,2}

No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
108	1899	Wyoming	1899 Wyo. Sess. Laws 32-33, An Act for the Better Protection of the Game and Fish of this State . . . , ch. 19, § 14	Allowed residents to receive hunting license for \$1, non-residents to receive hunting license for \$40.	Firearms		
109	1902	New Jersey	1902 N.J. Laws 780, An Act to Require Non-residents to Secure Licenses before Hunting or Gunning within the State of New Jersey and Providing Penalties for Violation of Its Provisions, ch. 263, § 1	Imposed licensing requirement for non-residents of the state “to hunt and gun.”	Firearms		
110	1903	Pennsylvania	1903 Pa. Laws 178, An Act Requiring non-resident hunters, and unnaturalized, foreign born, resident-hunters, to procure a license before hunting in the Commonwealth ... §§ 1 and 2	Imposed licensing requirement for non-residents and unnaturalized foreign-born resident to possess a gun in the fields, forests, or waters of the State. Punishable by fine.	Firearms		
111	1905	Utah	1905 Utah Laws 197, An Act for the Protection of Fish, Game, and Birds . . . , ch. 118, § 30	Imposed licensing requirement for non-residents and unnaturalized foreign-born resident to kill any game,	Firearms		

¹ In compliance with the Court’s Order dated December 15, 2022 (Dkt. 77), Defendant created this survey of statutes, laws, and regulations that Defendant has determined are relevant to this action. Plaintiffs disagree that nearly all of those statutes, laws, and regulations are relevant to the historical analysis required in this case, and in compliance with the Court’s December 15 Order, the chart reflects Plaintiffs’ position regarding the relevance of each law.

² The surveys have been filed in compliance with the Court’s Order directing the parties to identify all relevant laws, statutes, and regulations from the time of the Second Amendment to twenty years after adoption of the Fourteenth Amendment. In compliance with that Order and in recognition of the historical inquiry mandated by *Bruen*, the spreadsheets identify hundreds of relevant firearms laws, some of which were drafted well before the Thirteenth Amendment’s abolition of slavery and the Fourteenth Amendment’s Equal Protection Clause. While our subsequent briefing, as ordered by the Court, will explain in more detail the historical context and relevance of such laws, the Attorney General emphasizes his strong disagreement with racial and other improper discrimination that existed in some such laws, and which stand in stark contrast to California’s commonsense firearm laws, which are designed to justly and equitably protect all Californians. The listing of such racist and discriminatory statutes should in no way be construed as an endorsement of such laws by the Attorney General or his counsel in this matter.

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
				animals, birds, or fish in the State.			
112	1909	Delaware	1909 Del. Laws 577, House Joint Resolution Providing for Increase in Non-Resident Gunners License Fee, ch. 271	Imposed licensing requirement for non-residents who “make it a practice to gun” in the state.	Firearms		
113	1909	Pennsylvania	1909 Pa. Laws 466, An Act to give additional protection to wild birds and animals. . .prohibiting the hunting for or capture or killing of, such wild birds or animals or game by unnaturalized foreign-born residents; forbidding the ownership or possession of shotgun or rifle by any unnaturalized foreign-born resident, § 1	Prohibited unnaturalized foreign born residents from hunting in the Commonwealth, or to possess a shotgun or rifle.	Shotgun; Rifle		
114	1911	Washington	1911 Wash. Sess. Laws 303, An Act Relating to the Carrying of Firearms, Requiring Licenses of Certain Persons, and Fixing a Penalty for the Violation Thereof, ch. 52, § 1	Required noncitizens to receive a license from the state auditor, upon a certificate from the consul of the individual’s country of origin and payment of a fee, before noncitizen can possess a firearm.	Firearms		
115	1911	New York	1911 N.Y. Laws 443, An Act to Amend the Penal Law, in Relation to the Sale and Carrying of Dangerous Weapons. ch. 195, § 1	Prohibited noncitizens from carrying or possessing firearms or dangerous weapons in a public place are guilty of a felony; law does not apply to regular and ordinary transportation of firearms as merchandise, or for	Firearms; Dangerous weapons		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
				peace officers or military or civil organizations when parading or going to a meeting of their respective organizations.			
116	1913	Montana	1913 Mont. Laws 53, An Act to Provide that Aliens Shall Pay a Gun License, and Providing a Penalty for Failure to Obtain License; to Provide for and Regulate the Duties of the Game and Fish Warden and His Deputies, and to Provide for the Disposition of the Fines so Collected, ch. 38, § 1	Required noncitizens to obtain a license (costing \$25) from the Game and Fish Warden before possessing a firearm; license valid for one year; provision does not apply to: (1) individuals who have purchased hunting license; (2) state residents owning at least 160 acres of land; (3) settlers on public land beginning to acquire land under federal law; or (4) persons engaged in tending or herding sheep or other animals.	Firearms		
117	1913	Wyoming	1913 Wyo. Sess. Laws 165, An Act . . . Relating to the Duties of the State Game Warden, Assistant and Deputy Game Wardens, and the Preservation of the Game Animals and Game Birds and Fish of the State of Wyoming . . . , ch. 121, § 38	Required nonresidents obtain a license for \$5 from the Justice of the Peace in order to hunt game birds in the state.	Firearms		
118	1914	Illinois – City of Chicago	Ordinance of May 25, 1914, §§4a-6. (Samuel A. Ettelson, Opinions of the Corporation Counsel and Assistants from	Required weapon sales through licensed dealers only; required purchasers of such weapons to first receive a permit from the General	Pistol; Revolver; Derringer; Bowie knife; Dirk;		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			May 1, 1915, to June 30, 1916, at 458-59 (Vol. 7, 1916)	Superintendent of Police. Required purchasers provide proof of good moral character to receive permit; gives Superintendent discretion on issuance of permits. Prohibited the issuance of permits to anyone who was convicted of any crime and minors. Punishable by a fine.	Weapon of like character		
119	1915	Wyoming	1915 Wyo. Sess. Laws 91, An Act Relating to the Preservation of the Game Animals, Game Birds, and Fish of the State of Wyoming . . . , ch. 91, § 13	Required noncitizens to purchase a specified license before owning or possessing any firearm or fishing tackle.	Firearms; Fishing tackle		
120	1915	New Jersey	1915 N.J. Laws 662-63, . . . Forbidding the Ownership or Possession of Shotgun or Rifle by Any Unnaturalized, Foreign-Born Person within the State of New Jersey and Prescribing Penalties for Violation of its Provisions, ch. 355, § 1	Prohibited noncitizens from owning or possessing a shotgun or rifle. Punishable by fine and confiscation and resale of firearm. Not applicable to noncitizens owning at least \$2,000 worth of property in the state.	Shotgun; Rifle		
121	1915	North Dakota	1915 N.D. Laws 225, An Act Relating to Game and Fish . . . , ch. 161, § 67	Prohibited noncitizens from owning or possessing any shotgun or rifle; violators subject to fine, imprisonment, confiscation of weapon.	Shotgun; Rifle		
122	1916	New Jersey	1916 N.J. Laws 275-76, An Act to Prohibit Any Person from Going into the Woods or Fields with a Gun or Other Firearm when Intoxicated, or under the	Prohibited any individuals from going into the woods or fields with a firearm while intoxicated or under influence of drugs or alcohol.	Firearms		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			Influence of any Drug or Intoxicating Liquor, ch. 130, §§ 1-2	Punishable by revocation of hunting and fishing license.			
123	1917	New Hampshire	1917 N.H. Laws 728-29, An Act for the Regulation of the Sale and Use of Explosives and Firearms, ch. 185, § 6	Required noncitizens obtain a permit before possessing firearm. Permitted obtained by submitting application to police chief or selectment; permit must state purposes for possession of firearm and description of firearm to be obtained. Permit-holder must keep permit on them at all times.	Firearms		
124	1917	Oregon	1917 Or. Sess. Laws 804-08, An Act Prohibiting the manufacture, sale, possession, carrying, or use of any blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger or stiletto, and regulating the carrying and sale of certain firearms, and defining the duties of certain executive officers, and providing penalties for violation of the provisions of this Act, § 11	Provided that noncitizens convicted of carrying a deadly weapon are guilty of a felony and subject to up to 5 years’ imprisonment.	Deadly weapons (blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger or stiletto, and certain firearms)		
125	1917	Minnesota	1917 Minn. Laws 839-40, An Act . . . Making It Unlawful for Any Such Foreign Born Resident to Either Own or Be Possessed of a Shot-gun or	Prohibited noncitizens from possessing firearms “of any make.”	Firearms		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			Rifle or Other Firearms of Any Make, ch. 500, § 1				
126	1917	Utah	1917 Utah Laws 278, An Act . . . Forbidding the Ownership or Possession of Fire Arms or Other Deadly Weapon by an Unnaturalized Foreign Born Person within the State of Utah, ch. 95, § 1	Prohibited noncitizens from owning, possessing, or having under their control and shot gun, rifle or firearm “of any make.”	Firearms		
127	1919	Colorado	1919 Colo. Sess. Laws 416–17, Foreign-Born Unnaturalized Citizens, § 1	Prohibited noncitizens from owning or possessing any shotgun, rifle, pistol or firearm of any kind; violators subject to fine, imprisonment, confiscation of weapon.	Firearms		
128	1921	New Mexico	1921 N.M. Laws 201-02, An Act to Provide Additional Protection to Wild Birds and Game; Prohibiting the Hunting, Capturing or Killing of Wild Birds and Game Animals by Unauthorized (Unnaturalized) Foreign Born Residents of New Mexico and Adjoining States; Prohibiting the Possession or Use by Such Residents of Shotguns or Rifles within the State of New Mexico; Prescribing Penalties for Violation of this Act, ch. 113, §§ 1-4	Prohibited the use, possession, or control of any shotgun or rifle by noncitizen; violators subject to fine, imprisonment, and confiscation and resale of shotgun or rifle	Shotgun; Rifle		
129	1921	Michigan	1921 Mich. Pub. Acts 21, An Act to Give Additional	Prohibited ownership or possession of firearms by	Firearms; Shotgun;		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			Protection to Wild Birds and Animals and Game within the State of Michigan, Prohibiting the Hunting for or Capture or Killing of Such Wild Birds, or Animals, or Game, by Unnaturalized Foreign-born Residents, Forbidding the Ownership or Possession of Shotgun, or Rifle, or Pistol, or Firearms of Any Kind, by Any Unnaturalized Foreign-born Resident, within the State, and Prescribing Penalties for Violation of its Provisions, § 1	noncitizens; violators subject to fine, imprisonment, and confiscation and resale of weapon by state.	Pistol; Rifle		
130	1922	Massachusetts	1922 Mass. Acts 563, ch. 485, An Act Relative to the Sale and Carrying of Firearms, ch. 485, § 8 (amending § 130)	Prohibited the sale or furnishing of firearms, air guns, or dangerous weapons to minors under age 15 or noncitizens without a permit to carry firearms; violators subject to fine. Law does not apply to instructors furnishing military weapons to pupils for instruction or drill.	Firearms; Air guns; Weapons		
131	1923	North Dakota	Act of Mar. 17, 1923, ch. 266, § 5, 1923 N.D. Laws 379, 380; 1923 N.D. Laws 380, Pistols and Revolvers, ch. 266, § 5	Prohibition on firearms for those convicted of a felony and “unnaturalized foreign born person[s].”	Arms; Pistol; Revolver		
132	1923	California	Act of June 13, 1923, ch. 339, § 2, 1923 Cal. Stat. 696	Prohibited firearm possession and any “other firearm capable of being concealed upon the person” for those convicted of	Concealable firearms; Pistol;		

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				a felony or unnaturalized foreign-born.	Revolver; Firearms with a barrel less than 12 inches in length		
133	1923	New York	1923 N.Y. Laws 140–41, An Act to Amend the Conservation Law in Relation to Aliens, ch. 110, § 2	Prohibited noncitizens from owning or possessing any shotgun or rifle without a special license.	Shotgun; Rifle		
134	1923	Connecticut	1923 Conn. Pub. Acts 3708, An Act Concerning the Possession, Sale and Use of Pistols and Revolvers, ch. 252, § 7	Prohibited the sale, delivery, or transfer of any pistol or revolver to any noncitizen.	Pistols; Revolvers		
135	1923	Connecticut	1923 Conn. Acts 3732, Unnaturalized Persons, ch. 259, § 17	Prohibited noncitizens from owning or possessing any shotgun or rifle; violators subject to confiscation and resale of gun by state upon conviction.	Shotguns; Rifles		
136	1923	California	1923 Cal. Stat. 695 An Act to Control and Regulate the Possession, Sale and Use of Pistols, Revolvers, and Other Firearms Capable of Being Concealed Upon the Person	Prohibited ownership, possession, or control of any pistol, revolver or concealable firearm by any noncitizen or felony convicts.	Pistol; Revolver; Concealable firearm;		
137	1925	Wyoming	1925 Wyo. Sess. Laws 110, An Act Prohibiting Persons not Citizens of the United States, from Possessing, Wearing or Carrying any Dangerous or Deadly Weapon. . . , ch. 106, § 1	Prohibited noncitizens from owning, possessing, or carrying dangerous or deadly weapons; violators subject to misdemeanor conviction, fine or imprisonment	Firearms; Dirk; Bowie knife; Dagger; Dangerous or deadly weapon		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
138	1925	Nevada	1925 Nev. Stat. 54, An Act to Control and Regulate the Manufacture, Sale, Possession, Use, and Carrying of Firearms and Weapons, and other Matters Properly Relating Thereto, ch. 47, § 2	Prohibited noncitizens and convicts from owning, possessing, or having under their custody or control any pistol, revolver, or concealable firearms; violators subject to felony conviction and imprisonment of 1-5 yrs.	Concealable Firearms		
139	1925	West Virginia	1925 W.Va. Acts 31, 1st Extraordinary Sess., An Act to Amend and Re-Enact Section Seven . . . Relating to Offenses Against the Peace . . . , ch. 3, § 7, pt. b	Prohibited noncitizens from owning, keeping, or possessing firearms	Firearms;		
140	1925	Indiana	1925 Ind. Acts 496, ch. 207, An Act to Regulate and Control the Possession, Sale, and Use of Pistols and Revolvers in the State of Indiana	Prohibited felony convicts from possessing or having under their control a pistol or revolver; violator subject to felony conviction and imprisonment of 1-5 yrs.	Pistol; Revolver		
141	1927	Rhode Island	1927 R.I. Pub. Laws 256, An Act to Regulate the Possession of Firearms, §§ 1, 3	Prohibited individuals convicted of violent crimes from purchasing, owning, carrying, possessing, or having under their control any firearm.	Firearms		
142	1927	Hawaii Territory	1927 Haw. Sess. Laws 209-217, An Act Regulating the Sale, Transfer and Possession of Certain Firearms and Ammunitions, and Amending Sections 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143,	Prohibited individuals convicted of violent crimes from owning, possessing, or having under their control any pistol or revolver.	Pistol; Revolver		

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No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
			2146 and 2147 of the Revised Laws of Hawaii 1925, §§ 1, 4				
143	1931	California	1931 Cal. Stat. 2316–17, An Act to Control and Regulate the Possession, Sale and use of Pistols, Revolvers, and other Firearms Capable of Being Concealed Upn the Person, ch. 1098, § 1	Prohibited noncitizens, felony convicts, or drug addicts from owning, possessing, or having under their custody or control any pistol, revolver, or concealable firearm; violators subject to fine or imprisonment.	Pistol; Revolver; Concealable firearm		
144	1931	Pennsylvania	1931 PA. Laws 498, No. 158	Prohibited individuals convicted of violent crimes from owning, possessing or having a firearm under their control.	Firearms		
145	1933	Hawaii Territory	1933 Haw. Sess. Laws 38, An Act Regulating the Sale, Transfer, and Possession of Firearms and Ammunition, § 6	Prohibited individuals convicted of violent crimes from owning, possessing, or having under their control a pistol, revolver, or ammunition.	Pistols; Revolvers; Ammunition		
146	1933	Hawaii Territory	1933 Haw. Sess. Laws 39, An Act Regulating the Sale, Transfer, and Possession of Firearms and Ammunition, § 8	Required license for concealed carry of pistol, firearm, or ammunition; prohibits issuance of license to felony convicts or mentally ill; violators subject to fine or imprisonment.	Pistol; Revolver; Concealable weapons; Ammunition		
147	1933	Oregon	1933 Or. Laws 488, An Act to Amend Sections 72-201, 72-202, 72-207, Oregon Code 1930, § 2	Prohibited noncitizens and felony convicts from owning, possessing, or having under their custody or control and pistol, revolver, concealable	Pistols; Revolvers; Concealable firearms;		

**Rhode v. Bonta, No. 3:18-cv-00802-BEN-JLB
 Defendant’s Survey of Relevant Statutes (1889–1930s)**

No.	Year of Enactment	Jurisdiction	Citation	Description of Regulation	Subject of Regulation	Repeal Status	Judicial Review
				firearm, or machine gun; violators subject to felony conviction and imprisonment of 1-5 yrs.	Machine Guns;		
148	1938	United States	Federal Firearms Act, 52 Stat. 1250-51 (1938)	Prohibited any person who has been convicted of a “crime of violence or is a fug[a]tive from justice” from receiving “any firearm or ammunition” which has been shipped in interstate commerce.	Any Firearm; Ammunition		

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Attorney General of California
2 ANTHONY R. HAKL
Supervising Deputy Attorney General
3 NELSON R. RICHARDS
Deputy Attorney General
4 State Bar No. 246996
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7867
7 Fax: (916) 324-8835
E-mail: Nelson.Richards@doj.ca.gov
8 *Attorneys for Defendant Attorney General
Xavier Becerra*

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

13 **KIM RHODE et al.,**

14 Plaintiffs,

15 v.

16 **XAVIER BECERRA, IN HIS OFFICIAL
17 CAPACITY AS ATTORNEY GENERAL OF
18 THE STATE OF CALIFORNIA, et al.,**

19 Defendants.

3:18-cv-00802-BEN-JLB

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

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

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

2 I, MAYRA G. MORALES, declare:

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

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

- 9 • The August 5, 2019 Declaration of Mayra G. Morales in Support of
10 Defendant Xavier Becerra’s Opposition to Plaintiffs’ Motion for
11 Preliminary Injunction, ECF No. 34-1;
12 • The September 27, 2019 Supplemental Declaration of Mayra G. Morales
13 in Support of Defendant Xavier Becerra’s Opposition to Plaintiffs’
14 Motion for Preliminary Injunction, ECF No. 42;
15 • The November 18, 2019 Second Supplemental Declaration of Mayra G.
16 Morales in Support of Defendant Xavier Becerra’s Opposition to
17 Plaintiffs’ Motion for Preliminary Injunction, ECF No. 48; and,
18 • The February 28, 2020 Third Supplemental Declaration of Mayra G.
19 Morales in Support of Defendant Xavier Becerra’s Opposition to
20 Plaintiffs’ Motion for Preliminary Injunction, ECF No. 53.

21 3. This fourth supplemental declaration answers a question that the Court
22 directed me to answer during the April 1, 2020, telephonic status conference. The
23 Court asked me whether there is a process for a person to challenge a Department
24 determination that he or she is prohibited from purchasing ammunition—for
25 instance, whether a person who has a Standard Ammunition Eligibility Check
26 (Standard Check) denied because he or she is prohibited can challenge the
27
28

1 Department's determination. *See* Apr. 1, 2020, Status Conference Tr. at 68:23-
2 69:6.

3 4. In answer to the Court's question: Yes, there is a procedure that a person
4 may use to contest a determination by the Department that he or she is prohibited.
5 As part of my job duties, I am generally aware of the first steps in that procedure.
6 My job duties do not, however, require me to participate in the procedure.

7 5. A person who has an ammunition eligibility check denied because
8 Department records show that he or she is prohibited from possessing firearms and
9 ammunition will be notified via letter. A true and correct copy of an example letter
10 denying a Standard Check is attached to this declaration as **Exhibit A**. A true and
11 correct copy of an example letter denying a Basic Ammunition Eligibility Check
12 (Basic Check) is attached to this declaration as **Exhibit B**.

13 6. The letter received by Standard Check purchasers does not provide the
14 specific reason the person is prohibited. *See* Ex. A. This is because Standard
15 Checks rely on the Armed Prohibited Person System (APPS) to determine whether
16 the purchaser is prohibited from possessing ammunition by way of checking the
17 person's status in APPS, which is either prohibited or not prohibited.

18 7. The letter received by Basic Check purchasers provides that information.
19 *See* Ex. B. That information is available because Basic Check denials involve
20 manual review by a Department analyst that entails ascertaining the reason the
21 person is prohibited.

22 8. Both letters inform the purchaser that "if you wish to challenge the
23 Department's determination or the correctness of your criminal history record,
24 please complete a Request for Live Scan Service form," and provide a form number
25 and web address for where the form can be obtained. *See* Exs. A, B. A true and
26 correct copy of the Request for Live Scan Service – Firearms Eligibility form (BOF
27 8016RR), which is the form that those who are denied in a Standard Check are
28 directed to use, is attached to this declaration as **Exhibit C**. A true and correct copy

1 of the Request for Live Scan Service – Ammunition Eligibility form (BOF
2 8016ARR), which is the form that those who are denied in a Basic Check are
3 directed to use, is attached to this declaration as **Exhibit D**.

4 9. Two different forms are used because denials under the two checks have
5 slightly different scopes. As noted above, a person denied in a Standard Check is
6 denied because the APPS system lists him or her as prohibited. This person could
7 be denied because either state or federal records, or both, show him or her to be
8 prohibited. The APPS system pulls from the same state databases as the Basic
9 Check described in my earlier declarations to determine whether a person is
10 prohibited. *See, e.g.*, Third Supp. Decl. ¶ 8, ECF No. 53. But it also relies on the
11 federal National Criminal Background Check System (NICS), because APPS is
12 used to identify prohibited people who are in possession of firearms. In this sense,
13 the Standard Check relies on the same information relied on in a firearms
14 background check. As a result, those who are denied on a Standard Check can use
15 the same form (BOF 8016RR) to request information from their record as those
16 who have been denied as prohibited from purchasing a firearm.

17 10. The Basic Check, on the other hand, does not rely on NICS. Thus, a
18 person who is denied under a Basic Check is denied because state records (and not
19 federal records) show him or her to be prohibited. The check relies on the four state
20 databases described in my earlier declarations. *See, e.g.*, Third Supp. Decl. ¶ 8,
21 ECF No. 53. The Department requests those denied under a Basic Check to use a
22 different form (BOF 8016 ARR) to reflect the difference in the records that will be
23 reviewed and supplied to the requestor.

24 11. Both forms are part of the same process.

25 12. A denied purchaser who desires that information can take his or her
26 completed form to a Live Scan operator, who will fingerprint the denied purchaser
27 and electronically submit the form to the Bureau of Criminal Information and
28 Analysis (BCIA) Record Review Unit and thereafter the Bureau of Firearms. Once

1 the request is complete, the Department sends a copy of the findings to the denied
2 purchaser along with a copy of a challenge form to dispute all inaccurate
3 information. A true and correct copy of the challenge form, which is designated as
4 Claim of Alleged Inaccuracy or Incompleteness (BCIA 8706), is attached to this
5 declaration as **Exhibit E**.

6 13. The challenge form's subtitle reads "Examination of Records Pursuant to
7 Penal Code Section 11120-11127." Ex. E. and it informs the filer how to request
8 an administrative hearing. *Id.*

9 14. Beyond what I have described above, I do not have personal knowledge
10 of the process.

11
12 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
13 is true and correct.

14
15 Executed on: April 10, 2020

16
17 
18 MAYRA G. MORALES

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Exhibit A

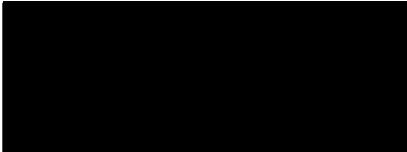
XAVIER BECERRA
ATTORNEY GENERAL

State of California
DEPARTMENT OF JUSTICE



BUREAU OF FIREARMS
P.O. BOX 820200
SACRAMENTO, CA 94203-0200
Telephone: (916) 210-2600
Fax: (916) 227-4808

April 07, 2020



RE: Purchaser Prohibited

Dear 

You recently applied to purchase or transfer ammunition. This letter is to advise you that the purchase has been denied because the Department of Justice (the Department) records indicate you are not eligible to own or possess ammunition. If you wish to challenge the accuracy of the Department's determination or the completeness of your criminal history record, please complete a Request for Live Scan Service form (BOF 8016RR) located on the Bureau of Firearms web page at <https://oag.ca.gov/firearms>.

Sincerely,

ARMED AND PROHIBITED PERSONS SECTION
Bureau of Firearms

For XAVIER BECERRA
ATTORNEY GENERAL

Exhibit B

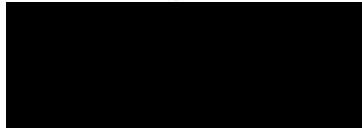
XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



BUREAU OF FIREARMS
P.O. BOX 820200
SACRAMENTO, CA 94203-0200
Telephone: (916) 227-7527
Fax: (916) 227-3744

March 25, 2020



RE: Ammunition Denial

Dear [REDACTED]:

You recently applied to purchase or transfer ammunition. When a person applies to purchase or transfer ammunition in California, the California Department of Justice (the Department) is required by state laws to examine its records to determine whether the purchaser is eligible under state law to purchase and possess ammunition. Your recent ammunition purchase application is being denied because the Department's review of state records matching your identifying information revealed the following information:

Felon: Any person who has been convicted of a felony under the laws of the United States, of the State of California, or of any other state, government, or country.

This determination was based upon information you provided in your application to purchase ammunition, such as your name, date of birth, driver license number and physical description, but has not been confirmed with fingerprint comparison. It is possible that the criminal record may not be yours and may belong to another individual whose name and identifying information is similar to yours.

If you wish to challenge the accuracy of the Department's determination or the completeness of your criminal history record, please complete a Request for Live Scan Service form (BCIA/BOF 8016ARR) located on the Bureau of Firearms web page at <http://oag.ca.gov/firearms>.

FIREARMS CLEARANCE SECTION
Bureau of Firearms

For XAVIER BECERRA
Attorney General

Exhibit C



REQUEST FOR LIVE SCAN SERVICE

Applicant Submission

AB165

ORI (Code assigned by DOJ)

FIREARMS RECORD REVIEW

Authorized Applicant Type

FIREARMS ELIGIBILITY

Type of License/Certification/Permit OR Working Title (Maximum 30 characters - if assigned by DOJ, use exact title assigned)

Contributing Agency Information:

CALIFORNIA DEPARTMENT OF JUSTICE - RECORD REVIEW UNIT

Agency Authorized to Receive Criminal Record Information

RECORD REVIEW UNIT

Contact Name (mandatory for all school submissions)

P.O. BOX 903417

Street Address or P.O. Box

SACRAMENTO

City

CA 94203-4170

State ZIP Code

Applicant Information:

Last Name

First Name

Middle Initial

Suffix

Other Name
(AKA or Alias) Last

First

Suffix

Date of Birth

Sex Male Female

Driver's License Number

Height

Weight

Eye Color

Hair Color

Billing

Number **APPLICANT TO PAY FEES**

(Agency Billing Number)

Place of Birth (State or Country)

Social Security Number

Misc.

Number

(Other Identification Number)

Home

Address Street Address or P.O. Box

City

State

ZIP Code

Your Number:

OCA Number (Agency Identifying Number)

Level of Service: DOJ

If re-submission, list original ATI number:
(Must provide proof of rejection)

Original ATI Number

Designee (Optional for individual designated by applicant pursuant to Penal Code section 11124):

Designee Name

Telephone Number (optional)

Street Address or P.O. Box

City

State

ZIP Code

Live Scan Transaction Completed By:

Name of Operator

Date

Transmitting Agency

LSID

ATI Number

Amount Collected/Billed



REQUEST FOR LIVE SCAN SERVICE (Instructions)

California Penal Code sections 11120 through 11127, and 30105 allows you to obtain a copy of your record, if any, contained in the files of the California Department of Justice and refute any erroneous or inaccurate information contained therein.

Beginning with live scan transactions submitted after April 6, 2006, the Department of Justice (DOJ) will only mail responses to you unless you complete the Designee portion on page 1 pursuant to Penal Code section 11124.

You may use the information you receive to answer questions regarding past criminal history, firearms eligibility, or to complete an application or questionnaire. However, no person or agency may require you to obtain a copy of your record or to furnish the information for any purpose, including immigration, visa, employment, licensing, or certification. (See California Penal Code sections 11125 and 30105.)

INSTRUCTIONS FOR COMPLETING THE "REQUEST FOR LIVESCAN SERVICE"

CATEGORY	INSTRUCTIONS	COMMENTS
Authorized Applicant Type:	Verify "Firearms Record Review" appears.	This is a mandatory field and must be completed.
Name of Applicant & Personal Descriptors:	Enter your full name, any known alias, date of birth, sex, height, weight, eye & hair color, place of birth, social security number and California driver's license number.	Name, date of birth, and sex are mandatory fields and must be provided. All others are optional.
Applicant Address:	Enter your home address.	This is a mandatory field and must be completed.
Daytime Telephone Number:	Enter the telephone number, including area code, where you can be reached between 8 a.m. and 5 p.m.	A telephone number is useful in helping to resolve problems which could result in a delay in processing your request.

AFTER COMPLETING THE "REQUEST FOR LIVE SCAN SERVICE" FORM

- Check your local telephone directory or contact your local police department or sheriff's office for a business or local law enforcement agency that offers "Live Scan" fingerprinting services, the fee charged by the business/agency for the Live Scan service, and the types of payment accepted. You can also view a current listing of Live Scan sites offering electronic fingerprinting services on the Attorney General's website at: <https://oag.ca.gov/fingerprints/locations>
- Go to the Live Scan business/agency of your choice to have your fingerprints taken and pay all applicable fees, including the fingerprint rolling fee. Please ensure that any private fingerprinting service you select is certified by the California Department of Justice.
- If you have questions about completing the "Request for Live Scan Service" form (BOF 8016RR), please contact the Record Review Unit at (916) 227-7527.



REQUEST FOR LIVE SCAN SERVICE

Privacy Notice

As Required by Civil Code § 1798.17

Collection and Use of Personal Information: The Division of Law Enforcement, Bureau of Firearms in the Department of Justice collects the information on this request pursuant to Penal Code sections 11122 and 11123. The Bureau of Firearms uses this information to process a person's request to obtain a copy of their criminal history record. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The Department of Justice's general privacy policy is available at <https://oag.ca.gov/privacy-policy>.

Providing Personal Information: All personal information on this request is mandatory. Failure to provide the mandatory personal information will result in your request not being processed.

Access to Your Information: You may review the records maintained by the Division of Law Enforcement, Bureau of Firearms in the Department of Justice that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information: In order to process a person's request to obtain a copy of their criminal history record, we may need to share the information you provide us with any Bureau of Firearms representative or any other person designated by the Attorney General upon request. The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies when necessary to perform their legal duties, and their use of information is compatible and complies with state law, such as for investigations, licensing, certification, or regulatory purposes;
- To another government agency as required by state or federal law.

Contact Information: For questions about this notice or access to your records, you may contact the Staff Services Analyst in the Customer Support Center at (916) 227-7527, via email at firearms.bureau@doj.ca.gov, or by mail at P.O. Box 903417, Sacramento, CA 94203-4170.

Exhibit D



REQUEST FOR LIVE SCAN SERVICE

Applicant Submission

AB165

ORI (Code assigned by DOJ)

AMMUNITION RECORD REVIEW

Authorized Applicant Type

AMMUNITION ELIGIBILITY

Type of License/Certification/Permit OR Working Title (Maximum 30 characters - if assigned by DOJ, use exact title assigned)

Contributing Agency Information:

CALIFORNIA DEPARTMENT OF JUSTICE - RECORD REVIEW UNIT

Agency Authorized to Receive Criminal Record Information

RECORD REVIEW UNIT

Contact Name (mandatory for all school submissions)

P.O. BOX 903417

Street Address or P.O. Box

SACRAMENTO

City

CA 94203-4170

State ZIP Code

Applicant Information:

Last Name

First Name

Middle Initial

Suffix

Other Name
(AKA or Alias) Last

First

Suffix

Date of Birth

Sex Male Female

Driver's License Number

Height

Weight

Eye Color

Hair Color

Billing
Number **APPLICANT TO PAY FEES**
(Agency Billing Number)

Place of Birth (State or Country)

Social Security Number

Misc.
Number
(Other Identification Number)

Home
Address Street Address or P.O. Box

City State ZIP Code

Your Number: _____
OCA Number (Agency Identifying Number)

Level of Service: DOJ

If re-submission, list original ATI number:
(Must provide proof of rejection)

Original ATI Number

Designee (Optional for individual designated by applicant pursuant to Penal Code section 11124):

Designee Name

Telephone Number (optional)

Street Address or P.O. Box

City State ZIP Code

Live Scan Transaction Completed By:

Name of Operator

Date

Transmitting Agency

LSID

ATI Number

Amount Collected/Billed



REQUEST FOR LIVE SCAN SERVICE
(Instructions)

California Penal Code sections 11120 through 11127, and 30105 allows you to obtain a copy of your record, if any, contained in the files of the California Department of Justice and refute any erroneous or inaccurate information contained therein.

Beginning with live scan transactions submitted after April 6, 2006, the Department of Justice (DOJ) will only mail responses to you unless you complete the Designee portion on page 1 pursuant to Penal Code section 11124.

You may use the information you receive to answer questions regarding past criminal history, ammunition eligibility, or to complete an application or questionnaire. However, no person or agency may require you to obtain a copy of your record or to furnish the information for any purpose, including immigration, visa, employment, licensing, or certification. (See California Penal Code sections 11125 and 30105.)

INSTRUCTIONS FOR COMPLETING THE "REQUEST FOR LIVESCAN SERVICE"

CATEGORY	INSTRUCTIONS	COMMENTS
Authorized Applicant Type:	Verify "Ammunition Record Review" appears.	This is a mandatory field and must be completed.
Name of Applicant & Personal Descriptors:	Enter your full name, any known alias, date of birth, sex, height, weight, eye & hair color, place of birth, social security number and California driver's license number.	Name, date of birth, and sex are mandatory fields and must be provided. All others are optional.
Applicant Address:	Enter your home address.	This is a mandatory field and must be completed.
Daytime Telephone Number:	Enter the telephone number, including area code, where you can be reached between 8 a.m. and 5 p.m.	A telephone number is useful in helping to resolve problems which could result in a delay in processing your request.

AFTER COMPLETING THE "REQUEST FOR LIVE SCAN SERVICE" FORM

- Check your local telephone directory or contact your local police department or sheriff's office for a business or local law enforcement agency that offers "Live Scan" fingerprinting services, the fee charged by the business/agency for the Live Scan service, and the types of payment accepted. You can also view a current listing of Live Scan sites offering electronic fingerprinting services on the Attorney General's website at: <https://oag.ca.gov/fingerprints/locations>
- Go to the Live Scan business/agency of your choice to have your fingerprints taken and pay all applicable fees, including the fingerprint rolling fee. Please ensure that any private fingerprinting service you select is certified by the California Department of Justice.
- If you have questions about completing the "Request for Live Scan Service" form (BOF 8016RR AMMUNITION), please contact the Record Review Unit at (916) 227-7527.



REQUEST FOR LIVE SCAN SERVICE



Privacy Notice

As Required by Civil Code § 1798.17

Collection and Use of Personal Information: The Division of Law Enforcement, Bureau of Firearms in the Department of Justice collects the information on this request pursuant to Penal Code sections 11122 and 11123. The Bureau of Firearms uses this information to process a person's request to obtain a copy of their criminal history record. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The Department of Justice's general privacy policy is available at <https://oag.ca.gov/privacy-policy>.

Providing Personal Information: All personal information on this request is mandatory. Failure to provide the mandatory personal information will result in your request not being processed.

Access to Your Information: You may review the records maintained by the Division of Law Enforcement, Bureau of Firearms in the Department of Justice that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information: In order to process a person's request to obtain a copy of their criminal history record, we may need to share the information you provide us with any Bureau of Firearms representative or any other person designated by the Attorney General upon request. The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies when necessary to perform their legal duties, and their use of information is compatible and complies with state law, such as for investigations, licensing, certification, or regulatory purposes;
- To another government agency as required by state or federal law.

Contact Information: For questions about this notice or access to your records, you may contact the Staff Services Analyst in the Customer Support Center at (916) 227-7527, via email at firearms.bureau@doj.ca.gov, or by mail at P.O. Box 903417, Sacramento, CA 94203-4170.

Exhibit E



CLAIM OF ALLEGED INACCURACY OR INCOMPLETENESS
(Examination of Records Pursuant to Penal Code Sections 11120–11127)

Privacy Notice

As Required by Civil Code § 1798.17

Collection and Use of Personal Information. The California Justice Information Services (CJIS) Division in the Department of Justice (DOJ) collects the information requested on this form as authorized by Penal Code Sections 11120–11127 and other various state statutes and regulations. The CJIS Division uses this information to process requests regarding disputes and exceptions taken to the accuracy and completeness of criminal records. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The DOJ's general privacy policy is available at <http://oag.ca.gov/privacy-policy>.

Providing Personal Information. All the personal information requested in the form must be provided. Failure to provide all the necessary information will result in delays and/or the rejection of your request.

Access to Your Information. You may review the records maintained by the CJIS Division in the DOJ that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information. In order to process applications pertaining to disputes and exceptions taken to the accuracy and/or completeness regarding criminal arrest records, we may need to share the information you give us with authorized applicant agencies.

The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies where necessary to perform their legal duties, and their use of your information is compatible and complies with state law, such as for investigations or for licensing, certification, or regulatory purposes;
- To another government agency as required by state or federal law.

Contact Information. For questions about this form or access to your records, you may contact the DOJ's Keeper of Records at (916) 210-3310 or by e-mail at keeperofrecords@doj.ca.gov or by mail at:

Department of Justice
Bureau of Criminal Information & Analysis
Keeper of Records
P.O. Box 903417
Sacramento, CA 94203-4170

CERTIFICATE OF SERVICE

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

I hereby certify that on April 10, 2020, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

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

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

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 10, 2020, at Sacramento, California.

Tracie L. Campbell

Declarant

/s/ Tracie Campbell

Signature

SA2018101286
33984745.docx