

1 C. D. Michel – SBN 144258  
2 Anna M. Barvir – SBN 268728  
3 Tiffany D. Chevront – SBN 317144  
4 MICHEL & ASSOCIATES, P.C.  
5 180 E. Ocean Blvd., Suite 200  
6 Long Beach, CA 90802  
7 Telephone: (562) 216-4444  
8 Facsimile: (562) 216-4445  
9 Email: cmichel@michellawyers.com

6 David H. Thompson\*  
7 Peter A. Patterson\*  
8 Megan M. Wold\*  
9 Nicholas A. Varone\*  
10 Athanasia O. Livas\*  
11 COOPER & KIRK, PLLC  
12 1523 New Hampshire Ave N.W.  
13 Washington, D.C. 20036  
14 Telephone: (202) 220-9600  
15 Facsimile: (202) 220-9601  
16 Email: dthompson@cooperkirk.com  
17 ppatterson@cooperkirk.com  
18 mwold@cooperkirk.com  
19 nvarone@cooperkirk.com  
20 alivas@cooperkirk.com

\*Admitted *pro hac vice*

Attorneys for Plaintiffs

**ELECTRONICALLY FILED**

Superior Court of California  
County of Sacramento

04/08/2026

By:           A. Macias           Deputy

**SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF SACRAMENTO**

17 POWAY WEAPONS & GEAR, INC. and SGR  
18 VENTURES LLC (D/B/A SACRAMENTO  
19 GUN RANGE),

Plaintiffs,

v.

21 CALIFORNIA DEPARTMENT OF TAX AND  
22 FEE ADMINISTRATION; TRISTA  
23 GONZALES, in her official capacity as  
24 Director of the California Department of Tax  
and Fee Administration,

Defendants.

Case No.: 25CV018964

**REQUEST FOR JUDICIAL NOTICE IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR SUMMARY JUDGMENT**

Date: August 25, 2026

Time: 9:00 AM

Dept: 54

Judge: The Honorable Christopher E.  
Krueger

Reservation ID: 896085839851

Trial Date: Not Set

Action Filed: August 11, 2025

1 Plaintiffs Poway Weapons & Gear, Inc. and SGR Ventures LLC (d/b/a Sacramento Gun  
2 Range) respectfully request that this Court take judicial notice pursuant to Evidence Code sections  
3 452, subdivision (c), and 453 of true and correct copies of the following documents attached to this  
4 request:

5 EXHIBIT A: SEN. COMM. ON PUB. SAFETY, HR’G REP. ON AB 28, 2023-2024 Reg. Sess., at  
6 9 (July 11, 2023), <https://bit.ly/3VLGBou>.

7 EXHIBIT B: Mariel Alper, Ph.D., and Lauren Glaze, BUREAU OF JUSTICE STATISTICS,  
8 SPECIAL REPORT, SOURCE AND USE OF FIREARMS INVOLVED IN CRIMES (Jan. 2019),  
9 <https://bjs.ojp.gov/document/suficspi16.pdf>.

10 The Court may take judicial notice of legislative history materials pursuant to Evidence  
11 Code section 452, subdivision (c). *See Kaufman & Broad Communities, Inc. v. Performance*  
12 *Plastering, Inc.*, 133 Cal.App.4th 26, 31 (2005). And the Court may take judicial notice of  
13 government agency websites, which provide information that is also subject to judicial notice. *See*  
14 *Cruz v. County of L.A.* 173 Cal.App.3d 1131, 1134 (1985). Here, Plaintiffs request judicial notice  
15 of legislative history materials and statistics furnished by the Bureau of Justice Statistics, an arm of  
16 the United States Department of Justice.

17 Defendants have received notice of this request through service of the request and  
18 attached exhibits. These materials are the proper subject of judicial notice, relevant to issues  
19 presented in this case, and may properly be judicially noticed by the Court. For these reasons,  
20 Plaintiffs request that the Court judicially notice the attached exhibits in support of Plaintiffs’  
21 Motion for Summary Judgment.

22 Dated: April 8, 2026

**MICHEL & ASSOCIATES, P.C.**



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Anna M. Barvir  
Attorneys for Plaintiffs

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# EXHIBIT A

*Poway Weapons & Gear, Inc., et al. v. California  
Department of Tax and Fee Administration, et al.,  
Case No. 37-2024-00031147-CU-MC-CTL*



California Chapters; San Diego County Wildlife Federation; San Francisco Bay Area Chapter - Safari Club International; Suisun Resource Conservation District; Tulare Basin Wetlands Association; 1 individual.

Assembly Floor Vote:

56 - 17

### PURPOSE

***The purpose of this bill is to impose upon state-licensed firearm dealers, firearm manufacturers and ammunition vendors an excise tax in the amount of 11% of the gross receipts from the retail sale of a firearm, firearm precursor part, and ammunition. The bill also requires that moneys collected via the tax be used to fund various gun violence prevention, education and research programs, as specified.***

*Existing federal law* imposes a 10% tax on the manufacturer, producer, or importer of a pistol or revolver. (26 U.S.C. § 4181).

*Existing federal law* imposes a 11% tax on the manufacturer, producer, or importer of a firearm other than a pistol or revolver and on shells and cartridges. (*Ibid.*)

*Existing state law*, the California Constitution, states that the Legislature may provide for property taxation of all forms of tangible personal property, and by two-thirds of the membership of each house concurring, may classify such personal property for differential taxation or for exemption. (Cal. Const., Art. XIII, § 2.)

*Existing law* declares the Legislature's intent:

- a) To develop community violence prevention and conflict resolution programs, in the state, based upon the recommendations of the California Commission on Crime Control and Violence Prevention, that would present a balanced, comprehensive educational, intellectual, and experiential approach toward eradicating violence in our society; and,
- b) That these programs shall be regulated, and funded pursuant to contracts with the OES. (Pen. Code, § 14112.)

*Existing law* states that first priority shall be given to programs that provide community education, outreach, and coordination, and include creative and effective ways to translate the recommendations of the California Commission on Crime Control and Violence Prevention into practical use in one or more of the following subject areas:

- a) Parenting, birthing, early childhood development, self-esteem, and family violence, to include child, spousal, and elderly abuse;
- b) Economic factors and institutional racism;
- c) Schools and educational factors;
- d) Alcohol, diet, drugs, and other biochemical and biological factors;

- e) Conflict resolution; and,
- f) The media. (Pen. Code, § 14114, subd. (a).)

*Existing law* provides that first priority programs may additionally provide specific direct services or contract for those services in one or more of the program areas as necessary to carry out the recommendations of the commission when those services are not otherwise available in the community and existing agencies do not furnish them. (Pen. Code, § 14115.)

*Existing law* provides that second priority shall be given to programs that conform to the same requirements as first priority programs, except that the educational component shall not be mandatory in each subject area, but shall be provided in at least three of those areas, and the programs shall provide specific direct services or contract for services in one or more program areas. (Pen. Code, § 14116.)

*Existing law* provides that each program shall have a governing board or an interagency coordinating team, or both, of at least nine members representing a cross section of existing and recipient, community-based, public and private persons, programs, agencies, organizations, and institutions. Specifies the duties of the governing board or coordinating team. (Pen. Code, § 14117.)

*Existing law* requires the OES to prepare and issue written program, fiscal, and administrative guidelines for the contracted programs that are consistent with this title, including guidelines for identifying recipient programs, agencies, organizations, and institutions, and organizing the coordinating teams. (Pen. Code, § 14118, subd. (a).)

*Existing law* requires OES to promote, organize, and conduct a series of one-day crime and violence prevention training workshops around the state, as specified. (Pen. Code, § 14119.)

*Existing law* establishes CalVIP, to be administered by the Board of State and Community Corrections. (Pen. Code, § 14131, subd. (a).)

*Existing law* states that the purpose of CalVIP is to improve public health and safety by supporting effective violence reduction initiatives in communities that are disproportionately impacted by violence, particularly group-member involved homicides, shootings, and aggravated assaults. (Pen. Code, § 14131, subd. (b).)

*Existing law* defines several relevant terms, including “ammunition” (Pen. Code, §16150), “ammunition vendor (Pen. Code, § 16151), “firearm” (Pen. Code, § 16520), “firearm precursor part (Pen. Code, § 16531), “handgun (Pen. Code, § 16640), “long gun,” and “rifle” (Pen. Code, § 17090).

*Existing law* authorizes the Department of Justice (DOJ) to require firearms dealers to charge each firearm purchaser a fee not to exceed \$1, except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index. (Pen. Code, § 28225(a).)

*Existing law* provides that the fee in Penal Code §28225(a) shall be no more than is necessary to fund specified governmental notification and reporting functions. (Pen. Code, § 28225(b).)

*Existing law* authorizes DOJ to require each dealer to charge each firearm purchaser or transferee a transfer fee not to exceed one dollar (\$1) for each firearm transaction, and allows that fee to be adjusted upward at a rate not to exceed the increase in the California Consumer Price Index. (Pen. Code, § 23690.)

*Existing law* authorizes DOJ to require firearms dealers to charge each person who obtains a firearm a fee not to exceed five dollars (\$5) for each transaction, and allows that fee to be adjusted upward at a rate not to exceed the increase in the California Consumer Price Index. (Pen. Code, § 28300.)

*Existing law* requires the DOJ to recover its costs under specified provisions related to the sale of ammunition by charging the ammunition transaction or purchase applicant a fee not to exceed the fee charged for its DROS process, as described in Penal Code Section 28225, and not to exceed the DOJ's reasonable costs. (Pen. Code, § 30370(c).)

*Existing law* authorizes a certified instructor of the firearm safety test to charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be paid to DOJ to cover its costs in carrying out and enforcing firearms laws. (Pen. Code, § 31650.)

*Existing law* requires other various fees to be paid to the Department of Justice at the time of a firearm or ammunition purchase. (Pen. Code, § 28200, et. seq.)

*Existing law* imposes an eighteen cent (\$0.18) tax on each gallon of fuel sold in the state. ((Rev. and Tax. Code, § 7360.)

*Existing law* imposes taxes on cigarettes. (Rev. and Tax Code §§ 30101, et. seq.)

*Existing law* imposes taxes on cannabis. (Rev. and Tax. Code §§ 34010, et. seq.)

*Existing law* defines “gross receipts” as the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of several specified costs or taxes. (Rev. and Tax Code § 6012.)

*This bill* contains several findings and declarations regarding gun violence, existing firearm regulations and the firearm industry in the United States.

*This bill* contains several definitions for terms used therein, including:

- “Ammunition,” “ammunition vendor,” “firearm,” “firearm precursor part,” “handgun,” “long gun,” and “rifle” all have the same meaning as those terms are defined in the relevant Penal Code sections.
- “Department” means the California Department of Tax and Fee Administration
- “Firearms Manufacturer” means any entity licensed to manufacture firearms pursuant to existing federal law that engages in any retail sale of a firearm or firearm precursor part to a consumer in California.

- “Gross receipts” has the same meaning as that term is defined in the Revenue and Taxation Code.
- “Law Enforcement Agency” means any department or agency of the state or of any county, city, or other political subdivision thereof that employs any peace officer who is authorized to carry a firearm while on duty, or any department or agency of the federal government or a federally recognized Indian tribe with jurisdiction that has tribal land in California that employs any police officer or criminal investigator authorized to carry a firearm while on duty.
- “Licensed firearms dealer” has the same meaning as the relevant section of the Penal Code.
- “Peace officer” means any person described in specified sections of the Penal Code who is authorized to carry a firearm on duty, or any police officer or criminal investigator employed by the federal government or a federally recognized Indian tribe with jurisdiction that has tribal land in California, who is authorized to carry a firearm while on duty.
- “Retail sale” has the same meaning as that term is defined in the Revenue and Taxation Code.

*This bill* establishes the Gun Violence Prevention, Healing and Recovery Fund in the State Treasury to receive money collected via the tax imposed by the bill, and requires the funds to be annually allocated in the following order:

- The first \$75 million to be continuously appropriated to the Board of State and Community Corrections (BSCC) for the California Violence Intervention and Prevention (CalVIP) Grant Program, to fund CalVIP Grants, administration and evaluations of CalVIP-supported programs.
- The next \$50 million, or as much as is available and only by appropriation by Legislature, to the State Department of Education to fund school mental health and behavioral services and school safety measures, and for physical security safety assessments.
- The next \$15 million, or as much as is available and only by appropriation by Legislature, to the Judicial Council to support a court-based firearm relinquishment grant program to ensure the consistent and safe removal of firearms from individuals who are prohibited from owning or possessing firearms and ammunition pursuant to court order.
- The next \$15 million, or as much as is available and only by appropriation by Legislature, to the Department of Justice for a justice for victims of gun violence program to support evidence-based activities to equitably improve investigations and clearance rates in firearm homicide and firearm assault investigations in communities disproportionately impacted by firearm homicides and firearm assaults.

- The next \$2.5 million, or as much as is available and only by appropriation by Legislature, to the Department of Justice to support activities to inform firearm and ammunition purchasers and firearm owners about gun safety laws and responsibilities.
- The next \$2.5 million, or as much as is available and only by appropriation by Legislature, to the Office of Emergency Services to provide counseling and trauma-informed support services to direct and secondary victims of mass shootings and other gun homicides and to individuals who have experienced chronic exposure to community gun violence.
- The next \$1 million, or as much as is available and only by appropriation by Legislature, to the University of California, Davis, California Firearm Violence Research Center, if accepted by the Regents of the University of California, for a one-time grant for gun violence research and initiatives to educate health care providers and other stakeholders about clinical tools and other interventions for preventing firearm suicide and injury. The bill provides this allocation may be made over the course of more than one budget year, but cannot exceed \$1 million.

*This bill* provides that any remaining moneys available in the fund each year after the allocations above shall, by appropriation of the Legislature, be allocated to fund and support activities and programs focused on preventing gun violence, supporting victims of gun violence, and otherwise remediating the harmful effects of gun violence.

*This bill* provides, commencing July 1, 2024, that an excise tax shall be imposed upon licensed firearms dealers, firearms manufacturers, and ammunition vendors, at the rate of 11 percent of the gross receipts from the retail sale in this state of any firearm, firearm precursor part, or ammunition.

*This bill* exempts from this tax the sale of any firearm, ammunition, or firearm precursor part to any active or retired peace officer or any law enforcement agency employing that peace officer, as well as sales made by firearms dealers, firearms manufacturer, or ammunition vendors with gross receipts of less than \$5,000 in any quarterly period.

*This bill* directs the CDTFA to administer and collect the taxes pursuant to the Fee Collections Procedures Law, and authorizes the department to adopt regulations, including emergency regulations to implement the bill.

*This bill* provides that the taxes imposed by its provisions are due and payable to the department quarterly on or before the last day of the month next succeeding each quarterly period of three months, and that, on or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the department using electronic media.

*This bill* provides that each licensed firearms dealer, firearms manufacturer or ammunition vendor subject to the tax shall register with the department using electronic media and provide specified information, and that the department shall issue a permit to each eligible applicant that has registered, which is valid until revoked.

*This bill* provides that if a permit holder fails to comply with any provision or the bill or related regulation, the department shall provide notice in writing of no less than 10 days specifying the

time and place of hearing and requiring the permitholder to show cause why their permit should not be revoked, and prescribes the manner of service.

*This bill* provides that the department may, after notice and hearing, revoke a permit due to a violation or omission.

*This bill* includes a process by which a permitholder who has had their permit revoked may have their permit reinstated.

*This bill* provides that it shall not be construed to preclude or preempt a local ordinance that imposes any additional requirements, fee, or surtax on the sale of firearms, ammunition, or firearm precursor parts, and its tax is imposed in addition to any other tax or fee imposed by the state, or a city, county, or city and county.

*This bill* authorizes CDTFA to issue regulations, including emergency regulations pursuant to the Administrative Procedures Act. Specifically, if any provision of the bill or its application is held invalid, the bill allows CDTFA to issue guidance or adopt regulations necessary to address any such invalidity and to promote its purposes, including to provide additional exemptions, which are exempt from the APA. Any regulations must seek to ensure minimal disruption to funding and operations of programs and initiatives funded by the bill.

*This bill* directs the Director of Finance to make a loan of \$2.4 million to CDTFA to fund initial implementation costs, which must be repaid from tax revenues.

*This bill* includes a severability clause.

## COMMENTS

### 1. Need for This Bill

According to the Author:

Californians are counting on us to do everything possible to keep them safe from mass shootings and gun violence. AB 28 is a common-sense measure that will fund school safety measures and gun violence prevention programs that have proven to be some of the most effective ways of stopping gun violence. A modest tax will provide us with a permanent, sustainable funding source for these essential programs and help protect communities across our state.

### 2. Gun Violence in California

Although the scourge of gun violence appears omnipresent, California has one of the lowest gun death rates in the country at 8.5 deaths per 100,000 people – about 39% lower than the national average. Gun homicides in California occur at a rate of 4.1 per 100,000 people, which puts California at the 31<sup>st</sup> highest rate of gun homicides in the U.S. For reference, Texas has 5.5 gun homicides per 100,000 (24<sup>th</sup> highest), Florida has 5.8 (21<sup>st</sup> highest), and Washington D.C. has



Record of Sale (DROS) fee, which covers the costs of the required background check prior to purchase. The DROS fee also funds several firearm-related responsibilities of the Department of Justice, including enforcement efforts and management of the Armed Prohibited Persons System. The balance of the state fee consists of a \$1.00 Firearms Safety Act Fee and a \$5.00 Safety and Enforcement Fee. These fees are imposed on the vendors but are generally paid by the purchasers. Additionally, in the event of a private party transfer, a firearms dealer may charge an additional fee of up to \$10.00 per firearm.<sup>6</sup>

This bill imposes an 11% tax on the gross receipts of the sale of firearms, firearm precursor parts and ammunition in the state of California., Gross receipts taxes differ from sales taxes in that they are technically levied on the seller of a good rather than at the point of sale. In practice, however, gross receipts taxes often get passed to the consumer via a higher retail price for the good in question. This measure specifies that the tax is imposed upon licensed firearms dealers, firearms manufacturers and ammunition vendors, but nothing in the bill precludes dealers and manufacturers from raising their prices to offset the tax and functionally passing the tax on to the consumers.

#### **4. California Violence Intervention and Prevention Grant Program (CalVIP)**

The CalVIP grant program was established in 2017 and replaced the California Gang Reduction Intervention and Prevention grant program. According to the BSCC website:

In October 2019 Governor Newsom signed the Break the Cycle of Violence Act (AB 1603). AB 1603 codified the establishment of CalVIP and defined its purpose: to improve public health and safety by supporting effective violence reduction initiatives in communities that are disproportionately impacted by violence, particularly group-member involved homicides, shootings, and aggravated assaults. The Break the Cycle of Violence act specifies that CalVIP grants shall be used to support, expand and replicate evidence-based violence reduction initiatives, including but not limited to (1) hospital-based violence intervention programs, (2) evidence-based street outreach programs, and (3), focused deterrence strategies.

These initiatives should seek to interrupt cycles of violence and retaliation in order to reduce the incidence of homicides, shootings, and aggravated assaults and shall be primarily focused on providing violence intervention services to the small segment of the population that is identified as having the highest risk of perpetrating or being victimized by violence in the near future.

AB 28 allocates funds received via the gross receipts tax to several gun violence programs in a specific waterfall structure, where the Legislature appropriates funds to each priority until it reaches the specified level, with any excess flowing to the next level until the Legislature appropriates the total annual revenue amount. The first and largest allocation under the bill, which is also the only allocation that is continuously appropriated, is an annual appropriation of \$75 million to Cal VIP. The other allocations (listed on p.5 of this analysis) are only actually appropriated upon action by the Legislature.

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<sup>6</sup> <https://oag.ca.gov/firearms/pubfaqs>

## 5. Excise Taxes and Effect of This Bill

An excise tax is a tax imposed on a specific good or activity, and generally related to the manufacture, sale or consumption of specific commodities, or licenses to pursue certain occupations. A subset of excise taxes are known as “sin” or “vice” taxes, and are levied on specific goods believed to be harmful to society and individuals, such as alcohol, tobacco and gambling, among other things. Sin taxes are generally intended to lower demand for the targeted good by increasing its price. California imposes excise taxes – many of which may be considered “sin” taxes – on several types of goods including gasoline, cigarettes, cellphones and cannabis. As alluded to in Comment 3 above with regard to gross receipts taxes, even though excise taxes are collected from businesses, virtually all California merchants pass on the excise tax to the customer through higher prices for the taxed goods.

This bill imposes an 11% gross receipts tax upon state-licensed firearms dealers, firearms manufacturers and ammunition vendors. Based on the findings and declarations included in the bill, it is evident that this tax is not intended to operate as a sin tax to discourage the sale and purchase of firearms, ammunition and precursor parts:

The tax specified in this act is a modest and reasonable tax on a profitable industry whose lawful and legitimate business activity imposes substantial harmful externalities on California’s families, communities, and taxpayers. The modest tax proposed in this measure mirrors the Pittman-Robertson federal excise tax on firearm and ammunition industry participants, is similarly dedicated to funding programs to remediate the harmful externalities of firearm industry commerce, and is similarly unlikely to discourage lawful sales and commerce in firearms or ammunition.

The provision establishing this finding also cites research suggesting that moderate tax increases on guns or ammunition would do little to disrupt hunting or recreational gun use.<sup>7</sup>

Rather, this tax more closely resembles what is known as a Pigovian tax, or one intended to correct for the negative externalities caused by a specific market activity – in this case, societal costs related to the sale of firearms, ammunition and precursor parts. Generally, Pigovian taxes are calculated by assessing the marginal costs of these negative externalities, which, in the case of firearms, would be equal to losses – like injury, death, and lost wages – resulting from crimes, accidents and suicides. This bill, however, takes a different approach and sets the rate of the tax imposed on firearm sales to resemble an existing federal tax on firearm and ammunition. That tax, established by the Federal Aid in Wildlife Restoration Act of 1937<sup>8</sup> (also known as the Pittman-Robertson Act), imposes an 11% levy on firearms, ammunition and archery equipment and distributes the proceeds to state governments for wildlife-related projects. Proceeds from that tax generate tens of millions of dollars annually for conservation efforts across California. Unlike the Pittman-Robertson Act, however, this bill seeks to establish a tighter nexus between the tax it imposes and the target of the proceeds it generates. Specifically, the proceeds of the tax imposed under this bill would be directed exclusively toward specified gun violence prevention, education and research programs in the waterfall structure discussed above.

<sup>7</sup> <https://www.rand.org/research/gun-policy/analysis/essays/firearm-and-ammunition-taxes.html>

<sup>8</sup> 26 U.S.C. 4181

## 6. Second Amendment Considerations

The Second Amendment to the U.S. Constitution provides, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” Recently, the United States Supreme Court issued an opinion striking down New York’s proper cause requirements for applicants wishing to obtain a CCW license, and establishing a new test for determining whether a law comports with the Second Amendment’s right to bear arms.<sup>9</sup> Under that test, when the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation, not just that the regulation promotes an important governmental interest, as was the case previously. Under the *Bruen* decision, “how and why the regulations burden a law-abiding citizen’s right to armed self-defense” matters. The Court said, “whether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified are ‘central’ considerations when engaging in an analogical inquiry.”<sup>10</sup>

Regarding taxes, generally, while the Supreme Court usually “declines to closely examine the regulatory motive or effect of revenue-raising measures,” they have noted a point at which a tax becomes “a mere penalty with the characteristics of regulation and punishment.”<sup>11</sup> In the context of firearms, the Pittman-Robertson Act has evaded or withstood legal challenge for over 100 years, which, prior to the *Bruen* decision, would have strongly suggested that firearm taxes generally do not run afoul the Second Amendment, provided they do not make firearm ownership so infeasible as to burden the rights that the amendment protects. However, whether excise taxes on firearms will survive in a post-*Bruen* legal landscape is an open question.

## 7. Multiple Attempts

This bill is substantially similar to three previous bills attempting to impose an excise tax on firearms and ammunition. AB 1227 (Levine), of the 2021-2022 Legislative Session, as amended on May 5, 2022, included provisions related to an excise tax on firearms. The author introduced substantially similar measures in 2021 (AB 1223) and in 2019 (AB 18). AB 18 was held on suspense in the Assembly Appropriations Committee. AB 1223 made it to the Assembly floor and AB 1227 made it to the Senate floor. However, both contained urgency clauses, requiring a two-thirds vote to pass. Despite receiving majority support, the bills failed to receive the required two-thirds vote.

This bill is distinguishable from AB 1227 in several notable ways:

- Whereas AB 28 allocates funds to several specific gun violence prevention programs in a specific waterfall structure, AB 1227 directed the Legislature to appropriate one half of the tax revenue for gun violence prevention programs, education, and research, and

<sup>9</sup> *New York State Rifle and Pistol Association v. Bruen* (2022), 142 S.Ct. 2111 - this decision also implicates California’s CCW law, which, as the Court noted, is substantially similar to New York’s, at least with regard to the “good cause” requirement. For more information, see this committee’s analysis of Senate Bill 2 (Portantino).

<sup>10</sup> *Id.* at p. 2132-2133.

<sup>11</sup> *Nat’l Fed’n of Indep. Bus. v. Sebelius* (2012)567 U.S. 519, 573; *Bailey v. Drexel Furniture Co.* (1922) 259 U.S. 20, 38.)

allocated the other half to the Board of State and Community Corrections for the California Violence Intervention and Prevention (CalVIP) Grant Program, for the sole purpose of funding CalVIP grants.

- AB 28 is an 11% gross receipts tax imposed on dealers and manufacturers, whereas AB 1227 imposed a per gun excise tax of 10% for handguns and 11% for long guns, rifles, firearm precursor parts and ammunition, and imposed the tax only on dealers.
- AB 28 does not contain an exemption that AB 1227 included for long guns with a barrel length longer than 16 inches, as well as any ammo used in those kinds of long guns, upon presentation of a valid hunting license.
- AB 28 does contain exemptions that were not included in AB 1227. Specifically AB 28 exempts any sales to either an active or retired peace officer, whereas AB 1227 only exempted sales to a peace officer for use in the regular course of employment. Additionally, AB 28 exempts sales made by firearms dealers or manufacturers with gross receipts of less than \$5,000 in any quarterly period, whereas AB 1227 did not.
- AB 28 does not include an urgency clause, though still requires a 2/3 vote in each house as a measure that would result in any taxpayer paying a higher tax.<sup>12</sup>

## 8. Amendments

The Author is taking amendments in committee to address an issue raised by the California Department of Tax and Fee Administration. Specifically, the amendment provides that a dealer who has their permit revoked may not operate as a firearm dealer until the permit has been reinstated or a new permit has been issued.

## 9. Argument in Support

According to Smart Justice California:

[AB 28] would secure dedicated and sustained funding for lifesaving violence intervention initiatives and related gun violence prevention, education, and research purposes through a modest surtax on firearm industry profits. [...]

Since 1919, federal law has placed a 10 to 11% excise tax on the sale of guns, ammunition, and related products by licensed manufacturers, producers, and importers. Revenues from this excise tax have been used to fund wildlife conservation efforts that remediate the effects that guns and ammunition have on wildlife populations through hunting, particularly through grants to state wildlife agencies and for conservation-related research. The NRA has referred to this federal Firearms and Ammunition Excise tax as a “legislative model” and “friend of the hunter.”

Just as the federal tax on firearm industry manufacturers reasonably generates revenue to remediate the harmful effects that firearm industry commerce can have on wildlife, AB 28 would place an identical tax on retail sellers profiting from the sale of

<sup>12</sup> Cal. Const, Section 3, Article XIII A

the same products in order to fund programs that effectively remediate the devastating human toll these products take on families and communities across the state. This tax is a modest and reasonable excise tax on sellers whose lawful and legitimate commercial activity still imposes enormous harmful impacts on California.

This bill is not intended to penalize firearm sellers or otherwise discourage lawful firearm sales but would reasonably generate revenue to sustain programs that are targeted and effective at mitigating the harms that firearms and related products too often cause.

## 10. Argument in Opposition

According to a coalition of 21 firearms advocacy, sporting and wildlife conservation groups:

All of California's citizens support and benefit from efforts intended to address the negative impact the criminal use of firearms has upon our law-abiding public. Because those who perform these illegal acts do not buy their firearms or munitions from licensed dealers, they would not pay a single cent towards the programs this bill would fund. Rather, AB 28 would wrongly place the entire burden of funding these initiatives on a small, innocent segment of California's law-abiding public.

Additionally, by substantially raising the cost of purchasing a firearm and ammunition in California, AB 28 would disproportionately impact the ability of economically disadvantaged communities and individuals to legally purchase a firearm and ammunition to protect themselves and their loved ones. Further, AB 28 would impede their equitable access to hunting and shooting sports – at a time when the Administration and the Legislature are seeking to increase participation in outdoor recreation and access for all Californians.

Firearms and ammunition are already taxed at the federal level pursuant to the federal Pittman-Robertson Act (PR). But those dollars are allocated back to states to fund beneficial programs – including wildlife habitat projects that benefit game and non-game species. This year alone, the California Department of Fish and Wildlife will be allocated well over \$30 million in federal PR dollars – monies which will fund a substantial portion of our state's wildlife management, conservation, and research efforts. By doubling the excise tax law-abiding hunters and shooters already pay on all firearms and ammunition, AB 28 would effectively raise the total tax rate on these items to nearly 30% – markedly reducing their sales and, in turn, the associated federal PR funding allocated back to California for critical wildlife conservation and management efforts.

AB 28 would do nothing to reduce criminal use of firearms. What AB 28 would do is inequitably impact the ability of disadvantaged communities and economically challenged individuals to protect themselves and their families, unjustly place the entire burden of funding these initiatives on California's innocent and law-abiding hunters and shooters, and negatively impact our wildlife and their habitats.

-- END --

# EXHIBIT B

*Poway Weapons & Gear, Inc., et al. v. California  
Department of Tax and Fee Administration, et al.,  
Case No. 37-2024-00031147-CU-MC-CTL*



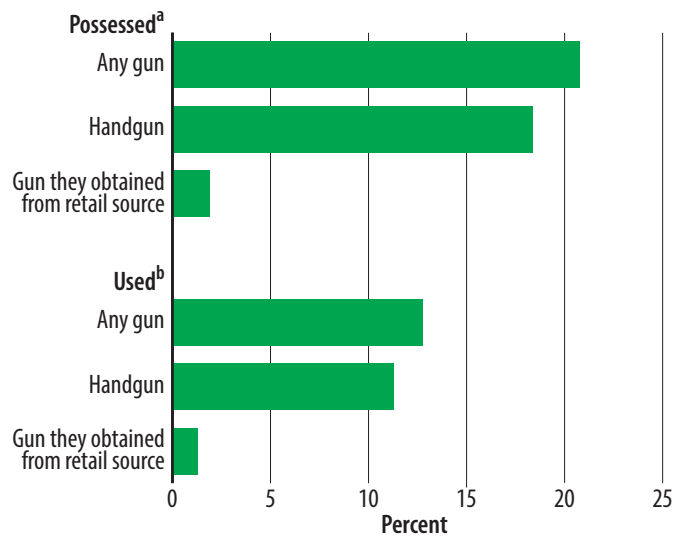
# Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016

Mariel Alper, Ph.D., and Lauren Glaze, *BJS* Statisticians

Based on the 2016 Survey of Prison Inmates (SPI), about 1 in 5 (21%) of all state and federal prisoners reported that they had possessed or carried a firearm when they committed the offense for which they were serving time in prison (**figure 1**). More than 1 in 8 (13%) of all prisoners had used a firearm by showing, pointing, or discharging it during the offense for which they were imprisoned. Fewer than 1 in 50 (less than 2%) of all prisoners had obtained a firearm from a retail source and possessed, carried, or used it during the offense for which they were imprisoned.

An estimated 287,400 prisoners had possessed a firearm during their offense. Among these, more than half (56%) had either stolen it (6%), found it at the scene of the crime (7%), or obtained it off the street or from the underground market (43%). Most of the remainder (25%) had obtained it from a family member or friend, or as a gift. Seven percent had purchased it under their own name from a licensed firearm dealer.

**FIGURE 1**  
Percent of all state and federal prisoners who had possessed or used a firearm during their offense, 2016



Note: See appendix table 1 for standard errors.

<sup>a</sup>Includes prisoners who carried or possessed a firearm during the offense.

<sup>b</sup>Includes prisoners who showed, pointed, or discharged a firearm during the offense.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

## HIGHLIGHTS

- About 21% of state and 20% of federal prisoners said they possessed a gun during their offense, while 79% of state and 80% of federal prisoners did not.
- About 29% of state and 36% of federal prisoners serving time for a violent offense possessed a gun during the offense.
- About 1.3% of prisoners obtained a gun from a retail source and used it during their offense.
- Handguns were the most common type of firearm possessed by state and federal prisoners (18% each); 11% of all prisoners used a handgun.
- Among prisoners who possessed a gun during their offense, 90% did not obtain it from a retail source.
- Among prisoners who possessed a firearm during their offense, 0.8% obtained it at a gun show.
- About 1 in 5 state and federal prisoners who possessed a firearm during their offense obtained it with the intent to use it during the crime.
- Among state prisoners who possessed a gun during their offense, 27% killed someone with it, another 12% injured someone, 7% fired the gun but did not injure anyone, and 54% did not fire it.
- State prisoners with no military service were more likely to possess a gun during their offense (21%) than prisoners who had served in the military (16%).

Statistics in this report are based on self-reported data collected through face-to-face interviews with a national sample of state and federal prisoners in the 2016 SPI. (See *Methodology*.)

The 2016 SPI data collection was conducted from January through October 2016. The SPI was formerly known as the Survey of Inmates in State and Federal Correctional Facilities (SISFCF). The Bureau of Justice Statistics (BJS) has periodically conducted the

survey since the 1970s, with the most recent iteration fielded in 2004. The survey collects information from prisoners on a variety of topics, including firearm possession during the crime for which a prisoner was serving time and how the firearm was used during the crime. It also collects information on the method, source, and process that prisoners used to obtain the firearm. (See appendix 1, *Questions related to firearms in the Survey of Prison Inmates, 2016*.)

## Terms and definitions

- **Firearm** – a weapon that uses gunpowder to shoot a bullet. Primary types are handguns, rifles, and shotguns:<sup>1</sup>
  - **Handgun** – a firearm which has a short stock and is designed to be held and fired by the use of a single hand.
  - **Rifle** – a firearm intended to be fired from the shoulder and designed to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.
  - **Shotgun** – a firearm intended to be fired from the shoulder and designed to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each pull of the trigger.
- **Firearm possession** – carrying or possessing at least one firearm when the offense for which prisoners were serving a sentence was committed.
- **Firearm use** – showing a firearm to or pointing a firearm at anyone or discharging a firearm during the offense for which a prisoner was serving time.
- **Source of the firearm** – from where and how prisoners reported obtaining the firearm they possessed during the crime for which they were imprisoned—
  - **Purchased or traded from a retail source** – includes a gun shop or store, pawn shop, flea market, or gun show.
    - **Gun shop or store** – a business establishment that sells firearms in an open shopping format.
    - **Pawn shop** – a business that offers secured loans to customers, with personal property used as collateral. This personal property is sold to the public if the loan is not repaid.
    - **Flea market** – a market that rents space to individuals to sell or barter merchandise.
    - **Gun show** – a temporary market where licensed dealers and unlicensed sellers can rent tables or booths to sell firearms.
  - **Obtained from an individual** – includes purchasing, trading, renting, or borrowing from a family or friend. Also includes when the firearm was gifted to or purchased for the person.
  - **Off the street or underground market** – illegal sources of firearms that include markets for stolen goods, middlemen for stolen goods, criminals or criminal enterprises, or individuals or groups involved in sales of illegal drugs.
  - **Theft** – includes stealing the firearm during a burglary or from a retail source, family member, friend, or another source.
  - **Other sources** – includes a firearm that a prisoner obtained or found at the location of the crime, including one that belonged to a victim or that someone else brought to the location of the crime. This category also includes sources for which there were few responses, such as for guns bought online, and other sources that did not fit into one of the existing categories. This also includes instances where there was not enough information to categorize the source, such as when a firearm was purchased from an unknown source or obtained from another person by an unknown method.

<sup>1</sup>The definitions of types of firearms in this section were taken from 18 U.S.C. § 921 (2009). They have been edited for length.

## Controlling-offense characteristics

About 29% of state and 36% of federal prisoners serving a sentence for a violent offense in 2016 possessed a firearm during the crime (table 1). About a quarter of state (23%) and federal (25%) prisoners serving time for a violent offense used a firearm during the crime. “Firearm use” is defined in this report as showing, pointing, or discharging a firearm during the offense for which a prisoner was serving a sentence.

Among prisoners serving time for homicide, more than 2 in 5 (44%) state prisoners and more than 1 in 3 (36%) federal prisoners had possessed a firearm during

the crime. About 37% of state and 28% of federal prisoners serving time for homicide used a firearm during the homicide.

Among those serving time for robbery, more than 2 in 5 state prisoners (43%) and federal prisoners (46%) possessed a firearm during the offense, and nearly a third of state (31%) and federal (32%) prisoners used a firearm during the robbery. Firearm possession was less common among state prisoners serving a sentence for rape or sexual assault (2%). Less than 1% of state prisoners serving time for rape or sexual assault used a firearm in the commission of their crime.

**TABLE 1**

**Firearm possession and use among state and federal prisoners during the offense for which they were serving time, by type of controlling offense, 2016**

Controlling offense <sup>a</sup>	Estimated number of state prisoners <sup>b</sup>	Percent of state prisoners who—		Estimated number of federal prisoners <sup>b</sup>	Percent of federal prisoners who—	
		Possessed a firearm <sup>b</sup>	Used a firearm <sup>c</sup>		Possessed a firearm <sup>b</sup>	Used a firearm <sup>c</sup>
<b>Total</b>	1,211,200	20.9%	13.9%	170,400	20.0%	5.0%
<b>Violent*</b>	667,300	29.1%	23.0%	20,900	36.2%	25.3%
Homicide <sup>d</sup>	191,400	43.6	37.2	3,800	35.9	28.4
Rape/sexual assault	144,800	2.0	0.8	2,400	:	:
Robbery	149,600	43.3	31.5	10,700	46.3	32.1
Assault	149,400	25.0	20.6	2,900	29.0	18.1
Other violent <sup>e</sup>	32,200	17.0	12.6	1,200	34.1	:
<b>Property</b>	186,100	4.9% †	2.0% †	12,000	2.6% †	:
Burglary	88,100	6.7	3.2	300	:	:
Other property <sup>f</sup>	98,000	3.3	1.0	11,800	2.4	:
<b>Drug</b>	180,800	8.4% †	0.8% †	80,500	12.3% †	0.6% †
Trafficking <sup>g</sup>	130,500	9.4	0.9	72,300	12.9	0.7
Possession	45,900	6.1	:	3,500	:	:
Other/unspecified drug	4,300	:	:	4,700	:	:
<b>Public order</b>	158,300	21.5% †	5.6% †	52,900	30.2%	5.3% †
Weapons <sup>h</sup>	43,800	67.2	15.7	22,200	66.9	11.3
Other public order <sup>i</sup>	114,400	4.0	1.7	30,700	3.6	:
<b>Other</b>	3,900	:	:	1,800	:	:
<b>Unknown</b>	14,900	4.3% †	:	2,200	:	:

Note: See appendix table 2 for standard errors.

\*Comparison group.

†Difference with comparison group is significant at the 95% confidence level across main categories, and no testing was done on subcategories (e.g., homicide).

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

<sup>a</sup>See *Methodology* for information on how controlling offense was measured.

<sup>b</sup>Excludes 3.0% of state prisoners and 1.7% of federal prisoners who were missing responses on firearm possession. Includes prisoners who were missing responses on firearm use.

<sup>c</sup>Excludes 3.0% of state prisoners and 1.7% of federal prisoners who were missing responses on firearm possession, and an additional 0.6% of state prisoners and 0.7% of federal prisoners who were missing responses on firearm use.

<sup>d</sup>Includes murder and both negligent and non-negligent manslaughter.

<sup>e</sup>Includes kidnapping, blackmail, extortion, hit-and-run driving with bodily injury, child abuse, and criminal endangerment.

<sup>f</sup>Includes larceny, theft, motor vehicle theft, arson, fraud, stolen property, destruction of property, vandalism, hit-and-run driving with no bodily injury, criminal tampering, trespassing, entering without breaking, and possession of burglary tools.

<sup>g</sup>Includes possession with intent to distribute.

<sup>h</sup>Includes being armed while committing a crime; possession of ammunition, concealed weapons, firearms and explosive devices; selling or trafficking weapons; and other weapons offenses. Among federal prisoners, weapons offense include violations of federal firearms and explosives.

<sup>i</sup>Includes commercialized vice, immigration crimes, DUI, violations of probation/parole, and other public-order offenses.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

State and federal prisoners serving time for a violent offense were much more likely to have possessed a firearm during the offense (29% state, 36% federal) than prisoners serving time for a property (5% state, 3% federal) or drug (8% state, 12% federal) offense. Among prisoners serving time for a public-order offense, about 1 in 5 (21%) state prisoners and nearly 1 in 3 (30%) federal prisoners reported that they possessed a firearm during the crime, and about 1 in 20 reported they had used it. About two-thirds of state and federal prisoners sentenced for a weapons offense said they possessed a firearm during the crime.<sup>2</sup>

<sup>2</sup>In addition to prisoners serving a sentence in state or federal prison in 2016 who possessed a firearm during the offense, weapons offenses include prisoners who were convicted of trafficking firearms but did not possess them at the time of the offense and prisoners who were convicted of a weapons offense that did not involve a firearm.

## Extent of firearm use among prisoners during the crime

State and federal prisoners in 2016 who had possessed a firearm during their offense were about equally likely to report that they had obtained the firearm with the intent to use it during the offense (19% state, 20% federal) (table 2). However, state prisoners (68%) who possessed a firearm were more than 2.5 times as likely as federal prisoners (26%) who possessed a firearm to have used it during the crime.

Nearly half of state prisoners (46%) serving a sentence for a crime during which they possessed a firearm discharged the firearm when they committed the crime, compared to 12% of federal prisoners. Among state prisoners who possessed a firearm during their offense, 27% killed a victim with the firearm and another 12% injured or shot a victim but did not kill him or her. Federal prisoners who possessed a firearm when they committed their offense were much less likely to have killed (4%) or injured (2%) a victim with the firearm than state prisoners.

**TABLE 2**

**Among state and federal prisoners who possessed a firearm during the offense for which they were serving time, extent of firearm use, 2016**

Firearm use	State prisoners*	Federal prisoners	State prisoners		Federal prisoners	
			Violent offense*	Non-violent offense <sup>a</sup>	Violent offense*	Non-violent offense <sup>a</sup>
Total	100%	100%	100%	100%	100%	100%
<b>Obtained firearm because planned to use in controlling offense<sup>b</sup></b>						
Yes	19.3%	19.7%	17.7%	24.6% †	26.4%	18.0%
No	80.7	80.3	82.3	75.4 †	73.6	82.1
<b>Used firearm<sup>c</sup></b>						
Discharged	68.0%	25.9% †	81.0%	24.8% †	72.5%	12.9% †
Killed victim	46.5%	11.9% †	55.9%	15.4% †	27.3%	7.5% †
Injured/shot victim but did not kill victim	27.1	4.1 †	35.0	:	16.5	:
Discharged firearm but did not shoot anyone	12.4	2.2 †	14.5	5.3 †	:	:
Did not discharge <sup>d</sup>	7.0	5.6	6.4	9.0	5.7	5.4
Did not use firearm	21.5%	14.0% †	25.2%	9.4% †	45.3%	5.4% †
Did not use firearm	32.0%	74.1% †	19.0%	75.2% †	27.5%	87.1% †
Estimated number of prisoners who possessed a firearm (with valid data) <sup>e</sup>	245,400	32,900	187,800	57,000	7,200	25,600

Note: Percentages are based on data reported on firearm possession, use, and controlling offense. Excludes 3.1% of state prisoners and 3.5% of federal prisoners who possessed a firearm during the offense and were missing responses on firearm use and 0.3% of state prisoners and 0.7% of federal prisoners who possessed a firearm and were missing a controlling offense. The sum of violent offense and non-violent offense does not equal the total number of state and federal prisoners who possessed a firearm in this table due to an estimated 600 state and 100 federal prisoners whose offense type was unknown. See appendix table 3 for standard errors.

\*Comparison group.

†Difference with comparison group is significant at the 95% confidence level.

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

<sup>a</sup>Includes property, drug, public order, and other non-violent offenses.

<sup>b</sup>Percentages are based on the 246,200 state and 32,600 federal prisoners who reported they carried or possessed a firearm and whether they obtained a firearm to use during the offense.

<sup>c</sup>Includes prisoners who showed a firearm to anyone, pointed a firearm at anyone, or discharged the firearm during the offense.

<sup>d</sup>Includes prisoners who showed or pointed a firearm at anyone during the offense but did not discharge it.

<sup>e</sup>Includes prisoners who reported they carried or possessed a firearm. Excludes prisoners who were missing responses on firearm possession or use. For violent offense and non-violent offense, also excludes prisoners who were missing a controlling offense.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

Among prisoners who possessed a firearm during a violent offense, a large majority of both state (81%) and federal (73%) prisoners used the firearm during the offense, far more than the percentages for non-violent offenders (25% state, 13% federal). More than half (56%) of state prisoners serving time for a violent offense who possessed a firearm during the crime discharged it, compared to fewer than a sixth (15%) of non-violent offenders in state prison who possessed a firearm. Violent offenders (27%) in federal prison who possessed a firearm during the crime were about 3.5 times as likely to discharge it as non-violent offenders (8%). Among state prisoners who had possessed a firearm during their offense, however, non-violent offenders (25%) were more likely than violent offenders (18%) to have planned to use the firearm during the offense.

### Type of firearm possessed by prisoners during offense

Handguns were by far the most common type of firearm possessed or used by prisoners during the crime for which they were sentenced. About 18% of all state and federal prisoners in 2016 reported that they had possessed a handgun during the crime for which they were serving a sentence (table 3). Two percent or fewer possessed a rifle or a shotgun. Twelve percent of state and 5% of federal prisoners used a handgun during their offense. Most state (79%) and federal (80%) prisoners did not possess any type of firearm during the crime for which they were imprisoned.

**TABLE 3**  
**Firearm possession and use among state and federal prisoners during the offense for which they were serving time, by type of firearm, 2016**

Type of firearm	Percent of prisoners who possessed a firearm			Percent of prisoners who used a firearm <sup>a</sup>		
	All prisoners	State*	Federal	All prisoners	State*	Federal
Total	100%	100%	100%	100%	100%	100%
Firearm <sup>b</sup>	20.8%	20.9%	20.0%	12.8%	13.9%	5.0% †
Handgun	18.4	18.4	18.3	11.2	12.2	4.6
Rifle	1.5	1.4	2.0 †	0.8	0.8	0.4 †
Shotgun	1.6	1.6	1.7	1.1	1.2	0.4 †
No firearm	79.2%	79.1%	80.0%	87.2%	86.1%	95.0%
Estimated number of prisoners (with valid data) <sup>c</sup>	1,378,200	1,208,100	170,100	1,378,200	1,208,100	170,100

Note: Details on type of firearm may not sum to totals because prisoners could report more than one type of firearm. Percentages exclude missing data. Excludes 3.0% of state prisoners and 1.7% of federal prisoners who were missing responses on firearm possession during the offense and an additional 0.3% of state prisoners and 0.2% of federal prisoners who were missing responses on type of firearm. See appendix table 4 for standard errors.

\*Comparison group.

†Difference with comparison group is significant at the 95% confidence level.

<sup>a</sup>Percentages exclude 0.6% of state prisoners and 0.7% of federal prisoners who were missing responses on firearm use.

<sup>b</sup>Includes prisoners who reported a type of firearm that did not fit into one of the existing categories and those who did not provide enough information to categorize the type of firearm. About 0.1% of state prisoners and 0.2% of federal prisoners reported another type of firearm or did not report enough information to specify the type of firearm.

<sup>c</sup>Excludes prisoners who were missing responses on firearm possession or type of firearm. Counts are weighted to totals from the 2015 National Prisoner Statistics Program; see *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, July 2019).

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

## Demographic characteristics

Male prisoners were more likely than female prisoners to have possessed a firearm during their crime. About a fifth of male state and federal prisoners serving a sentence in 2016 possessed a firearm during the crime (table 4). Males in state prisons in 2016 were about 2.5 times as likely (22%) as females in state prisons (9%) to have possessed a firearm during the crime for which they were imprisoned. In federal prisons, males (21%) were about three times as likely as females (7%) to have possessed a firearm during their crime. Almost

3 in 10 (29%) black prisoners serving a sentence in state prison in 2016 possessed a firearm during their crime. White (12%) and Hispanic (21%) state prisoners were less likely to have possessed a firearm during their crime. Similarly, white (17%) and Hispanic (13%) federal prisoners serving a sentence in 2016 were less likely to have possessed a firearm during the crime than black (29%) federal prisoners. State prisoners who served in the military were less likely to have possessed a firearm during their crime (16%) than state prisoners who had not served in the military (21%).

**TABLE 4**  
Firearm possession among state and federal prisoners during the offense for which they were serving time, by demographic characteristics, 2016

Demographic characteristic	State		Federal	
	Number of prisoners	Percent of prisoners who possessed a firearm during the offense	Number of prisoners	Percent of prisoners who possessed a firearm during the offense
<b>Sex</b>				
Male*	1,124,200	21.8%	159,800	20.9%
Female	87,000	9.5 †	10,600	6.6 †
<b>Race/Hispanic origin<sup>a</sup></b>				
White	383,300	12.4% †	35,400	16.6% †
Black*	401,500	29.4	53,800	29.2
Hispanic	247,200	21.5 †	62,600	12.6 †
American Indian/Alaska Native	17,200	14.8 †	2,800	23.8
Asian/Native Hawaiian/Other Pacific Islander	10,700	22.8	2,600	:
Two or more races	133,100	19.1 †	10,900	29.3
<b>Age at time of survey</b>				
18–24*	123,800	31.7%	8,200	30.1%
25–34	389,100	24.4 †	47,700	27.4
35–44	318,800	19.3 †	58,800	19.0 †
45–54	224,800	14.6 †	36,700	14.1 †
55 or older	154,800	16.0 †	19,000	12.2 †
<b>Marital status</b>				
Married*	168,500	16.7%	36,800	14.4%
Widowed/widowed	34,300	18.3	3,100	21.7
Separated	58,300	12.7 †	9,600	12.8
Divorced	233,300	14.5	30,900	15.2
Never married	715,900	24.8 †	90,000	24.6 †
<b>Education<sup>b</sup></b>				
Less than high school*	750,500	23.1%	94,900	22.7%
High school graduate	273,700	19.6 †	36,500	19.4
Some college	133,900	14.7 †	23,100	18.8
College degree or more	43,600	11.0 †	12,700	6.3 †
<b>Citizenship</b>				
U.S. citizen*	1,156,800	21.0%	127,500	24.2%
Non-U.S. citizen	53,100	18.5	42,400	7.2 †
<b>Military service</b>				
Yes*	95,200	15.6%	9,200	15.9%
No	1,115,900	21.4 †	161,200	20.3

Note: Percentages and counts exclude missing data. Excludes 3.0% of state prisoners and 1.7% of federal prisoners who were missing responses on firearm possession during the offense. Details for counts may not sum to totals due to missing data. See appendix table 5 for standard errors.

\*Comparison group.

†Difference with comparison group is significant at the 95% confidence level.

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

<sup>a</sup>Excludes persons of Hispanic/Latino origin, unless specified.

<sup>b</sup>Based on highest year of education completed.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

In general, the likelihood of state and federal prisoners having possessed a firearm during their crime decreased with age. Firearm possession among state prisoners ages 18 to 24 (32%) in 2016 was more common than among older prisoners. Federal prisoners ages 18 to 24 (30%) were more likely to possess a firearm than those age 35 or older (16%, not shown in table).

The difference in firearm possession between U.S. citizens (21%) and non-citizens (18%) in state prisons in 2016 was not statistically significant. Among federal prisoners serving a sentence in 2016, firearm possession was more than three times as high among U.S. citizens (24%) as non-citizens (7%).

## Method, source, and process used to obtain the firearm

Among prisoners who possessed a firearm when they committed the offense for which they were imprisoned and who reported the source from which they obtained it, the most common source (43%) was off-the-street or the underground market (table 5). Another 7% of state and 5% of federal prisoners stole the firearm, and 7% of state and 8% of federal prisoners reported that they obtained the firearm at the location of the crime.

**TABLE 5**

**Among state and federal prisoners who had possessed a firearm during the offense for which they were serving time, sources and methods used to obtain a firearm, 2016**

Source and method to obtain firearm	All prisoners	State	Federal
<b>Purchased/traded at retail source</b>	10.1%	9.7%	13.7%
Gun shop/store	7.5	7.2	9.6
Pawn shop	1.6	1.5	2.2
Flea market	0.4	:	:
Gun show	0.8	0.8	1.4
<b>Obtained from individual</b>	25.3%	26.0%	20.5%
Purchased/traded from family/friend	8.0	7.9	9.1
Rented/borrowed from family/friend	6.5	7.0	3.0
Gift/purchased for prisoner	10.8	11.2	8.4
<b>Off the street/underground market<sup>a</sup></b>	43.2%	43.2%	42.9%
<b>Theft<sup>b</sup></b>	6.4%	6.6%	4.7%
From burglary	1.5	1.5	:
From retail source	0.2	:	:
From family/friend	1.6	1.8	:
Unspecified theft <sup>c</sup>	3.1	3.3	1.8
<b>Other source</b>	17.4%	17.1%	20.1%
Found at location of crime/victim	6.9	6.7	7.9
Brought by someone else	4.6	4.7	3.6
Other <sup>d</sup>	5.9	5.6	8.5
<b>Multiple sources<sup>e</sup></b>	2.5%	2.6%	2.0%
<b>Estimated number of prisoners who possessed a firearm, excluding prisoners who did not report source<sup>f</sup></b>	256,400	227,100	29,300

Note: Prisoners were asked to report all sources and methods of obtaining any firearm they possessed during the offense, so details may not sum to totals. Each source is included in this table when multiple sources were reported. See *Methodology*. Percentages exclude missing data. Excludes 10.3% of state prisoners and 14.1% of federal prisoners who possessed a firearm during the offense and were missing responses on either source or method of obtaining the firearm. These prisoners were excluded either because they did not provide a valid response or they did not receive the questions due to providing an open-ended response to the previous question about type of weapon. See appendix table 6 for standard errors.

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

<sup>a</sup>Illegal sources of firearms that include markets for stolen goods, middlemen for stolen goods, criminals or criminal enterprises, or individuals or groups involved in sales of illegal drugs.

<sup>b</sup>Excludes theft from victim.

<sup>c</sup>Includes theft where the source could not be identified and theft other than from a burglary, retail location, family, or friend.

<sup>d</sup>Included if no source specified in the table was reported. Includes sources that did not fit into one of the existing categories, sources for which there were few responses such as bought online, or if there was not enough information to categorize the source. Examples of other sources include bought from an unknown source or obtained from a friend by an unknown method.

<sup>e</sup>Includes prisoners who reported multiple sources or methods that fit into more than one of the categories. Each reported source is included in the categories above.

<sup>f</sup>Includes prisoners who reported they carried or possessed a firearm and prisoners who reported a source or method.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

Among prisoners who possessed a firearm during the offense for which they were imprisoned, 7% of state and 10% of federal prisoners serving a sentence in 2016 bought or traded for the firearm from a gun shop or gun store. About 1% bought or traded for the firearm at a gun show. About a quarter (26%) of state prisoners and about a fifth (21%) of federal prisoners obtained a firearm that they possessed during their offense from an individual in a non-retail setting, such as a friend or family member.

Prisoners who reported that they had purchased or traded a firearm at a retail source were asked if they had obtained the firearm from a licensed dealer or private seller. Among prisoners who had possessed a firearm during the offense for which they were serving time, 8% of state and 11% of federal prisoners had purchased it from or traded with a licensed firearm dealer at a retail source (table 6).

Prisoners who reported that they had purchased a firearm from a licensed firearm dealer at a retail source were further asked whether they bought the firearm under their own name and whether they knew a background check was conducted. Among those who had possessed a firearm during the offense for which they were imprisoned, 7% of state and 8% of federal prisoners had purchased it under their own name from a licensed firearm dealer at a retail source, while approximately 1% of state and 2% of federal prisoners had purchased a firearm from a licensed dealer at a retail source but did not purchase it under their own name (not shown in table).

Among all prisoners who purchased or traded a firearm from a licensed firearm dealer at a retail source (8.2%), the majority reported that a background check was conducted (6.7%).

**TABLE 6**

**Among state and federal prisoners who had possessed a firearm during the offense for which they were serving time, processes used to obtain a firearm, 2016**

Process to obtain firearm	All prisoners	State	Federal
<b>Total</b>	100%	100%	100%
<b>Not purchased or traded at retail source</b>	89.9%	90.3%	86.3%
<b>Purchased or traded at retail source<sup>a</sup></b>	10.1%	9.7%	13.7%
Licensed firearm dealer at retail source	8.2	7.9	10.9
Purchased under own name <sup>b</sup>	6.9	6.8	8.4
Background check was reportedly conducted <sup>c</sup>	6.7	6.3	9.4
Private seller at retail source <sup>d</sup>	1.2	1.1	2.3
Unknown <sup>e</sup>	0.7	0.8	:
<b>Estimated number of prisoners who possessed a firearm (with valid data)<sup>f</sup></b>	256,400	227,100	29,300

Note: Percentages exclude missing data. Excludes 10.3% of state prisoners and 14.1% of federal prisoners who possessed a firearm during the offense and were missing responses on source or method of obtaining the firearm. See appendix table 7 for standard errors.

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

<sup>a</sup>Includes prisoners who purchased or traded from a retail source, including a retail store, pawn shop, flea market, or gun show.

<sup>b</sup>Includes prisoners who purchased from a retail source, including a retail store, pawn shop, flea market, or gun show. Excludes prisoners who traded for a firearm from a retail source.

<sup>c</sup>Includes prisoners who purchased from a retail source, including a retail store, pawn shop, flea market, or gun show. Excludes prisoners who traded for a firearm from a retail source and prisoners who reported that a background check was not conducted or who were unaware as to whether one was conducted.

<sup>d</sup>Excludes private sellers other than at a retail source.

<sup>e</sup>Includes prisoners who purchased or traded a firearm from a retail source and were missing responses on whether a firearm was purchased or traded from a licensed firearm dealer or a private seller at a retail source.

<sup>f</sup>Includes prisoners who reported they carried or possessed a firearm and prisoners who reported a source or method.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

## Use and source of firearms among all state and federal prisoners

About 1% of all state and federal prisoners used a firearm during the offense that they obtained from a retail source (table 7). About 2% of prisoners possessed a firearm that they obtained from a retail source, including a retail store, pawn shop, flea market, or gun show.

Thirteen percent of all state and federal prisoners used a firearm during the offense for which they were serving time in 2016.

**TABLE 7**

### Firearm possession and use among all state and federal prisoners during the offense for which they were serving time, by type of controlling offense and source, 2016

Controlling offense <sup>a</sup>	Percent of state and federal prisoners who—		Percent of state and federal prisoners who—	
	Possessed a firearm <sup>b</sup>	Possessed a firearm that they obtained from a retail source <sup>c</sup>	Used a firearm <sup>d</sup>	Used a firearm that they obtained from a retail source <sup>e</sup>
<b>Total</b>	20.8%	1.9%	12.8%	1.3%
<b>Violent*</b>	29.3%	2.8%	23.1%	2.3%
Homicide <sup>f</sup>	43.5	5.9	37.0	5.2
Robbery	43.5	1.8	31.5	1.3
<b>Property</b>	4.8% †	0.5% †	1.9% †	:
<b>Drug</b>	9.6% †	1.0% †	0.8% †	0.1% †
<b>Public order</b>	23.6% †	1.7% †	5.5% †	0.6% †

Note: Percentages exclude missing data. Excludes 2.8% of prisoners who were missing responses on firearm possession during the offense and 1.2% of prisoners who had a valid response to firearm possession but were missing a controlling offense. Retail source includes purchasing or trading the firearm from a retail store, pawn shop, flea market, or gun show. Use includes prisoners who showed a firearm to anyone, pointed a firearm at anyone, or discharged a firearm during the controlling offense. See appendix table 8 for standard errors.

\*Comparison group.

† Difference with comparison group is significant at the 95% confidence level across main categories, and no testing was done on subcategories (e.g., homicide).

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

<sup>a</sup>See *Methodology* for more information on how controlling offense was measured.

<sup>b</sup>Includes state and federal prisoners who reported a valid response to firearm possession.

<sup>c</sup>Includes state and federal prisoners who reported a valid response to firearm possession and source.

<sup>d</sup>Includes state and federal prisoners who reported a valid response to firearm possession and use.

<sup>e</sup>Includes state and federal prisoners who reported a valid response to firearm possession, source, and use.

<sup>f</sup>Includes murder and both non-negligent and negligent manslaughter.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

## Methodology

### Survey of Prison Inmates

The findings in this report are primarily based on data collected through the 2016 Survey of Prison Inmates (SPI). The SPI is a periodic, cross-sectional survey of the state and sentenced federal prison populations. Its primary objective is to produce national statistics of the state and sentenced federal prison populations across a variety of domains, including—but not limited to—demographic characteristics, current offense and sentence, incident characteristics, firearm possession and sources, criminal history, socioeconomic characteristics, family background, drug and alcohol use and treatment, mental and physical health and treatment, and facility programs and rule violations. RTI International served as BJS’s data collection agent for the 2016 SPI under a cooperative agreement (award no. 2011-MU-MU-K070). From January through October 2016, data were collected through face-to-face interviews with prisoners using computer-assisted personal interviewing (CAPI).

Prior iterations of the SPI were known as the Survey of Inmates in State and Federal Correctional Facilities (SISFCF), which was renamed with the 2016 implementation. The first survey of state prisoners was fielded in 1974 and thereafter in 1979, 1986, 1991, 1997, and 2004. The first survey of federal prisoners was fielded in 1991, along with the survey of state prisoners, and since then both surveys have been conducted at the same time using the same questionnaire and administration.

The target population for the 2016 SPI was prisoners ages 18 and older who were held in a state prison or had a sentence to federal prison in the United States during 2016. Similar to prior iterations, the 2016 survey was a stratified two-stage sample design in which prisons were selected in the first stage and prisoners within sampled facilities were selected in the second stage. The SPI sample was selected from a universe of 2,001 unique prisons (1,808 state and 193 federal) that were either enumerated in the 2012 Census of State and Federal Adult Correctional Facilities or had opened between the completion of the census and July 2014 when the SPI sample of prisons was selected. A total of 364 prisons (306 state and 58 federal) participated in the 2016 survey out of the 385 selected (324 state and 61 federal) for interviewing. The first-stage response rate (i.e., the response rate among selected prisons) was 98.4% (98.1% among

state prisons and 100% among federal prisons).<sup>3</sup> A total of 24,848 prisoners participated (20,064 state and 4,784 federal) in the 2016 SPI based on a sample of 37,058 prisoners (30,348 state and 6,710 federal). The second-stage response rate (i.e., the response rate among selected prisoners) was 70.0% (69.3% among state prisoners and 72.8% among federal prisoners).<sup>4</sup>

Responses from interviewed prisoners in the 2016 SPI were weighted to provide national estimates. Each interviewed prisoner was assigned an initial weight corresponding to the inverse of the probability of selection within each sampled prison. A series of adjustment factors were applied to the initial weight to minimize potential bias due to non-response and to provide national estimates.

For more information on the 2016 SPI methodology, see *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, July 2019).

### Standard errors and tests of significance

When national estimates are derived from a sample, as with the SPI, caution must be used when comparing one estimate to another or when comparing estimates between years. Although one estimate may be larger than another, estimates based on a sample rather than a complete enumeration of the population have some degree of sampling error. The sampling error of an estimate depends on several factors, including the size of the estimate, the number of completed interviews, and the intracluster correlation of the outcome within prisons. When the sampling error around an estimate is taken into account, estimates that appear different may not be statistically different. One measure of the sampling error associated with an estimate is the standard error. The standard error may vary from one estimate to the next. Standard errors in this report were estimated using Taylor Series Linearization to account for the complex design of the SPI in producing the variance estimates.

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<sup>3</sup>A total of 15 prisons (12 state and 3 federal) that were sampled were deemed ineligible for the 2016 SPI. For more information, see *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, July 2019).

<sup>4</sup>There were 10,661 sampled prisoners who were eligible for the survey but did not participate. Another 1,549 sampled prisoners were deemed ineligible for the survey. For more information, see *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, July 2019).

Readers may use the estimates and standard errors of the estimates provided in this report to generate a 95% confidence interval around the estimates as a measure of the margin of error. Typically, multiplying the standard error by 1.96 and then adding or subtracting the result from the estimate produces the confidence interval. This interval expresses the range of values with which the true population parameter is expected to fall 95% of the time if the same method is used to select different samples.

For small samples and estimates close to 0%, the use of the standard error to construct the 95% confidence interval may not be reliable. Therefore, caution should be used when interpreting the estimates. Caution should also be used if constructing a 95% confidence interval, which would include zero in these cases, because the estimate may not be distinguishable from zero.

The standard errors have been used to compare estimates of firearm possession during the offense, firearm use during the crime, and type of firearm possessed. They have also been used to compare firearm possession among selected groups of prisoners that have been defined by demographic characteristics and controlling offense. To facilitate the analysis, rather than provide the detailed estimates for every standard error, differences in the estimates for subgroups in the relevant tables in this report have been tested and notated for significance at the 95% level of confidence. Readers should reference the tables for testing on specific findings. Unless otherwise noted, findings described in this report as higher, lower, or different passed a test at the 0.05 level of statistical significance (95% confidence level).

### Measurement of firearm possession and source

The 2016 SPI was restricted to prisoners age 18 or older at the time of the survey. Firearms analyses in this report were restricted to state and federal prisoners who were sentenced or state prisoners who were convicted but were awaiting sentencing. This report excludes prisoners who were awaiting trial (i.e., unconvicted) or a revocation hearing or who were held for other reasons. Unconvicted prisoners, such as those awaiting trial or being held for other reasons like safekeeping or a civil commitment, were excluded from this report because they were not asked questions about firearm possession to protect against self-incrimination. (See appendix 1, *Questions related to firearms in the Survey of Prison Inmates, 2016*.) Of

the estimated 1,421,700 state and federal prisoners in 2016, an estimated 287,400 were armed with a firearm, 1,094,200 were not armed with a firearm, 23,800 did not know or refused to answer the question, and 16,300 were not asked the question because they were not convicted or they stopped the interview before responding to the question.<sup>5</sup>

To determine whether prisoners possessed a firearm at the time of the offense for which they were serving time in prison, respondents were first asked whether they had carried, possessed, or used a weapon when the controlling offense occurred. Respondents could report that they carried, possessed, or used a firearm or another weapon such as a toy or BB gun, knife, other sharp object, or blunt object. Weapons other than firearms, including toy and BB guns, were excluded from this report. Multiple weapons and firearms could be reported by respondents.

Of the respondents who were asked about possessing a firearm during the offense for which they were imprisoned, about 3.0% of state and 1.7% of federal prisoners in 2016 were missing responses on firearm possession. These prisoners were excluded from the analyses in this report. All prisoners who reported they carried, possessed, or used a firearm during the offense were asked whether they had obtained the firearm because they were planning to carry, possess, or use it during the offense. They were also asked whether they showed, pointed, or fired the firearm during the offense. Respondents who reported that they fired the firearm were also asked whether they shot anyone and, if so, whether anyone they shot had died. Of the respondents who possessed a firearm during the offense, about 3.1% of state and 3.5% of federal prisoners in 2016 were missing responses on how they used the firearm. These prisoners were excluded from the analyses in figure 1, tables 1 through 3, and table 7.

To measure the type of firearm possessed by prisoners, respondents were asked whether they had carried, possessed, or used a handgun, rifle, shotgun, or some other type of firearm during the offense for which they were imprisoned. About 0.3% of state prisoners and 0.2% of federal prisoners in 2016 were missing responses on the type of firearm that they possessed. These prisoners, along with prisoners who were missing a response on firearm possession, were excluded from the analyses in table 3.

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<sup>5</sup>The SPI sample was weighted to the state and federal prison populations that were eligible to be sampled in the survey. See *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, July 2019).

To measure the source and method of obtaining the firearm possessed by prisoners during their crime, two separate questions were asked in the survey. The first question asked how the prisoners obtained the firearm, and multiple responses could be reported in the 2016 SPI. Possible responses included stole it, rented it, borrowed it from or were holding it for somebody, traded something for it, bought it, someone bought it for them, someone gave it as a gift, found it or it was at the location where the offense occurred, it was brought by someone else, or other. If respondents specified an “other” method of obtaining the firearm, then the field interviewers entered the respondents’ answers into a text field. These responses originally reported as “other” were coded to one of the existing response categories if possible.

The second question asked where prisoners obtained the firearm, and multiple responses could be reported in the 2016 SPI. Respondents received this question if they reported that they stole, rented, borrowed from or were holding for somebody, traded something for, or bought the firearm. Possible responses included gun shop or gun store; pawn shop; flea market; gun show; from a victim, family member, or friend; from a fence (a middleman for stolen goods) or underground market; off the street or from a drug dealer; in a burglary; online or the internet; or other. Fewer than 1% of state and federal prisoners reported obtaining a firearm online. These responses were included in table 5 in the “other” category due to the small number of sample cases. If respondents specified an “other” source of obtaining a firearm, then the field interviewers entered the respondents’ answers into a text field. Responses originally reported as “other” were coded to one of the existing response categories if possible.

The responses from these two questions were used to create the source and method categories in figure 1 and tables 5 through 7. Approximately 10.3% of state and 14.1% of federal prisoners in 2016 who possessed a firearm during the offense for which they were serving a sentence were missing responses on source or method of obtaining the firearm. These prisoners were excluded from figure 1 and tables 5 through 7.

Prisoners who reported purchasing or trading a firearm from a retail source (gun shop or gun store, pawn shop, flea market, or gun show) were asked if they purchased or traded it from a licensed firearm dealer or a private seller. Prisoners who reported they purchased a firearm from a retail source were further asked whether they bought the firearm under their own name and whether the seller did a firearm purchase background check before selling them the firearm. About 1% of the respondents who possessed a firearm during the offense purchased or traded it from a retail source and were missing responses on whether they bought the firearm from a licensed dealer or private seller. About 1% of respondents who possessed a firearm during the offense purchased it from a retail source and were missing responses on whether the firearm was purchased under their own name or whether a background check was conducted.

### Measurement of controlling offense

The way controlling offense was measured through the 2016 SPI, and reflected in this report, varies by sentence status and the number of offenses of prisoners:

- For sentenced prisoners and those awaiting sentencing with one offense, that offense is the controlling offense.
- For sentenced prisoners with multiple offenses and sentences, the controlling offense is the one with the longest sentence.
- For sentenced prisoners with multiple offenses and one sentence and those awaiting sentencing with multiple offenses, the controlling offense is the most serious offense. For this report, violent offenses are considered most serious, followed by property, drug, public-order, and all other offenses.

For prisoners who were convicted but awaiting sentencing, the controlling offense is the most serious offense.

## Appendix 1. Questions related to firearms in the Survey of Prison Inmates, 2016

This appendix includes the questions from the 2016 SPI that were used to measure the firearms' constructs in this report. Text that appears in capital letters in the questions was not read out loud to respondents. That text reflects programming instructions for the CAPI instrument, instructions to field interviewers who conducted the interviews, or response options that were not read out loud to respondents but were coded by the field interviewers during the interviews.

### Questions

**CJ39.** (ASK IF RESPONDENT REPORTED BEING SENTENCED IN CJ1 OR CJ3 OR IF RESPONDENT REPORTED HE/SHE WAS AWAITING SENTENCING IN CJH2A.) Did you carry, possess, or use a weapon when the (INSERT CONTROLLING OFFENSE) occurred?

- YES
- NO (SKIP TO NEXT SECTION)

**CJH1.** How many weapons did you carry, possess, or use when the (INSERT CONTROLLING OFFENSE) occurred?

- ONE
- TWO OR MORE

**CJH2.** What (INSERT "kind of weapon was it?" OR "kinds of weapons were they?") CHECK ALL THAT APPLY.

- FIREARM
- TOY OR BB GUN (INCLUDE FAKE OR REPLICA GUNS)
- KNIFE
- OTHER SHARP OBJECT (SCISSORS, ICE PICK, AX, ETC.)
- BLUNT OBJECT (ROCK, CLUB, BLACKJACK, ETC.)
- ANOTHER WEAPON
  - What kinds of weapons were they?
    - INTERVIEWER: RECORD RESPONSE VERBATIM.

**CJH3.** (ASK IF RESPONDENT REPORTED "FIREARM" IN CJH2.) How many firearms did you carry, possess, or use when the (INSERT CONTROLLING OFFENSE) occurred?

- ENTER NUMBER OF FIREARMS

**CJH4.** (ASK IF RESPONDENT REPORTED "FIREARM" IN CJH2.) What (INSERT "type of firearm was it?" OR "types of firearms were they?") CHECK ALL THAT APPLY.

- A HANDGUN
- A RIFLE
- A SHOTGUN
- SOME OTHER TYPE OF FIREARM
  - What type of firearm?
    - INTERVIEWER: RECORD RESPONSE VERBATIM.

**CJH5.** (ASK IF RESPONDENT REPORTED "FIREARM" IN CJH2.) How did you obtain the (INSERT "firearm" OR "firearms") that you carried, possessed, or used during the (INSERT CONTROLLING OFFENSE)? Any others? CHECK ALL THAT APPLY.

- STOLE IT (GO TO CJH6)
- RENTED IT (GO TO CJH6)
- BORROWED FROM OR WAS HOLDING FOR SOMEBODY (GO TO CJH6)
- TRADED SOMETHING FOR IT (GO TO CJH6)
- BOUGHT IT (GO TO CJH6)
- SOMEONE BOUGHT IT FOR ME (GO TO CJH7)
- SOMEONE GAVE IT TO ME AS A GIFT (GO TO CJH9)
- FOUND IT/WAS AT LOCATION WHERE OFFENSE OCCURRED (GO TO CJH9)
- WAS BROUGHT BY SOMEONE ELSE (GO TO CJH9)
- OTHER
  - How did you obtain the firearm that you carried, possessed, or used during the offense?
    - INTERVIEWER: RECORD RESPONSE VERBATIM.

**CJH6.** (ASK IF RESPONDENT REPORTED "FIREARM" IN CJH2 AND REPORTED IN CJH5 HE/SHE "STOLE IT", "RENTED IT", "BORROWED FROM OR WAS HOLDING FOR SOMEBODY", "TRADED SOMETHING FOR IT", OR "BOUGHT IT") Where did you obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4)? CHECK ALL THAT APPLY.

- GUN SHOP OR GUN STORE (GO TO CJH6A)
- PAWN SHOP (GO TO CJH6A)
- FLEA MARKET (GO TO CJH6A)
- GUN SHOW (GO TO CJH6A)
- FROM THE VICTIM(S) (GO TO CJH9)
- FROM A FAMILY MEMBER (GO TO CJH9)
- FROM A FRIEND (GO TO CJH9)
- FROM A FENCE/BLACK MARKET SOURCE (GO TO CJH9)
- OFF THE STREET/FROM A DRUG DEALER (GO TO CJH9)
- IN A BURGLARY (GO TO CJH9)
- ONLINE/THE INTERNET (GO TO CJH9)
- OTHER
  - Where did you obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4)?
    - INTERVIEWER: RECORD RESPONSE VERBATIM.

*Continued on next page*

## Appendix 1. Questions related to firearms in the Survey of Prison Inmates, 2016 (continued)

**CJH6a.** (ASK IF RESPONDENT REPORTED IN CJH6 THAT THE FIREARM WAS FROM A “GUN SHOP OR GUN STORE”, “PAWN SHOP”, “FLEA MARKET”, OR “GUN SHOW”.) When you obtained the (INSERT TYPE OF FIREARM REPORTED IN CJH4) was it from a licensed firearm dealer or a private seller?

- LICENSED FIREARM DEALER
- PRIVATE SELLER

**CJH6b.** (ASK IF RESPONDENT REPORTED IN CJH5 THAT HE/SHE “BOUGHT IT” AND IN CJH6 REPORTED THAT THE FIREARM WAS FROM A “GUN SHOP OR GUN STORE”, “PAWN SHOP”, “FLEA MARKET”, OR “GUN SHOW”.) Did you buy the (INSERT TYPE OF FIREARM REPORTED IN CJH4) under your own name?

- YES
- NO
- NO PAPERWORK WAS REQUIRED

**CJH6c.** (ASK IF RESPONDENT REPORTED IN CJH5 THAT HE/SHE “BOUGHT IT” AND REPORTED IN CJH6 THAT THE FIREARM WAS FROM A “GUN SHOP OR GUN STORE”, “PAWN SHOP”, “FLEA MARKET”, OR “GUN SHOW”.) Did the seller do a firearm purchase background check before selling you the gun?

- YES
- NO

**CJH6d.** (ASK IF RESPONDENT REPORTED IN CJH5 THAT HE/SHE “BOUGHT IT” AND REPORTED IN CJH6 THAT THE FIREARM WAS FROM A “GUN SHOP OR GUN STORE”, “PAWN SHOP”, “FLEA MARKET”, OR “GUN SHOW”.) Did you buy the (INSERT TYPE OF FIREARM REPORTED IN CJH4) directly or did someone else buy it for you?

- INMATE BOUGHT
- SOMEONE ELSE BOUGHT

**CJH7.** (ASK IF RESPONDENT REPORTED “SOMEONE ELSE BOUGHT IT FOR ME” IN CJH5.) Where did that person obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4)?

- GUN SHOP OR GUN STORE
- PAWN SHOP
- FLEA MARKET
- GUN SHOW
- FROM THE VICTIM(S)
- FROM A FAMILY MEMBER
- FROM A FRIEND
- FROM A FENCE/BLACK MARKET SOURCE

- OFF THE STREET/FROM A DRUG DEALER
- IN A BURGLARY
- ONLINE/THE INTERNET
- OTHER
  - Where did that person obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4)?
    - INTERVIEWER: RECORD RESPONSE VERBATIM.

**CJH8.** (ASK IF RESPONDENT REPORTED “SOMEONE ELSE BOUGHT IT FOR ME” IN CJH5.) Why did someone else obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4) for you? CHECK ALL THAT APPLY.

- COULD NOT TRAVEL TO WHERE THE SELLER WAS
- NOT ALLOWED BECAUSE TOO YOUNG
- NOT ALLOWED BECAUSE OF CRIMINAL RECORD
- THEY COULD GET IT MORE QUICKLY OR EASILY
- DID NOT WANT TO BE LINKED TO FIREARM PURCHASE
- OTHER
  - Why did someone else obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4) for you?
    - INTERVIEWER: RECORD RESPONSE VERBATIM.

**CJH9.** Did you get the (INSERT TYPE OF FIREARM REPORTED IN CJH4) because you were **planning** to carry, possess, or use it during the (INSERT CONTROLLING OFFENSE)?

- YES
- NO

**CJH10.** Did you show or point (INSERT “the firearm” OR “any of the firearms”) at anyone during the (INSERT CONTROLLING OFFENSE)?

- YES
- NO

**CJH11.** Did you fire (INSERT “the firearm” OR “any of the firearms”) during the (INSERT CONTROLLING OFFENSE)?

- YES
- NO (SKIP TO NEXT SECTION)

**CJH12.** Did you shoot anyone?

- YES
- NO (SKIP TO NEXT SECTION)

**CJH13.** Did anyone you shot die?

- YES
- NO

**APPENDIX TABLE 1****Standard errors for figure 1: Percent of all state and federal inmates who had possessed or used a firearm during their offense, 2016**

Characteristic	Possessed	Used
Any gun	0.64%	0.51%
Handgun	0.59	0.46
Gun they obtained from retail source	0.13	0.12

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

**APPENDIX TABLE 2****Standard errors for table 1: Firearm possession and use among state and federal prisoners during the offense for which they were serving time, by type of controlling offense, 2016**

Controlling offense	Estimated number of state prisoners	Percent of state prisoners who—		Estimated number of federal prisoners	Percent of federal prisoners who—	
		Possessed a firearm	Used a firearm		Possessed a firearm	Used a firearm
<b>Total</b>	31,100	0.69%	0.57%	8,300	1.76%	0.71%
<b>Violent</b>	22,400	0.90%	0.73%	2,700	2.87%	2.83%
Homicide	10,900	1.16	1.12	700	6.53	4.75
Rape/sexual assault	9,900	0.36	0.22	600	:	:
Robbery	6,700	1.32	1.28	1,600	3.73	3.80
Assault	5,900	1.34	1.24	700	5.15	4.52
Other violent	2,100	2.03	1.73	300	8.42	:
<b>Property</b>	7,800	0.53%	0.32%	2,000	0.83%	:
Burglary	3,900	0.80	0.54	100	:	:
Other property	5,800	0.58	0.33	2,000	0.81	:
<b>Drug</b>	11,400	0.68%	0.20%	5,400	0.87%	0.21%
Trafficking	9,700	0.83	0.24	5,000	0.88	0.21
Possession	3,400	1.06	:	600	:	:
Other/unspecified drug	700	:	:	600	:	:
<b>Public order</b>	8,400	1.35%	0.58%	3,600	3.55%	0.88%
Weapons	3,000	2.02	1.70	2,700	2.02	1.60
Other public order	7,200	0.70	0.42	3,800	0.89	:
<b>Other</b>	600	:	:	300	:	:
<b>Unknown</b>	1,400	1.61%	:	400	:	:

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

### APPENDIX TABLE 3

Standard errors for table 2: Among state and federal prisoners who possessed a firearm during the offense for which they were serving time, extent of firearm use, 2016

Firearm use	State prisoners	Federal prisoners	State prisoners		Federal prisoners	
			Violent offense	Non-violent offense	Violent offense	Non-violent offense
<b>Obtained firearm because planned to use in controlling offense</b>						
Yes	0.81%	1.57%	0.81%	2.00%	4.01%	1.88%
No	0.81	1.57	0.81	2.00	4.01	1.88
<b>Used firearm</b>	1.11%	1.92%	0.85%	1.83%	3.86%	1.57%
Discharged	1.34%	1.17%	1.36%	1.47%	3.58%	1.14%
Killed victim	1.28	0.75	1.40	:	2.49	:
Injured/shot victim but did not kill victim	0.73	0.55	0.86	0.89	:	:
Discharged firearm but did not shoot anyone	0.47	0.98	0.51	1.17	2.16	1.02
Did not discharge	0.97%	1.60%	1.21%	1.24%	4.99%	0.87%
<b>Did not use firearm</b>	1.11%	1.92%	0.85%	1.83%	3.86%	1.57%
<b>Estimated number of prisoners who possessed a firearm (with valid data)</b>	10,100	3,100	9,200	3,400	1,200	2,200

: Not calculated. Too few cases to provide a reliable estimate or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

### APPENDIX TABLE 4

Standard errors for table 3: Firearm possession and use among state and federal prisoners during the offense for which they were serving time, by type of firearm, 2016

Type of firearm	Percent of prisoners who possessed a firearm			Percent of prisoners who used a firearm		
	All prisoners	State	Federal	All prisoners	State	Federal
<b>Firearm</b>	0.64	0.69%	1.76%	0.51	0.57%	0.71%
Handgun	0.59	0.64	1.63	0.46	0.51	0.67
Rifle	0.10	0.10	0.28	0.07	0.08	0.13
Shotgun	0.11	0.12	0.22	0.09	0.10	0.09
<b>No firearm</b>	0.64	0.69	1.76	0.51	0.57	0.71
<b>Estimated number of prisoners (with valid data)</b>	32,100	31,000	8,300	32,100	31,000	8,300

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

**APPENDIX TABLE 5**

**Standard errors for table 4: Firearm possession among state and federal prisoners during the offense for which they were serving time, by demographic characteristics, 2016**

Demographic characteristic	State		Federal	
	Number of prisoners	Percent of prisoners who possessed a firearm during the offense	Number of prisoners	Percent of prisoners who possessed a firearm during the offense
<b>Sex</b>				
Male	30,700	0.74%	8,200	1.88%
Female	5,200	0.96	1,300	1.00
<b>Race/Hispanic origin</b>				
White	16,500	0.64%	3,900	2.28%
Black	16,200	0.91	5,600	2.02
Hispanic	12,400	1.26	8,000	1.70
American Indian/Alaska Native	2,500	2.94	800	5.18
Asian/Native Hawaiian/Other Pacific Islander	1,600	4.69	600	:
Two or more races	5,000	1.19	1,200	3.50
<b>Age at time of survey</b>				
18–24	8,200	1.71%	1,000	5.69%
25–34	13,700	1.00	3,200	2.57
35–44	9,500	0.94	3,400	1.68
45–54	9,100	0.76	2,400	1.68
55 or older	7,700	1.02	2,200	2.02
<b>Marital status</b>				
Married	6,300	1.06%	3,100	1.77%
Widowed/widowed	2,000	2.10	400	5.93
Separated	2,700	1.34	1,200	3.11
Divorced	10,600	0.97	2,200	1.58
Never married	20,100	0.81	5,800	2.10
<b>Education</b>				
Less than high school	21,500	0.83%	6,000	2.18%
High school graduate	8,500	0.88	2,100	1.69
Some college	5,000	0.96	2,000	2.08
College degree or more	2,500	1.43	2,000	1.83
<b>Citizenship</b>				
U.S. citizen	30,000	0.69%	10,700	1.87%
Non-U.S. citizen	3,700	2.04	9,500	1.09
<b>Military service</b>				
Yes	4,800	1.07%	1,200	2.98%
No	28,700	0.72	8,200	1.80

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

## APPENDIX TABLE 6

### Standard errors for table 5: Among state and federal prisoners who had possessed a firearm during the offense for which they were serving time, sources and methods used to obtain a firearm, 2016

Source and method to obtain firearm	All prisoners	State	Federal
<b>Purchased/traded at retail source</b>	0.66%	0.70%	2.07%
Gun shop/store	0.54	0.56	1.87
Pawn shop	0.27	0.29	0.62
Flea market	0.13	:	:
Gun show	0.16	0.17	0.44
<b>Obtained from individual</b>	0.87%	0.94%	2.02%
Purchased/traded from family/friend	0.59	0.65	1.27
Rented/borrowed from family/friend	0.47	0.52	0.54
Gift/purchased for prisoner	0.69	0.75	1.40
<b>Off the street/underground market</b>	1.07%	1.13%	3.26%
<b>Theft</b>	0.48%	0.53%	0.79%
From burglary	0.22	0.24	:
From retail source	0.07	:	:
From family/friend	0.26	0.29	:
Unspecified theft	0.31	0.34	0.53
<b>Other source</b>	0.78%	0.85%	1.80%
Found at location of crime/victim	0.50	0.53	1.31
Brought by someone else	0.45	0.49	0.87
Other	0.51	0.55	1.40
<b>Multiple sources</b>	0.27%	0.29%	0.50%
<b>Estimated number of prisoners who possessed a firearm, excluding prisoners who did not report source</b>	9,900	9,500	2,800

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

## APPENDIX TABLE 7

### Standard errors for table 6: Among state and federal prisoners who had possessed a firearm during the offense for which they were serving time, processes used to obtain a firearm, 2016

Process to obtain firearm	All prisoners	State	Federal
<b>Not purchased or traded at retail source</b>	0.66%	0.70%	2.07%
<b>Purchased or traded at retail source</b>	0.66%	0.70%	2.07%
Licensed firearm dealer at retail source	0.60	0.63	2.08
Purchased under own name	0.54	0.57	1.89
Backgroundcheck was reportedly conducted	0.54	0.56	1.93
Private seller at retail source	0.19	0.20	0.63
Unknown	0.21	0.24	:
<b>Estimated number of prisoners who possessed a firearm (with valid data)</b>	9,900	9,500	2,800

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

**APPENDIX TABLE 8**

**Standard errors for table 7: Firearm possession and use among all state and federal prisoners during the offense for which they were serving time, by type of controlling offense and source, 2016**

Controlling offense	Percent of state and federal prisoners who—		Percent of state and federal prisoners who—	
	Possessed a firearm	Possessed a firearm that they obtained from a retail source	Used a firearm	Used a firearm that they obtained from a retail source
<b>Total</b>	0.64%	0.13%	0.51%	0.12%
<b>Violent</b>	0.88%	0.23%	0.72%	0.21%
Homicide	1.14	0.63	1.10	0.62
Robbery	1.25	0.29	1.22	0.25
<b>Property</b>	0.50%	0.15%	0.30%	:
<b>Drug</b>	0.52%	0.17%	0.15%	0.04%
<b>Public order</b>	1.35%	0.27%	0.48%	0.17%

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. Jeffrey H. Anderson is the director.

This report was written by Mariel Alper and Lauren Glaze of BJS. Mariel Alper conducted statistical analyses. Marcus Berzofsky and John Bunker of RTI International provided statistical review. Danielle Kaeble, Laura Maruschak, Todd Minton, and Stephanie Mueller verified the report. Lauren Glaze was the BJS project manager for the 2016 Survey of Prison Inmates.

Eric Hendrixson and Jill Thomas edited the report. Tina Dorsey and Morgan Young produced the report.

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**PROOF OF SERVICE**

1 STATE OF CALIFORNIA  
2 COUNTY OF SACRAMENTO

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

5 On April 8, 2026, I served the foregoing document described as:

6 **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFFS’ MOTION FOR  
7 SUMMARY JUDGMENT**

7 on the interested parties in this action by placing  
8  the original  
9  a true and correct copy  
thereof by the following means, addressed as follows:

10 Asha Albuquerque  
11 Deputy Attorney General  
12 455 Golden Gate Ave., Suite 11000  
13 San Francisco, CA 94102  
[Asha.Albuquerque@doj.ca.gov](mailto:Asha.Albuquerque@doj.ca.gov)  
*Attorneys for Defendants California  
Department of Tax and Fee Administration  
and Trista Gonzalez*

- 14
- 15  (BY MAIL) As follows: I am “readily familiar” with the firm’s practice of collection and  
16 processing correspondence for mailing. Under the practice it would be deposited with the  
17 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,  
California, in the ordinary course of business. I am aware that on motion of the party  
served, service is presumed invalid if postal cancellation date is more than one day after  
date of deposit for mailing an affidavit.
- 18  (BY ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic  
19 transmission. Said transmission was reported and completed without error.

20 I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct.

21 Executed on April 8, 2026, at Long Beach, California.

22   
23 \_\_\_\_\_  
24 Laura Fera